

An honest discussion on this topic has been delayed long enough. We are all suffering for it.

The most hotly debated issue in the Traditional Movement of the Roman Catholic Church is the question regarding the effect of heresy both taught and defended by the occupant of the Chair of Peter in a manner that is clearly an exercise of the official papal office. Does he remain the Pope or not for doing this? What is more, are those who even voice such a possibility heretics themselves? Are they attacking and dividing the doctrine of the infallibility of the Papacy? Can someone judge the Pope?

These are many other questions regarding this important issue are discussed in this book by Arnaldo da Silveira. Written early on in the current crisis, the author displays a true love for the Church of Jesus Christ by reviewing what theologians, many of whom are saints and Doctors of the Church, have had to say on this issue. Contrary to the opinion of a growing number in our age, this issue has been discussed in great detail in the past, leaving the feeble attempts by the modern “leaders” of the Traditional Movement to pale by comparison. In answer to those who ask what good will come from this discussion, da Silveira reminds us that we have the right and obligation to know for certainty where our obedience should be given. It is less than Catholic to admit that heresy is being taught, to follow the Scripture command to avoid a person guilty of such an error, but then try to demonstrate that obedience must still be rendered to the heretic. At the very least, full resistance (da Silveira points out) to such a leader is the Catholic viewpoint -- full resistance meaning not looking to the heretic for guidance or obedience in any way.

While it is true the Catholic Church has not yet dogmatically defined what would happen if a pope fell into heresy, as well as how and why such a thing would happen, we are not, thereby, “off the hook” on this issue. A serious debate, which will lead to a solid common opinion about the pope heretic, has not taken place since the Seventeenth Century. This book is a call to resume this debate, striving thus to arrive at a common Catholic opinion wherewith to form our consciences. Our starting point is the place where the debate left off: the Five Opinions of St. Robert Bellarmine. Such a debate is not an option; it is a necessity.



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CAN THE POPE GO BAD?

A call for the resumption of a debate not
taken seriously since the 17th Century

BY ARNALDO VIDIGAL XAVIER DA SILVEIRA

CATHOLIC RESEARCH INSTITUTE

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In accord with the principles of Pope Urban VIII, this work is submitted for ecclesiastical approval. Nothing in here is presented except that which is the teachings of the Catholic Church or which comes from the approved writings of her saints and Doctors. That which is the author's opinion is duly expressed as such, and which is subjected to the judgment of the Church.

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FORWARD

I first became aware of this publication on a trip to Australia in late 1997. Already nearly 30 years had gone by since the beginning of our “crisis”, and the issue that is brought forth here has failed to receive its due appreciation. There is a certain element of a crime in this consideration. There are some who have gained notoriety in the Traditional Movement of the Roman Catholic Church who have sidelined the debate using false reasoning. They have weakened the will of the clergy to debate this issue and come to a common opinion regarding the pope heretic. Likewise, they have terrified the laity to the point that they think such a debate would be un-Catholic and giving room to Satan. God help us to get past this.

The debate regarding a pope heretic has surfaced in the Church at several times in Her history, most especially when the Chair of Peter was occupied by those who were not equal to the task of being the Supreme Shepherd. In fact, as you will read in these pages, such discussions were more often than not real debates about the certainty of the issue rather than a scholastic exercise. As Da Silveira remarks, for the good of the Church in our times, we must resume these debates again.

Absent a decision by the Church on a pope heretic, one cannot sit back idly and say that such a consideration is not important or impossible to arrive at. Heresy is triumphing today because those who say they are dedicated to the cause of restoring Tradition will not meet it for what it is. They take a position of compromise with error, adopting, for example, such a questionable line of thinking which makes it possible to call the man the Successor of Peter on his Chair, while not professing the faith of Peter in his heart and in his public actions. The clergy say we can accept one writing that is in line with Tradition, but we must reject another. Who is the judge? The faithful are looking for leadership, and all they get are opinions that are dividing them further. The clergy must take the lead, and begin this debate again, taking up where it was left off in the 17th Century. The reason for this is clear: what was considered only a theoretical possibility in times past, is a definite reality today. Perhaps if this book had been made more available 30 years ago, we would already have reached the common opinion which must guide men’s souls today. Let us pray that very little time will pass before we will deal honestly with this situation. Until that time comes, the Restoration of the Roman Mass and the Roman Faith will be terribly delayed.

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INTRODUCTION: THE THEOLOGICAL HYPOTHESIS OF A HERETICAL POPE

In divers troubled periods in the history of the Church, the theological question of the eventual fall of a Pope into heresy attracted the greatest interest.¹ In those periods theologians as well as moralists and canonists devoted themselves to the examination of this delicate problem, without ever arriving, however, at a uniform and definite consensus.

When those difficult moments had passed, the debates about the possibility of a heretical Pope ceased to attract the attention of the studios. In general, the authors dedicate to them, then, only a few lines, as someone who had recalled an academic and curious problem, which however would never more become urgently interesting.

The uncontested possession of the Roman See by a long series of Pontiffs in the last centuries, has reconsigned to oblivion the question of a heretical Pope. Above all from the XVII Century to now, rare are the theologians who have dedicated themselves to examine this matter.²

Beginning with the Pontificate of John XXIII, an attentive observer could nevertheless note that the delicate matter was returning, little by

1. Such was the case, for example, in the VIII Century, on account of the ambiguous attitudes of Pope Honorius I in the face of Monothelitism; in the XII Century, when Paschal II weakened in relation to the question of investiture; in the XV and XVI Centuries on account of the scandals of Alexander VI.

2. Rightly, then, does **Dublauchy**, in the *Dictionnaire de Theologie Catholique*, after analyzing the opinions of the classic theologians on the possibility of a pope heretic, write: "We stop our studies at the end of the XVII Century because from then on the theological controversy is not very interesting, in as much as the positions remained the same and, in most cases, the question merits, on the part of theologians, only a brief mention" (Article *Infallibilite du Pape*, in *Dict. de Thel. Cath.*, col. 1716).

little, to interest specialized circles.³

In spite of the relative frequency with which the question of a heretical Pope is being broached in our days, there has not been published to our knowledge in recent years an ample, systematic and up to date study of the matter.

Because of this fault, in our opinion, the debates over this theme are greatly impaired. From this it results for instance that - as we have been observing with more and more preoccupation - our contemporaries have in general studied the hypothesis of a heretical Pope with partial or even false notions of the state of the question. Various for this reason have fallen into evident errors and simplifications, which are rendering more difficult a lucid and coherent management of the grave theoretical and practical problems involved in the matter.

There are some who, knowing only the position of a certain author and of those who follow him, analyze the contemporary events only in the light of the doctrine of that author - and thus they do not consider the fact that other theologians of great authority sustain different theses.

It is not enough to say, for instance, that, as Cajetan or Suarez teach, the Cardinals and the bishops ought to declare the Pope deposed, should he become a heretic. Indeed, there exist theologians of weight according to whom a true pope can never fall into heresy; others, also of great authority, while they admit the hypothesis of a fall into heresy, sustain nevertheless that the destitution of the pope is produced "ipso facto", without the necessity of any declaration; there are furthermore many who hold other positions, as we shall see later.

In this matter, therefore, there are various opinions which enjoy at least extrinsic probability.⁴ This being the case, what right has anyone,

3. Various factors have given rise to this problem in these days: in the first place, the convocation of the Second Vatican Council, a fact which made all the theological questions about relations between the pope and the Council most timely; in the second place, the profound symptoms of crisis in the Church, which already at that time constituted a motive of preoccupation for numerous spirits; in the third place, the efforts of certain progressives in proclaiming the possibility of a pope heretic, with the objective of weakening the pontifical authority.

4. "A proposition or opinion is called probable when it has in its favor reasons or motives of such weight, that a prudent person can assent to it, not in a firm manner (as in the case of certainty), but with a fear of error" (**Wolden-Schmitt-Heinsel**, *Summa Theol. Mor.*, vol. I, p. 215, n. 225). The intrinsic or internal probability "is founded upon reasons drawn from the very nature of the thing"; the extrinsic

in our days, to attach himself to one of these opinions, seeking to impose it without more ado? There is no doubt that extrinsic probability yields to intrinsic evidence; but where are the well founded and exhaustive publications, which permit a reevaluation, in new terms, of the basic data of the momentous matter?⁵

We judge it, therefore, more urgent than anything else to present an overall vision of the various opinions of the great theologians of the past on the problem of a heretical pope. And this is only an initial but indispensable step, so that one can get out of the stagnation in which lie the studies concerning this question, since the XVII Century, according to the observation of Dublanchy which we cited above.⁶

Such being the case, our purpose in this second part of the present work is twofold. On the one hand, it consists in indicating in detail what are the opinions about this matter, asking the attention of the studious for the reasons alleged by the various authors. And, on the other hand, it consists in communicating to the reader certain conclusions to which the analysis of the sources and reflection have brought us with the intention of making thus a small contribution in order that the theologians might reach a common opinion in this matter.⁷

We restrict our considerations to the terrains of dogmatic theology, moral and Canon Law, putting to one side the historical problems.

or external is “based directly upon the authority of the learned” (idem, *ibidem*, p. 215, n. 226).

5. It behooves one to keep well in mind the grave risks there would be in embracing in an absolute fashion one of the opinions admitted among the theologians, with the exclusion of the others, without having objectively decisive reasons for this, such as our ancestors did not succeed in establishing. Let us suppose that, confronted with a hypothetically heretical Pope, someone would judge him to be “ipso facto” deposed, as St. Robert Bellarmine teaches, and would draw the practical consequences following from that. This person would indeed incur the risk of falling into schism, which would be the result in case the opinion of Cajetan or Suarez, for example, were true, which requires a declaration of heresy in order that such a Pope be effectively deprived of this charge.

In the inverse sense, let us suppose that someone took as certain, without more ado, the opinion of Suarez. This person would have to, in sound logic, accept as dogma an eventual solemn definition which a heretical Pope made before the sentence declaring his sin of heresy was pronounced. Now, such an acceptance would be rash, for, according to what is held by doctors of weight, such a Pope, could already have ceased to be true, and therefore could define, as dogma, something false.

6. See note 2 of page 9.

7. As is evident, for an opinion to be classified as “common”, it is not necessary that it have the approval of theologians of a notoriously doubtful orientation.

8. Refuting the objections which can be made against the doctrine of infallibility, St. Robert Bellarmine studies the cases of forty Popes. This number represents about 17% of the Pontiffs who had reigned

Without doubt a re-study in the light of the data known today about the question of a Pope heretic - of the pontificates of Liberius, of Honorius I, of Pascal II, of Alexander VI, etc, would be most opportune.⁸ In the present exposition, nevertheless, there is no room for such deep research.⁹

In order to clarify the question of a pope heretic, it is necessary to consider also certain problems connected to it, which we take up in the final chapters of this Part II: the hypotheses of a schismatic pope and of a dubious pope (Chapter VIII), the possibility of errors and heresies¹⁰ in pontifical and conciliar documents (Chapters IX and X), and the right of public resistance to eventual iniquitous decisions of ecclesiastical authority (Chapter XI).

up to that time (*De Rom. Pont.*, lib. IV, cap. 8-14, pp. 486-506).

9. In dogmatic material, it is obvious that, we will pay more attention to what Tradition says to us, than to the arguments of reason. Such being the case, when we allude to historical facts, it will not be with the intention of analyzing them as such, but only seeking to gather the side which the “history of the Church can furnish for the clarification of Tradition in the matter.”

10. In Chapters I to VII, dedicated to the analysis of the diverse opinions of the theologians about the question of a Pope heretic, we will consider only the possibility of heresy in the Pope as a private person. For that is the only hypothesis which the authors treat explicitly and “ex professo”. In Chapter X, nevertheless, we will show that sacred theology does not exclude the possibility of heresy in the Pope as a public person, that is, in official pontifical documents. As is evident, such as possibility is limited to the documents which do not involve infallibility.

CHAPTER I

THE FIVE OPINIONS DEALING WITH THE HYPOTHESIS OF A POPE HERETIC EXPOUNDED BY SAINT ROBERT BELLARMINE

In the analysis of the divers opinions of the theologians over the hypothesis of a Pope heretic, we will adopt the classification presented by Saint Robert Bellarmine. Even today this is entirely valid in as much as the studies about the matter have made practically no progress in the last centuries. For this reason, many recent authors order the matter following in the footsteps of the great doctor of the Counter-Reform.¹ When, nevertheless, it appears to us that the division of St. Robert Bellarmine does not distinguish with precision all the nuances which characterize certain schools, we will suggest subdivisions within his classification.

He enumerates five opinions worthy of study²:

- 1 - the Pope can not be a heretic;
- 2 - falling into heresy, even merely internal, the Pope “ipso facto” loses the Pontificate;
- 3 - even though he falls into heresy, the Pope does not lose his charge;
- 4 - the Pope heretic is not deposed “ipso facto”, but must be

1. See, for example: Wernz-Videl, *Ius Can.*, tom. II, pp. 433 ff.; Cocchi, *Comment in Codicem...*, vol. III, pp. 25-26; Regatillo, *Inst. Juris Can.*, vol I, p. 299. Others adopt the classification of Saint Robert Bellarmine, but they introduce small alterations into it: Bouix, *Tract de papa*, tom. II, pp. 654 ff.; Sipos, *Ench. Iuris Can.*, p. 156, item d.

2. *De Romano Pontifice*, lib. II, cap. XXX. - We will not consider, here, observations which Saint Robert Bellarmine makes about this matter in other passages of his writings.

- declared deposed by the Church;
- 5 - the Pope heretic is “ipso facto” deposed in the moment in which his heresy becomes manifest.

In establishing this classification, Saint Robert Bellarmine only sought to order the matter in a manner convenient for the exposition of the reasons and objections which can be alleged in relation to each opinion. It was not his purpose to make a complete and systematic presentation of the principal positions which have been taken, in the course of the centuries, over the theological hypothesis of a Pope heretic. He does not refer, for example, to the doctrine of conciliarism, which had enormous importance in the past, and which, although condemned by the Church, is sprouting up again in numerous progressive writings. The great Jesuit Saint did not set out clearly the logical criteria according to which he ordered the matter. All this creates a certain difficulty for the comprehension of his classification, at the same time that it may give rise to misunderstandings.

In order to avoid these inconveniences, without however abandoning the classification of Saint Robert Bellarmine, we present here a synoptic outline of the different opinions about the hypothesis of a Pope heretic. Organizing the material in accord with a logical criteria, we seek to give a global vision of the matter and we insert the five sentences, which we will analyze later, in the systematic whole in which they must be considered.

3. See Denz-Sch., systematic index, item C4db.

CHAPTER II

FIRST OPINION: GOD WILL NEVER PERMIT THAT THE POPE FALL INTO HERESY

The defenders of this first opinion judge, based as much on rational arguments as on the Scriptures and Tradition, that Our Lord will never permit that any successor of St. Peter should come to lose his faith¹.

The first defender of this opinion, appears to have been Albert Pighi, a Dutch theologian of the XVIth Century, in his work “*Hierarchiae Ecclesiasticae Assertio*”².

Since then numerous authors have adopted this position. The most significant among them, for the authority which they enjoy and for the attention which they dedicate to the matter, are: Suarez³, Saint Robert Bellarmine⁴, Cardinal Billot⁵, D. Bouix⁶.

1. As is obvious, we are not discussing the possibility of the Pope being in material heresy. No one denies, that mistakenly or by inadvertence, the Supreme Pontiff can fall into material heresy, as a private person. As far as the equal possibility is concerned in what touches official but not infallible documents, see pp. 85 ff.

2. Lib. IV, C. VIII, Cologne, 1538, fol. CXXXI ss., cited by Dublanchy, article *Infailibilité du Pape*, in *Dict. de Theol. Cath.*, col. 1715.

3. See pages 13, 14, 25-27.

4. See pages 13 - 27

5. Text which we cite in the following, and the French canonist of the XIX Century.

6. See pages 31-36. To avoid misunderstandings, we wish to insist on a point already emphasized in the second note to the synoptic outline on pages 110-111. Almost all the defenders of this first

Let us see how Cardinal Billot defends his position:

“admitted the hypothesis that the Pope should have become notoriously heretical, one must concede, without hesitation, that he would lose “*ipso facto*” the pontifical power, since by his own will he has put himself outside the body of the Church, becoming an unbeliever (...)”

I said: ‘admitted the hypothesis’. But it appears by far more probable that this hypothesis is a mere hypothesis, never reducible to act, in virtue of what St. Luke says (22: 32): “I have prayed for you that your faith not fail, and you, once being converted, confirm your brethren”. That this ought to be understood of Saint Peter and of all his successors, is what the voice of Tradition attests, and what we shall demonstrate “*ex professo*” later, on treating of the infallible magisterium of the Roman Pontiff. For the time being we shall consider this as absolutely certain⁷. Now, even though these words of the Gospel refer principally to the pontiff in as much as a public person who teaches “*ex cathedra*”, one ought to affirm that they extend, by a certain necessity, also to the private person of the pontiff, in regard to his preservation from heresy.⁸ To the pontiff, in effect, was given the ordinary function of confirming the rest in faith. For this reason, Christ -- who for His dignity is heard in everything -- asks for Him the gift of an indefectible faith. But in favor of whom, I ask, is this petition made? Of an abstract and metaphysical person, or, rather of a real and living person, upon whom it is incumbent to confirm the rest? Or perhaps he will be called indefectible in the faith, who cannot err in establishing what the others must believe, but personally can become shipwrecked in the faith? And -- observe -- even though the Pontiff, falling into notorious heresy lost “*ipso facto*” the pontificate, he would however, logically fall into heresy before losing

opinion consider it not certain. For this reason, they analyze also the hypothesis of the Pope falling into heresy, giving their opinions on this possible destitution in this eventuality. It is not, then, to be wondered at that various of the followers of this first opinion are listed also among the followers of other opinions. This is the case of Saint Robert Bellarmine, Suarez, Cardinal Billot, Bouix. - See in this respect pages 26-27.

7. Note that Cardinal Billot does not qualify it as “absolutely certain” that the Pope cannot turn heretic, but, yes, that the passage of the Scriptures alluded to refers to Saint Peter and his successors - which no Catholic author can deny, whatever be the exact meaning of the promise made here by Our Lord.

8. In general the authors do not admit that the quoted passage of the Gospel must be applied necessarily to the person of the Pope in his pronouncements which are not “*ex cathedra*”. This is what we show later (p. 15) citing Palmieri, Van Leak, Straub, Dublanchy.

his charge; this being so, the defectibility in the faith would coexist with the duty of confirming his brethren, which the promise of Christ would seem to exclude in an absolute way. - More yet: if, considering the providence of God, it cannot happen that the Pontiff fall into occult or merely internal heresy, for this would cause committant evils very much worse. Now, the order established by God, requires absolutely that, as a private person, the Supreme Pontiff cannot be a heretic not even losing the faith in the internal forum alone. "For -- writes Saint Robert Bellarmine ("De Rom. Pont.", lib. IV, c. 6) -- the pontiff not only must not and cannot preach heresy, but he must also always teach the truth, and without doubt he will do that, given that Our Lord ordered him to confirm his brethren. But how, I ask, will a heretical pontiff confirm his brothers in the faith and always preach the true faith? God can, without doubt, wrench from a heretical heart a confession of the true faith, as at another time he made the mule of Balsam speak. But this would be rather violent and not at all in conformance with the manner of acting of Divine Providence, which disposes all things with sweetness.⁹ -- Finally, if the hypothesis of a Pope who turned notoriously heretical were made a reality, the Church would be thrown into such and so many afflictions, that already "a priori" one can perceive that God would never permit it."¹⁰

A. NUANCES WITHIN THIS FIRST OPINION

Among the positions adopted by the defenders of this first opinion, there exist certain nuances, which it behooves us to put in relief.

9. For the reasons stated further on (especially those stated on pages 15 ff. and 53), it does not seem to us that the argument adduced here by Saint Robert Bellarmine or by Cardinal Billot demonstrates the thesis sustained by them as being the most probable. There is nevertheless in this argument a residue which is undeniably true: Providence could not permit that the adhesion of the pope to heresy be something frequent and as it were habitual. On the contrary, such a thing only could be admitted as exceptional, characterizing one of the most dramatic and profound trials to which the Church militant might be subjected.

Taking the very example of the mule of Balsam, given by Saint Robert Bellarmine and by the other followers of the first opinion, we would say that providence would not have to permit that mules normally and frequently speak but one mule, that of Balsam, spoke.

10. Billot *Tractatus de Ecclesia Christi*, 1909, tomus I, pp. 609-610. Neither does this last argument presented by Cardinal Billot appear conclusive. Could Our Lord, though He permitted the malice of men to injure his very Person, to the point of carrying Him to die on a cross, not permit that the ingratitude and malice of men subject the Holy Church to a new "Via Crucis"? That this could come about without breaking the promise of Divine assistance, is obvious and may even prefigured in the fact that during the Passion not one bone of the sacred body of Our Redeemer was broken.

There are those who think that this opinion constitutes a truth of the faith. Such was, for example, the thinking of Mattheucci, a Franciscan theologian who died in 1722¹¹.

Other authors, among whom is Cardinal Billot, whom we cite above, do not think that this opinion constitutes a truth of faith, but they classify it as by far the most probable, tending to lessen this probability of the opposing opinions.

Others, finally, defend this position in an even less rigid way. This is the case of Suarez and of Saint Robert Bellarmine. It does not seem to them that the passage of Saint Luke (22, 32) is decisive, at the same time that, according to them certain documents of Tradition, which admit the hypothesis of a Pope heretic, have a greater value than that attributed to them, for example, by Cardinal Billot.

We can see that even the tone of the argumentation of Suarez differs from that which we can note in the cited passage of Cardinal Billot:

"Though many¹² may hold, with verisimilitude (that the Pope can fall into heresy), to me however, in a few words, it appears more pious and more probable to affirm that the Pope, as a private person, can err by ignorance but not contumaciously. For though God could prevent the Pope heretic from causing damage to the Church, nevertheless the more smooth manner of acting of Providence would be that, having promised that the pope would never err in defining, God in consequence would provide that he would never turn heretic. Furthermore, one ought to hold that that which up to now has never happened in the Church, by order and providence of God, cannot happen"¹³.

11. See Ferraris, *Prompta Bibl.*, article "Papa", col. 1843, no. 65; col. 1845. This passage of Ferraris is reproduced by Bouix, *Tract. de papa*, tom. II, p. 658. The affirmation cited from Mattheucci is found in his work *Controv. VII*, Cap. I, no. 7.

12. In this point, Suarez refers to Saint Robert Bellarmine, "De Summo Pont.", lib. 4, cap. 7.

13. Suarez, *De Fide*, disp. X, sect. VI, No. 11, p. 319. Neither does it seem to us that this last argument alleged by Suarez is decisive. For the end of the world, for instance, Our Lord prophesied terrible happenings (see Mat. 24, 1:41; Mark 13, 1:31; Luke 21, 5:33), which in numerous of their aspects will not have had precedents in all of history.

B. ARGUMENTS CONTRARY TO THIS OPINION

Against this first opinion it can be alleged, on the one hand, that the cited passage of Saint Luke (22, 32) is in general only applied to pontifical teachings which involve infallibility; and, on the other hand, that there are numerous testimonies of Tradition in favor of the possibility of heresy in the person of the Pope.

1. Sacred Scripture

As to the exact sense of the text of Saint Luke, numerous theologians sustain that for the fulfillment of the promise of Our Lord it is enough that there exist no errors in the infallible documents. Thus, they conclude that there is not sufficient reason to judge that the confirmation of the brethren postulates also the indefectibility of the faith of the Pope as a private person. Let us see how Palmieri, for example¹⁴, expounds this argument:

“(...) it is not necessary that the indefectible faith be in reality distinct from the confirmation of the brethren, but it is enough that it be distinguished by the reason. For if the authentic and solemn preaching of the faith is infallible, he can confirm the brethren; for this reason, the infallible faith and that which confirms are one and unique; being infallible it enjoys also the power to confirm (his brethren). The indefectibility of the Pontiff in the Faith was asked so that he might confirm his brothers; therefore, from the words of Christ one can only infer as necessary that indefectibility which is necessary and sufficient to attain that end; and such is the infallibility of the authentic preaching”¹⁵.

2. Tradition

We indicate here some of the documents of Tradition which admit the possibility of the Pope falling into heresy.

a) Documents referring to Pope Honorius. There do not exist

14. The following declare themselves in the same sense: Van Laak, *Inst. Theol. Fund. Repert.* I, pp. 508-509; Straub, *De Eccl. Christi*, II, n. 1068, pp. 479-480 (quoted by Van Laak, op. cit., pp. 508-509); Dublanchy, *Dict. de Theol. Cath.*, article *Infaill. du Pape*, ccl. 1717.

15. Palmieri, *Tract. de Rom. Pont.*, pp. 631-632.

historical proofs which authorize one to affirm that Pope Honorius I had been a heretic; it is certain nevertheless that his letters to the Patriarch Sergius favored the Monothelite heresy (according to which in Our Lord there is only one will). Since it is a matter of the favoring of heresy by a Pope, and not of heresy as such, the case of Pope Honorius does not refer to our matter in a direct way.

However, it is important for us to observe that this case, more perhaps than other analogous ones which history records, provided an occasion for Popes, Councils, Saints, Bishops and theologians to manifest their conviction that the hypothesis of the Pope being in heresy was not theologically absurd. Such being the case, we present in the following both documents which admit directly the possibility of a heretical Pontiff, and others which only admit it indirectly. In the second group are, for example, the documents which show the orthodoxy of the Pope to have been positively suspected. As is evident, such a suspicion would be vain and absurd for one who believed the defection of the Roman Pontiff in the faith to be impossible. The accusations of favoring heresy are also included in this second group, when by the terms in which they are formulated, or by other circumstances, it becomes probable that in reality it had been at least positively suspected that the Pope was a heretic.



The III Council of Constantinople, the VI Ecumenical one, declares that it has analyzed the dogmatic epistles of the Patriarch Sergius, as well as a letter written by Honorius I to the same patriarch.

And it continues; “having verified that they are in entire discord with the apostolic dogmas and the definitions of the holy Councils, and of all the Fathers worthy of approval, and that on the contrary they follow the false doctrines of the heretics, we reject them absolutely and execrate them as harmful to souls”¹⁶

After anathematizing the principal monothelite heresiarchs¹⁷, the Council condemns Honorius:

“We judge that, together with them, also Honorius, formerly Pope of Rome, was cast out of the Holy and Catholic Church of God and

16. Denz-Sch. 50.

17. Denz-Sch. 551

anathematized, for we have verified by his writings sent to Sergius, that he followed the thinking of the latter in everything, and confirmed his impious principles¹⁸.



Condemning Honorius as a favorer of heresy, Pope Saint Leo II (+ 683) wrote:

“We anathematize also the inventors of the new error: Theodore, Bishop of Pharen, Cyrus of Alexandria, Sergius, Pyrrho (...) and also Honorius, who did not enlighten this Apostolic Church with the doctrine of the apostolic tradition, but permitted, by a sacrilegious treason, that the unspotted faith be stained¹⁹.”

In a letter to the bishops of Spain, the same Saint Leo II declares that Honorius was condemned because

“(...) he did not extinguish, as behooved his Apostolic authority, the kindling flame of heresy, but he fomented it by his negligence.”²⁰

And in a letter to Erwig, King of Spain, Saint Leo II repeated that, with the heresiarchs mentioned, was condemned.

“(...) Honorius of Rome, who consented that the spotless faith of the apostolic tradition which he had received from his predecessors be stained”²¹.

Also over the case of Pope Honorius, R. Baeumer writes:

“Afterwards, that condemnation (of Honorius, by the VI

18. Denz.-Sch. 552 -- the terms of this condemnation authorize one to conclude that the Council had anathematized Honorius as a heretic. But this is not the sense generally attributed to the document. Moreover, Pope Saint Leo II, who approved the III Council of Constantinople, in other writings condemned Honorius only as a favorer of heresy (next we present these pronouncements of Saint Leo II, to complete the documentation on this point.) We cite here these passages from the VI Ecumenical Council and from Saint Leo II in terms of the observations made on page 15, at the beginning of item 2a.

19. Denz.-Sch. 563.

20. Denz.-Sch. 561

21. Denz.-Sch. 561.

Ecumenical Council) was renewed by the Synods “in Trullo” of 692 (Mansi, 1, 938), by the Seventh General Council (Mansi, 13, 377) and by the eighth (Mansi 16, 181). Leo II, who accepted the decision of the Sixth General Council, extenuated the fault of Honorius (...). The account of the condemnation of Honorius even entered into the Liber Diurnus. Every newly elected Pope had to condemn the authors of the new heresy, “together with Honorius, who favored their errors.” The very “Liber Pontificalis” and the Roman Breviary mentioned the condemnation, in the second nocturn of the feast of Pope Saint Leo II (...)”²².



Therefore, the affirmation of V. Mondello, according to which a tradition already solid in the VIII century said that “an heretical Pope can be judged by a Council”²³ had a complete historical foundation



Among the documents related to the case of Pope Honorius, perhaps none has such importance for our theme as the passage cited below, extracted from a discourse of Pope Adrian II to the VIIIth Ecumenical Council. As we shall see, whatever be the judgment which one makes in the case of Honorius I, we have here a pontifical declaration which admits the eventuality of a Pope falling into heresy²⁴. Here are the words of Adrian II, pronounced in the second half of the IXth Century, that is, more than two centuries after the death of Honorius:

“We read that the Roman Pontiff has always judged the chiefs of all the churches (that is, the patriarchs and bishops); but we do not read that anyone has ever judged him. It is true that, after his death, Honorius was anathematized by the Orientals; but one must

22. H. Baeumer, article *Honorius I* in *Lexicon fuer Theologie und Kirche*, 1961-cited by Hans Kunk, *Structures...*, page 304.

23. V. Mondello, *La Dottrina del Caetano...*, p. 25; see also p. 43 - The author reproduces, in these topics, the affirmation made by V. Martin in his work, *Les Origines du Callicanisme*, tom. II, cap. I, pp. 12-13. As is evident, the term “judged” does not indicate necessarily, in this passage of V. Mondello, that a Council could pass a true “judgment” on a pope. But in the context the term signifies, according to the traditional authors, that a Council can pronounce a judgment on someone who was pope, and ceased to be because he had fallen into heresy. We explain this problem in more detail in pages 37 (note 1) and 58 (item 5 and note 23).

24. On page 26 we cite a commentary in this sense, of Saint Robert Bellarmine, on the text cited here.

remember that he was accused of heresy, the only crime which makes the resistance of inferiors to superiors, as well as the rejection of their pernicious doctrines, legitimate²⁴.

b) During the Pontificate of Pascal II (1099-1118), the question of investiture shook Christendom once again. The Emperor Henry V, holding the Pope prisoner, extorted from him concessions and promises irreconcilable with Catholic Doctrine. Recovering his liberty, Pascal II hesitated for a long time to retract the acts which he had done under coercion. In spite of being admonished repeatedly by saints, cardinals and bishops, his retraction and the hoped for excommunication of the Emperor were always postponed by him. There began to arise then in the whole Church a murmuring against the Pope, classifying him as suspect of heresy and adjuring him to turn back under pain of losing the Pontificate.

We cite here some facts and documents of the struggle which Saints, Cardinals and bishops mounted against Pascal II. One will see thus, that the theology of the epoch admitted the hypothesis of a Pope heretic and judged that he, on account of such a sin, would lose the Pontificate²⁵.



Saint Bruno, Bishop of Segni and Abbot of Monte Cassino, was at the head of the movement opposed to Pascal II in Italy. We do not possess any document in which he has declared in an indisputable fashion that he judged the Pope to be suspect of heresy. Nevertheless, this is the accusation which his letters and his acts insinuated unequivocally.

To Pascal II, he wrote: "(...) I esteem you as my father and lord (...). I must love you; nevertheless I must love even more Him who created you and me. (...) I do not praise the pact (signed by the Pope), so horrible, so violent, done so treasonably, and so contrary to all piety and religion. (...) We have the Canons; we have the constitutions of the Fathers, from the times of the Apostles up to you. (...) The Apostles condemned and expelled from the communion of the faithful all those who obtained charges in the Church by means of secular power. (...) This determination of the Apostles (...) is holy, is Catholic, and whoever would contradict it, 25. In this case, as in that of Pope Honorius, it is not our objective to take a position in relation to a historical question. We only wish to show that theologians of authority had admitted the possibility of heresy in the person of the Supreme Pontiff.

is not Catholic. For they alone are Catholics who do not oppose the faith and the doctrine of the Catholic Church, and, on the contrary, they are heretics who oppose obstinately the faith and doctrine of the Catholic Church. (...)"²⁶

In another letter, Saint Bruno stresses that he only considered heretics those who deny the Catholic principles on the question of investiture, and not those who in the concrete order, pressed by the circumstances, act in a way not in accord with true doctrine²⁷. However, the reservation is not sufficient to exempt Pascal II from the suspicion of heresy, since he, even when the coercion had ceased, refused to correct the evil done.

The Pope knew quite well that Saint Bruno did not shrink from the hypothesis of declaring him destitute, for he resolved to depose the Saint from the influential charge of Abbot of Monte Cassino on the basis of the following allegation:

"If I do not remove him from the rule of the monastery, he with his arguments will take away from me the government of the Church"²⁸

And when, at last, the Pope retracted, before a synod convened in Rome to examine the question, Saint Bruno of Segni exclaimed:

"God be praised! For behold that it is the Pope himself who condemned this pretended privilege (of investiture by the temporal power), which is heretical"²⁹

With this phrase, Saint Bruno for the first time let it be known publicly how much he suspected the orthodoxy of Pascal II. At this his enemies protested energetically; the most outstanding among them was 26. [Letter of Saint Bruno of Segni to Pascal II, written in 1111 -- P.L., tom. 1763, col. 463. See also Baronius, *Annales*, ad ann. 1111, no. 30, p. 228; Hefele-Leclercq, tom. V, part. I, p. 530.]

27. Letter to the bishops and cardinals: P.L., tom. 165, col. 1139. See also the letter of Saint Bruno to the Bishop of Oporto: P.L., tom. 165, col. 1139, cited also by Baronius, *Annales*, ad ann. 1111, no 31, p. 228.

28. Cited by Baronius, *Annales*, ad ann. 1111, no. 32, p. 228. See also: Hefele-Leclercq, tom. V, part. I, p. 530; Rohrbacher, *Hist. Univ. de L'Eglise Cath.*, tome XV, p. 130.

29. Cited by Hefele-Leclercq, tom. V, part. I, p. 555.

30. Hefele-Leclercq, tom. V, part. I, P. 555.

the Abbot of Cluny, Jean de Gaete, “who - we read in Hefel- Leclercq - did not wish to permit that the Pope be accused of heresy”³⁰



Saint Bruno of Segni was not the only Saint of the epoch who admitted the possibility of heresy in Pascal II. In 1112, Archbishop Guido of Vienne, the future Pope Calistus II, convoked a provincial synod, at which appeared, among other bishops, Saint Hugo of Grenoble and Saint Godfrey of Amiens. With the approval of these two Saints, the synod revoked the decrees extorted by the Emperor from the Pope and sent to the latter a letter in which we read:

“If, as we absolutely do not expect, you chose another way, and you refuse to confirm the decisions of our authority, may God help us, for thus you will be separating us from obedience to you.”³¹

These words contain a menace of a rupture with Pascal II, only explicable by the fact that in the spirit of the bishops met in Vienne there were united three notions: in the first place, they were convinced that it constituted heresy to deny the doctrine of the Church on investiture; in the second place, they suspected that the Pope had embraced that heresy, and, in the third place, they considered that a Pope in the eventuality of being heretical, would lose his charge, and should not any more, therefore, be obeyed³². This interpretation is confirmed, in such a way as to eliminate any doubt, by the letters written on the occasion by Saint Ives of Chartres, to which we allude in the following.

After narrating the events of the Synod of Vienne, Hefele-Leclercq writes:

“The result was that, on the 20th of October of the same year, the Pope confirmed, in a brief letter and in vague terms, the decisions taken in Vienna, and praised the zeal of Guido. It was the fear of a schism which led the Pope to take this attitude”³³.

31. Cited by Bouix, *Tract. de Papa*, tom. II, p. 650. - See also: Hefel-Leclercq, tom. V, part I, p. 536; Rohrbacher, *Hist. Univ. de l'Eglise Cath.*, tome XV, p. 61.

32. Geoffrei, *Abbot-Cardinal of Vandome*, gave the same opinion: see Rohrbacher, *Hist. Univ. de l'Egl. Cath.*, tome XV, p. 63-64.

33. Hefele-Leclercq, tom. V, part I, pp. 536-537.



To the discredit of this provincial Synod of Vienne, one could argue that another Saint, Bishop Ives of Chartres, refused to participate in it alleging that no one could judge the Pope³⁴.

We do not intend here to study the history of the Synod of Vienne. We cite it only in order to show that, in the epoch, two saints and a future pope took an attitude in relation to Pascal II based on the principles that there could be a Pope heretic, and that in such a case the Pontiff loses his charge. Therefore, it will be only from this point of view that we shall occupy ourselves in analyzing the position of Saint Ives of Chartres.

He also was opposed to the concessions made by Pascal II to the Emperor. He said that the Pope ought to be warned and exhorted by the bishops in order that he might repair the evil done. He dissented with the Synod of Vienne however, because he did not consider that the attitude of the Pope in the question of investiture involved heresy.³⁵ He affirmed, as a consequence, that Pascal II could not be submitted to the judgment of men, however grave his weaknesses might have been. Yet, Saint Ives recognized explicitly in his letter - which constitutes for us an important testimony on the possibility of the defection of the Pope in the faith - that the Pontiff in the contingency of being a heretic would lose his charge.

Here are his words:

34. See: Bouix, *Tract. de Papa*, tom. II, pp. 650-651; Rohrbacher, *Hist. Univ. de l'Egl. Cath.*, tome XV, pp. 61-63. Saint Ives of Chartres, who took that decision together with some other bishops, explains his attitude in a letter addressed to the Archbishop of Lyon (PL., 162, 238 ff.).

35. As it seems, this dispute which divided even the very Saints who opposed Pascal II, originated in a certain confusion which remained about the concept of heretic. Some said that, since the Pope had not affirmed the heresy, he was not a heretic. Other maintained that having noted in a manner contrary to a defined dogma, he was a heretic.

Later theology clarified better the principle that it is possible to fall into heresy not only by denying a dogma explicitly, but also by doing acts which reveal in an unequivocal manner a heretical spirit (we developed this theme in the article *Acts, gestures, attitudes and omissions* can reveal a heretic, in *Catolicismo*, no. 204, December 1967).

Therefore, Saint Ives was right in sustaining that by the mere fact of acting in a way opposed to a dogma, Pascal II had not made himself a heretic. But, by his writings, one does not see that he had considered the other aspect of the question: acting continuously in a way contrary to a dogma can be enough to reveal a heretic.

And, on their side, the bishops met in Vienne were right when they said that it is possible to fall into heresy not only by words, but also by acts; but it is not certain that they had taken into account that such acts only reveal a heretic when, considered in all the circumstances, they reveal in an unequivocal manner a heretical spirit. Simple pusillanimity, for example, even though continued, does not constitute heresy. That must have been as the historians in general admit, the case of Pascal II.

“(…) we do not wish to deprive the principal keys of the Church (that is, the Pope) of their power, whoever be the person placed in the See of Peter, unless he manifestly departs from the evangelical truth.”³⁶

Therefore, the attitude taken by Saint Ives of Chartres is not opposed from the point of view which concerns us at this moment, to that of Saint Godfrey of Amiens and Saint Hugo of Grenoble, but on the contrary corroborates it.³⁷

c) From Gratian to our days. In the *Decretum* of Gratian appears the following canon, attributed to Saint Boniface the martyr:

“Let no mortal have the presumption to accuse the Pope of fault, for, it being incumbent upon him to judge all, he should be judged by no one, unless he departs from the faith”.³⁸

In the *Dictionnaire de Theologie Catholique*, Dublanchy furnishes some expressive data on the influence of this canon in fixing medieval thought in respect to the question of a Pope heretic.

“One finds in the *Decretum* of Gratian this assertion attributed to Saint Boniface Archbishop of Mainz, and already cited as his by Cardinal Deusdedit (+1087) and by Saint Ives of Chartres, *Decretum*, V, 23 (…).

After Gratian, this same doctrine is found even among the most convinced partisans of the papal privileges. Innocent III refers to it in one of his sermons (…). In general the great scholastic theologians did not pay attention to this hypothesis; but the canonists of the XIIth and XIIIth centuries knew and commented on the text of Gratian. All admitted without any difficulty that the Pope could fall into heresy, as into any other grave fault; they were only concerned about

36. P.L., tom. 162, col. 240

37. The *Decretum* attributed to Saint Ives of Chartres also contains a reference to the possibility of a Pope heretic, as we indicate on this same page. We do not give it special emphasis because its authority is put in doubt today. It is nevertheless undeniable that this *Decretum* receives no small recognition as an expression of medieval thinking.

38. Pars I, dist. 40, cap. 6, Canon *Si Papa*. -- The *Decretum* of Gratian was composed in the first half of the XV Century, probably about the year 1140.

39. Dublanchy, article *Infailibilité du Pape*, in the *Dict. de Theol. Cath.*, cols. 714-715. - also another

investigating why and in what conditions he could, in that case, be judged by the Church”³⁹



A portion of a sermon of Pope Innocent III:

“The faith is necessary for me to such an extent that, having God as my only judge in all other sins, I could however be judged by the Church for the sins which I might commit in matters of faith.”⁴⁰



One understands then how right V. Mondello was to write:

“Many in the Middle Ages admitted that a Pope heretic could be judged⁴¹ by a Council; we can go so far as to say that it was a most common doctrine in that time, even among the very defenders of the Pope”.⁴²



To show that Tradition furnishes reasons of weight against the first opinion enumerated by Saint Robert Bellarmine - according to which a Pope could not turn heretic - we believe that it is not necessary here to extend our investigation to the later centuries. Indeed, in the following chapters we will adduce many documents of the last six centuries, so that it would be superfluous to indicate them right now.

canon of Gratian is interpreted by authors like Cajetan (*De Comparatione...*, p. 170) and Suarez (*De Fide*, disp. X, cap. VI, n. 15, p. 320), in the sense that declared a Pope heretic deprived of his charge. This has to do with the chapter *Oves* (C. 13, c. 2, q. 7). attributed to Pope Saint Eusebius (this canon would be from pseudo Isidore, according to what Bernardi concludes, *Gratian. Canon. Genuin.*, pars II, tom. II, cap. 29, p. 138, cited by Phillips, *Du Droit Eccl.*, vol. I, pp. 179-180.)

40. Cited by Billot, *Tract. de Eccl. Christi*, tom. I, p. 610- See also *Sermo IV in Cons. Pont.*, P.L. 217, 670. Though such pronouncements evidently are not definitions of faith, they have nevertheless great authority, as coming from a Pope who was an intransigent and fearless defender of the pontifical prerogative.

41. For the non-conciliarist acceptance of the term “judge”, in this context, see note 23 of page 18.

42. V. Mondello, *La Dottrina del Gaetano...*, p. 25.

43. 1 *Tract. de Eccl. Christi*, tom. I, pp. 610-612. See also: Bouix, *Tract. de papa*, tom. II, pp. 658-659;

C. THE ANSWER OF THE DEFENDERS OF THIS OPINION

Of what reasons do the partisans of the first opinion avail themselves to oppose such testimonies of Tradition, and so many others which could be alleged?

Some of these authors, like Saint Robert Bellarmine and Suarez, do recognize that such documents weaken the thesis of the impossibility of a Pope heretic.

However, there are those who try to contest the value of these documents. That is the case, for example, of Cardinal Billot.⁴³ He maintains that the allocution of Adrian II proves nothing, in as much as Pope Honorius in reality had not been a heretic; he contests the authenticity of the canon *Si Papa* of Gratian; he sees in the words of Innocent III only oratorical hyperbole.

Anyway, however, Cardinal Billot did not deny -- nor would he be able to deny -- that the Church has always left open the question of the possibility of heresy in the person of the Pope. Now, this fact, just by itself, constitutes an argument of weight in the evaluation of Tradition. It is what Saint Robert Bellarmine puts into relieve in the following passage, in which he refutes, three centuries in advance, his future brother in the cardinalate and in the glorious Ignatian militia:

In regard to this one ought to note, that, while it is probable that Honorius had not been a heretic, and that Pope Adrian II, deceived by falsified documents of the Vth Council, had erred in judging Honorius as a heretic, we cannot however deny, that Adrian, together with the Roman synod and likewise with the whole VIIIth General Council, was of the opinion that in case of heresy the Roman Pontiff can be judged.”⁴⁴

Phillips, *Du Droit Ecl.*, vol. I, pp. 179-180.

44. Saint Robert Bellarmine, *De Rom. Pont.*, lib. II, cap. 30, p. 418.

45. See note to the synoptic outline of pp. 110-111, as well as note 6 of p. 11.

D. A MERELY PROBABLE OPINION

As we have already observed in brief notes,⁴⁵ in general the partisans of this first opinion do not refuse to study what procedure is to be adopted in case the Pope falls into heresy. They act thus because they do not consider their position absolutely certain, but recognize that the other opinions enjoy at least extrinsic probability. This explains the fact, at first sight strange, that followers of this opinion are many times pointed out as partisans, also, of others.



Here is how Suarez expresses his thinking on this point:

“It seems consistent with the sweet Providence of God to never permit him to err in the faith to whom it is never permitted that he teach error. Therefore it is said that these two promises are included in those words: ‘I have prayed for thee, Peter, that thy faith not fail’. Since, however, this opinion is not generally accepted and the general councils have some times admitted the hypothesis in discussion (of heresy in the Pope), supposing it to be thus at least possible, one must say that, if he becomes a heretic, the Pope would not fall “ipso facto” from his dignity, by reason of the loss of faith, but (...etc.)”⁴⁶



And Saint Robert Bellarmine writes:

“(…) there are five opinions about this matter. The first is that of Albert Pighi (Hierarch. Eccles., lib. 4, cap. 8), for whom the Pope cannot be a heretic and therefore cannot be deposed in any case. This opinion is probable and can be defended easily, as we shall show later in its due place. Since, however, it is not certain, and since THE COMMON OPINION IS TO THE CONTRARY, it is useful to examine what solution should be given to that question, in the hypothesis that the Pope could be a heretic.”⁴⁷



46. Suarez, *De Legibus*, lib. IV, cap. 7, no. 10, p. 361. - In what follows, Suarez defends his opinion (see pages 37 ff).

47. Saint Robert Bellarmine, *De Rom. Pont.*, lib. II, cap. 30, p. 418. The capitals are ours.

On the same matter, the following passage, from an eminent contemporary theologian, the Spanish Jesuit Father Joaquin Salaverri, is also enlightening:

“As a private person, can the Pope fall into heresy? The theologians dispute about this question. To us ‘it seems more pious and more probable’ to admit that God will take care, by his Providence, ‘that never will a Pope be a heretic’. For this opinion, sustained by Saint Robert Bellarmine and Suarez, was also praised in the First Vatican Council by Bishop Zinelli, Relator of the Faith in the following terms: ‘Confident in supernatural Providence, we judge it to be quite probable that that will never happen. But God does not fail in the things that are necessary; therefore, if He permits so great an evil, the means to remedy such a situation will not be lacking’ (conc. Vatic., Mansi 52, 1109)”.⁴⁸

48. Salaverri, *De Eccl. Christi*, p. 718.

CHAPTER III

SECOND OPINION - FALLING INTO HERESY, EVEN THOUGH MERELY INTERNALLY, THE POPE LOSES “IPSO FACTO” THE PONTIFICATE

The followers of this second opinion do not deny that, because of the arguments already indicated¹, the Pope might turn heretic. And, admitting that there is complete incompatibility between heresy and ecclesiastical jurisdiction - above all pontifical jurisdiction - they maintain that the Pope heretic loses his charge “ipso facto”, even before the exteriorization of his heresy.

a) In favor of this opinion militate divers arguments, which Suarez sets out and afterwards refutes.² After showing, based on passages of Scripture, that the faith is the foundation of the Church, Suarez writes:

“Therefore, if the faith is the foundation of the Church, it is also the foundation of the Pontificate and of the hierarchical order of the Church. This is confirmed by the fact that that is the reason presented to explain why Christ had asked Saint Peter for a profession of faith before promising him the Papacy (Matt. 16). A second confirmation: frequently the Fathers say that he who does not have faith cannot hold jurisdiction in the Church: Saint Cyprian (referred in the chapter *Novatianus*, 7, q. 1; *Cap. Didicimus*, 24, q. 1), Saint Ambrose (*Cap.*

1. In this matter, as is evident, the arguments in favor of one opinion constitute in general objections to the others, and vice-versa. Such being the case, in the chapter dedicated to each opinion we set forth only the reasons pro and con which contain something new. In the present case, it is not necessary to indicate the foundations of the thesis that the Pope can turn heretic, for they are enunciated in the objections raised up against the previous opinion (pp. 15 ff).

2. In the last centuries, no author we have heard of defended this opinion. Among the ancients, its principal defender was Cardinal Torquemada (uncle of the inquisitor of the same name - see note 16 of page 66).

Verbum, de Poenitentia, q. 1), Pope Saint Gelasius (c. Achatius, 1) and Alexander II (Cap. *Audivimus*, 24, q. 1), Saint Augustine (epist 48 ad Vincent.; lib. de Pastoribus), Saint Thomas (II-II, q. 39). A third confirmation, by way of a very simple argument: a heretic is not a member of the Church; in consequence, neither is he the head. Further: the heretic should not even be saluted, rather he should be absolutely avoided, as Saint Paul teaches (Tit., 3) also Saint John (II Epist); much less, therefore, ought he to be obeyed. Finally: the heretical Pontiff denies Christ and the true Church; consequently he denies himself and his charge; consequently he is for this same reason deprived of that charge”³

b) The reasons that militate against this second opinion are founded above all upon the visible character of the Church, in function of which it is impossible to admit the loss of jurisdiction for a reason which is unknowable and unverifiable by the faithful. Here is how Suarez develops his argumentation in respect to this:

“The loss of faith for heresy which is merely internal does not cause the loss of the power of jurisdiction (...). This is proved in the first place by the fact that the government (ecclesiastical) would become very uncertain if the power depended on interior thoughts and sins. Another proof: given that the Church is visible, it is necessary that her governing power be in its way visible, dependent therefore on external actions, and not on mere mental cogitations. This is a reason “a priori”, for in such a case the Church does not take away the power through her human law, since it does not judge what is internal, as we shall say further on. And the power is not taken away either by virtue or mere divine law for this either is natural, that is to say, co-natural to the supernatural gifts themselves, or it is established by a positive determination. The first member of the dilemma cannot be accepted, for by the very nature of things it is impossible to demonstrate a necessary connection between the faith and the power of jurisdiction; and also because the power of Orders is even more supernatural, but it is not lost, which constitutes a truth of faith, as is shown more amply in the treatise on the Sacraments in general, as Saint Thomas teaches (II-II, q. 39, a. 3). Therefore, while the faith is the foundation of sanctification and of the gifts that pertain to it, it is not however the foundation of the other powers and graces,

3. Suarez, *De Fide*, disp. X, sec. VI, no. 2, p. 316.

which are conceded for the benefit of other men. The second member of the dilemma is eliminated with the simply observation that neither by Tradition nor by Scripture is it possible to demonstrate the existence of this divine positive law. Finally, it is consistent with reason that, just as ecclesiastical jurisdiction is only conferred by means of some human act - whether it be only designative, that is elective of the person, as in the case of the Supreme Pontiff, or be it the conferring of power, as in the other cases - neither should it be taken away except by means of some external act, for in both situations due proportion must be guarded, considering the condition and nature of man”.⁴

C) An opinion abandoned today. As we have seen, this second opinion - of the loss of the Pontificate by merely internal heresy - is rooted in the thesis, today abandoned by the majority of the theologians, that even a heresy which is not exteriorized causes the loss of the condition of member of the Church.⁵ Among these two positions there does not exist, however, a necessary connection. Thus it is that Cardinal Journet, while admitting that merely internal heresy excludes from the Church,⁶ inclines nevertheless toward the opinion that the Pope heretic is not “ipso facto” removed.⁷ Suarez also considered that the internal heretic ceased to be a member of the Church,⁸ but required a declaratory act for the heretical Pope to fall from the Seat of Peter.⁹

In more general terms, it is opportune to observe that though there exists an intimate connection between the exclusion from the church and the loss of the Papacy, a great number of theologians do not judge nevertheless that the first determines “ipso facto” the second.¹⁰

It is understood, then, that the opinion according to which merely internal heresy determines the loss of the Pontificate has been completely abandoned by the theologians.

4. Suarez, *De Legibus*, lib. IV, cap. VII, n. 7, p. 360

5. The divers positions of the theologians about the moment when the heretic ceases to be a member of the Church can be seen in Salaverri, “De Eccl. Christi”, pp. 881-882.

6. See Journet, *L'Eglise...*, vol. II, p. 575, note 3; p. 821, note 3; p. 1064 (where he cites a section of the Bull *Ineffabilis Deus*, of Pius IX).

7. See Journet, *L'Eglise...*, vol. II, p. 821, note 3.

8. See Salaverri, *De Eccl. Christi*, p. 881.

9. See the text of Suarez which we cite on pages 32-43.

10. See the considerations of Suarez (pp. 37-42) and Saint Robert Bellarmine (p. 49) over this point.

CHAPTER IV

THE THIRD OPINION - EVEN THOUGH HE FALLS INTO NOTORIOUS HERESY, THE POPE NEVER LOSES THE PONTIFICATE

This third opinion - which Saint Robert Bellarmine classifies as “very improbable”¹ - is defended by one sole theologian, among 136 ancient and modern theologians whose position on this matter we could verify. We are speaking of the French canonist d. Bouix (+ 1870), who argues in the following terms²:

“There is not sufficient reason to think that Christ had determined that an heretical Pope could be deposed. The reason allegeable in favor of that deposition would be the enormous evil which would come upon the Church in case such a Pope were not deposed. Now this reason does not hold: for, on the one hand, a Pope heretic does not constitute an evil so great that it necessarily leads the Church to

1. *De Rom. Pont.*, lib. II, cap. 30, p. 418.

2. As will be seen in the pages which follow, Bouix judges it more probable that the Pope could not fall into heresy; but, admitting such an hypothesis, he maintains that the Pontiff would conserve his charge. -- Note also that Bouix affirms explicitly that, faced with a Pope heretic, the faithful should not remain inert, but should resist his iniquitous decisions. (On the right of resistance, even public resistance, to the decisions of the ecclesiastical authority, see pp. 95)

3. Bouix argues here by way of hyperbole. No author at all has said that the Church would necessarily be brought “to ruin and destruction” if the Pope heretic conserves the pontificate. That which constitutes the common opinion - which Bouix seems to underestimate or even deny - is that the permanence of such a Pope in his charge would cause great evils for the Church and for the salvation of souls, for heresy “spreads like cancer” (II Tim 2, 17 - see also the commentary of Suarez over this passage, cited by us at page 43) and, once it should happen to be installed in the See of Peter, it would constitute “a danger for the faith (...) imminent and among all the gravest” (Pietro Ballerini, text which we cite at page 49).

ruin and destruction;³ and, on the other hand, the deposition would be a remedy much worse than the evil itself.⁴

In the first place, therefore, we have said that the papal heresy of which we treat here does not constitute an evil so grave that it necessarily obliges one to think that Christ would desire the deposition of such a Pontiff. It is a question, in effect, of exclusively private⁵ heresy, that is, professed by the Pontiff not as Pastor of the church and in his papal decrees and acts, but only as a private doctor and just in his private speeches and writings. Now, as long as the Pope teaches the true faith whenever he defines or makes pronouncements as Pontiff, the faithful will be sufficiently safe, even though it be known, at the same time, that the Pope himself adheres privately to some heresy. All would easily understand that an opinion defended by the Pope as a private doctor would be destitute of authority, and that he should only be obeyed when he defined or imposed truths of faith officially and with the pontifical authority. If anyone, in spite of this insists that the private heresy of the Pope could be harmful to such a point that Christ would not be able to leave his Church without a remedy against so great an evil,⁶ we respond that we also hold this opinion as being the most probable; but as a remedy we point to the special Providence of Christ so that the Pope not fall into heresy, not even as a private doctor. We deny absolutely, however, that Christ could have established as a remedy the deposition of the Pope.

For - this is our second assertion - such a remedy would be worse than the evil itself. Indeed, one either supposes that this deposition would be carried out by Christ himself, as soon as the Pope were declared a heretic by a general council according to the doctrine of Suarez, or one supposes that it would be realized by virtue of the

4. The principal reason allegeable against the permanence of the Pope heretic in his charge is not the evil which would arise therefrom for the Church, but it is the incompatibility existing between heresy and ecclesiastical jurisdiction, as we show in the pages 53-55. See also the expositions which Saint Robert Bellarmine (pp. 48-49) and Pietro Ballerini (pp. 49-51) make in this respect. As for the affirmation that the loss of the Pontificate by the Pope heretic would bring about greater evils than his permanence in his charge, see note 6 of page 39.

5. In this passage, Bouix does not consider all the possible hypotheses. He says it is a matter of heresy exclusively private, as long as the Pope does not err when he defines and imposes truths of faith. Now, there would be a third case to enumerate: that of official pontifical documents which, however, do not define truths of faith. And in these the possibility of errors and even of heresies is not excluded as such, as we show in the Chapters IX and X of this Part I (to be printed at later date by CRI). Therefore, the argument presented here by Bouix is not conclusive, since it is based on an inadequate division.

6. Note that Bouix tries here to refute the text of Suarez which we present on page 40.

authority of the general council itself. Now, in both cases the evil would be aggravated, and not remedied. For the doctrine according to which Christ himself would depose the Pope heretic, as soon as the General council declared him a heretic, is no more than an opinion, rejected by any, and with which it is licit, for anyone whatsoever, to disagree. Suarez himself judges this opinion less probable, in as much as he reposes it to be more probable that there cannot be a Pope heretic, not even privately. Such being the case, even after it were declared by a General Council that a certain Pope were a heretic, it would absolutely not become certain that that Pope would be deposed; and in such a doubt one must rather continue to respect his authority.⁷ If another Pope were elected not only would he be of uncertain legitimacy, but he would even have to be branded as an intruder. Therefore, the remedy of a deposition made by Christ in the moment of a conciliar declaration, not only would not remedy the evil, but would create an evil much more grave, that is, a most intricate schism. Consequently, by no means should one think that Christ established such a remedy. But neither should one think that He established as a remedy deposition by the authority of the council itself. For, the deposition of a Pope by a council, besides being impossible,⁸ as will be said further on, would be followed by a worse evil if it were possible. In fact, the concession to a council, by Christ, of such authority over a Pope heretic, is no more than a simple opinion most commonly rejected by Catholic doctors, and even intrinsically inadmissible, as is easily demonstrated. Then, after such deposition, it absolutely would not become certain that the heretical Pope would have been deprived of the pontifical primacy. He who would have been elected in his place would be branded by many as an intruder, and as such would be licitly rejected. This measure, therefore, would not bring a remedy, but rather a schism, confusion and dissension.”⁹

“It would be most harmful to the Church - Bouix writes further

7. Bouix is right when he affirms that, when there is doubt, one should continue to respect the authority of the Pope in all things that are not opposed to the principles of Faith. For the loss of jurisdiction is only effected when it is demonstrated (“melior est conditio possidentis”).

We believe however that the doubt to which Bouix alludes can be resolved today by the joint action of the theologians, for there are elements for them to reach a common opinion in this matter (see pp. 15-16 and 59).

8. In this point Bouix is undoubtedly altogether right, for a council could only depose a Pope by its own authority if it were superior to him. And it is a dogma of the Faith that a Council is not, in any circumstance, above the Pope.

9. Bouix, *Tract. de Papa*, tom. II, pp. 670-671.

- if the Pope were deposed “ipso facto” for being a heretic. For this would be done either only when he were a notorious and public heretic, or also for occult external heresy, or even for internal heresy. If it were for public and notorious heresy, there would arise doubts as regards the degree of notoriety or infamy necessary for the Pontiff to be considered destitute of the Papacy.¹⁰ Thence would arise schisms and everything would become uncertain, the more so if, in spite of the alleged notoriety, the Pope were to conserve his charge by force or by any other means, and continued to exercise many acts of his office. If the destitution were made on the grounds of external but occult heresy there would arise even greater evils. For all the acts of such a Pontiff, occultly heretical, would be null and invalid, but this would only be known to a few persons. Such difficulty would be even greater, as is obvious if the Pope were deposed “ipso facto” on account of internal heresy.¹¹ (...)

Faith is not necessary for a man to be capable of ecclesiastical jurisdiction and that he might exercise true acts which require such jurisdiction. For in case of extreme necessity a heretical priest can absolve, as is taught in the treatises on penance and censures, however absolution requires and supposes jurisdiction. Moreover, the power of orders, which in its way is superior, can remain without faith, that is, with heresy; therefore ecclesiastical jurisdiction can do so too (...).

To the texts in which some Fathers teach that he who has not faith cannot have jurisdiction in the Church, we answer: this ought to be understood in the sense that without faith ecclesiastical jurisdiction cannot be exercised appropriately, and in the sense that the heretic deserves to be deprived of jurisdiction; or some of these texts must be interpreted as determinations of Canon Law relative to the Bishops in particular, determinations which declare them to be

10. It does not seem to us that Bouix is right here either. Many are the rights and obligations which are based on concrete facts whose complexity can furnish a margin for discussions. Nevertheless, for all that one ought not deny, in principle, the existence of such rights and obligations. That which we said (pp. 5-6) about the necessity of a more profound study of the whole question of a Pope heretic holds in connection with the disagreement which could arise among the theologians over the case here analyzed by Bouix.

11. The argument of Bouix against the loss of the Pontificate by a Pope who is only occultly a heretic, or only internally a heretic, seems decisive to us. It is founded upon the visible character of the Church, as we observe of page 57.

Note that the hypothesis of merely internal heresy corresponds to the second opinion enumerated by St. Robert Bellarmine (see, in the synoptic outline of pp. 111-112 the position of B-II-1; and also pp.28-30), while the hypothesis of external but occult heresy constitutes one of the subdivisions which we introduce in the fifth opinion of St. Robert Bellarmine (see, in the synoptic outline of pp. 110-111, the observations at position B-II-2; and further on p. 48).

deposed “ipso facto” (...).

To the argument that, not being a member of the church, the heretical Pope is not the head of the church either, (...) one can give the following answer: I concede that the Pope heretic is not a member and head of the church in so far as the supernatural life which commences by faith and is completed by charity, by which all the members of the Church are united in one body supernaturally alive; but I deny that he might not be a member and head of the Church as far as the governing power proper to his charge. Indeed, it is not absurd that Christ wishes that the Pope (the same might be said of a bishop in relation to the diocese), while he might not be part of this body supernaturally alive due to heresy, should nevertheless still conserve the power of governing the Church, exactly as if he had not lost the supernatural life mentioned above.¹²

As far as the power of orders, there is no doubt that Christ did not wish that either heretical priests or bishops be deprived of it, although by reason of heresy they have already ceased to be members of the Church, in the sense indicated. Now, the permanence of jurisdiction in a Bishop would not be more absurd than in a Pope heretic, whether the heresy be only internal, or even external”.¹³

Bouix thus expresses, in a summary formula, his thinking on the matter:

“(...) if the case of a Pope privately a heretic were possible, one must judge that in spite of this Christ desired that this Pope conserve the supreme authority, and that in no way might he be deprived of that authority by a General Council”.¹⁴

The immediately thereafter he declares, in terms perhaps even more incisive:

“(...) as to Suarez and to many others, it appears MORE PROBABLE to me that the Pope, even as a private person, cannot fall into heresy. But on the hypothesis that he could turn privately

12. It does not appear to us that Bouix gives here the due importance to the principle that heresy brings about “ipso facto” the loss, at least “in radice” (in its root) of any ecclesiastical jurisdiction whatsoever. We set out this principle on pages 53.

13. Bouix, *Tract. de Papa*, tom. II, pp. 660-662.

14. Bouix, *Tract. de Papa*, tom. II, p. 666.

heretic, I WOULD DENY IN AN ABSOLUTE WAY that he would be deposed “ipso facto”, or that he could be deposed by any council.”¹⁵



Despite the great efforts expended by Bouix in defense of this third opinion, it seems to us that one ought to qualify it, with Saint Robert Bellarmine, as “very improbable”. Indeed, it has against it the practically unanimous Tradition of the Church;¹⁶ it does not agree with numerous texts of the Sacred Scripture; it does not seem to give due importance to the extreme evil which a Pope heretic could do to the Church; and it is so much a minority opinion among the theologians, that Cardinal Camillo Mazzella, S.J., goes so far as to affirm that no author of those who admit the possibility of a Pope heretic, denies or puts in doubt that he would be removed from his charge “ipso facto”, or at least must be removed.¹⁷

15. Bouix, *Tract. de Papa*, tom. II, p. 666. The capitals are ours.

16. We remind the reader that of 136 authors whom we consulted, only Bouix defends this opinion (see p. 31)

17. Card. Camillo Mazzella, *De Relig. et Eccl.*, p. 817. In the same sense, wrote Cardinal Billot: “once this is supposed (that a Pope had turned heretic), all concede that the bond of communion and subjection (in relation to the Pope) would be dissolved, with foundation in the divine dispositions which order expressly that heretics be avoided: Tit. III, 10; II Jo. 10, etc. (*Tract. de Eccl. Christi*, tom. I, p. 615). - See also R. de M., *Inst. Juris Can.*, vol. I, p. 265.

CHAPTER V

FOURTH OPINION - THE POPE HERETIC ONLY EFFECTIVELY LOSES THE PONTIFICATE UPON THE INTERVENTION OF AN ACT DECLARATORY OF HIS HERESY

According to this fourth opinion, the Pope never loses the Pontificate by the very act of his fall into heresy. Rather, for his destitution to be effective, it is necessary that there be an act declaratory of his defection in the faith. As is obvious, such a declaration cannot be a juridical decision in the strict sense, given that the Pope does not have on Earth a superior who judges him;¹ but it will be a mere non-juridical declaration, on account of which Jesus Christ himself will depose the Pope.

The principal followers of this fourth opinion are Cajetan and Suarez.²

1. Defense of this opinion by Suarez

After refuting the opinion according to which the Pope heretic is

1. Therefore, this fourth opinion is absolutely not the same as conciliarism - as theory condemned as heretical, according to which the Council would be superior to the Pope, being able therefore to judge him and depose him. Among the possible solutions to the question of a Pope heretic, we do not study the conciliarist opinion because, while it had many followers in the past, it is nevertheless manifestly unacceptable by Catholics, above all after the definitions of the First Council of the Vatican.

2. We reemphasize that Suarez is a partisan of the first sentence, defending this fourth only in the hypothesis - which he judges less probable - that the Pontiff could fall into heresy (see the text which we cite on p. 14) - Cajetan, on the contrary, admits positively the possibility of the defection of the Pope in the faith (*De Comparationibus...*, pp. 112 ss.), as was moreover a common opinion in his time.

3. The employment of the term "deposition" in a different sense than the common one had already

automatically "deposed", Suarez defends his position in the following terms:

"(...) in no case, even that of heresy, is the Pontiff deprived of his dignity and of his power immediately by God himself, before the judgment and sentence of men. This is the common opinion today: Cajetan (de Auctoritate Papae, c. 18 et 19); Soto (4, d.22, quaest. 2, art. 2); Cano (4 de Locis, c. ult. ad 12); Corduba (lib. 4, q. 11). Later, on treating the penalties of the heretics, we will indicate still other authors, and in a general manner show that by divine law no one is deprived of dignity and ecclesiastical jurisdiction because of the crime of heresy. Now we will give an "a priori" argument: since much a destitution is a most grave penalty, one would only incur it "ipso facto" if it were expressed in the divine law; however, we do not find any law which establishes this, either in general as far as the heretics are concerned, or in particular as to the Bishops, nor in a very particular way as far as the Pope is concerned.⁴ Neither is there a certain Tradition over this matter. Nor can the Pope lose his dignity "ipso facto" by virtue of a human law, for this law would have to be established by an inferior, that is, by a Council, or by an equal, that is, by a previous Pope; but neither a council nor a previous Pope possess such a coercive power as to be able to punish their equal or superior. Therefore, etc.

(...) You will say that there could be a law interpreting divine law. But this would be without foundation for you do not quote any such

become classical in this matter. For example, the aphorisms "Papa haereticus est depositus" ("the Pope heretic is deposed") and "Papa haereticus non est depositus sed deponendus" ("the Pope heretic is not deposed, but must be deposed") are common place - aphorisms, these which express respectively the theses of the automatic loss of the Papacy and of the loss after the declaration (see explanation in Journet, *L'Eglise...*, vol. I, p. 626. As is evident, in this theological context, the term "deposition" cannot be understood in its vulgar sense, for thus one would fall into conciliarism, that is, admitting that some human power - normally the Council - could take away from the Pontiff his charge. In the above mentioned aphorisms and in the orthodox authors who speak of "deposition" in this theological context, the word indicates only the loss of the Papacy. That is what will be seen in the text of Suarez which we cite in the following.

It seems to us that in our days it would be convenient to eliminate the term "deposition" from the debates about the matter, since in the civil plane it indicates exclusively the act whereby someone removes someone else from a charge. In this form we would defend more comfortably the traditional theses against the neoconciliarists who are nowadays reappearing around us.

4. This affirmation of Suarez does not appear to have a foundation. For Saint Paul (Tit. 3, 10) and Saint John (II John 10-11) command us to avoid the heretics. Now - asks Saint Robert Bellarmine when he answers Suarez - "how would we be obliged to avoid our own head? How can be separate ourselves from a member united to us?" (We cite this text integrally on p. 43).

5. The dilemma presented here by Suarez is without doubt valid, since evidently no one suffers a

divine law; furthermore, up to now there has not been laid down by the councils or by the Popes any law which had interpreted such a divine law.

This is confirmed by the fact that such a law would be harmful to the church; by no means, then, would one be able to believe that it had been instituted by Christ; the foregoing is proved: if the Pope were an occult heretic, and for this reason would have fallen “*ipso facto*” from his charge, all his acts would be invalid. You will say that at least this argument proves nothing as far as a notorious and public heretic is concerned. But this is not true, for it the external but occult heretic still can be the true Pope, with equal right he can continue to be so in the event that the offense became known, as long as sentence were not passed on him. And that, both because no one suffers a penalty if it is not “*ipso facto*” or by sentence,⁵ and because in this way would arise even greater evils. In effect, there would arise doubt about the degree of infamy necessary for him to lose his charge; there would rise schisms because of this, and everything would become uncertain, above all if, after being known as a heretic, the Pope should have maintained himself in possession of his charge by force or by other means, and should have exercised many acts of his office.⁶

A second confirmation, which is of great importance: in case the heresy of the Pope turned external, but occult, and after that he turned back with true repentance, he would be placed in a situation of total

penalty, if not “*ipso facto*” or by sentence. Nevertheless, Suarez doesn’t appear to perceive that, according to the fifth opinion; there is a *fact* which carries as a consequence the automatic loss of the Papacy, that fact being a *complex offense*, for it involves, in addition to occult heresy, its public manifestation.

6. As we see, the opinion attacked here by Suarez is the fifth enunciated by Saint Robert Bellarmine, and is the one to which the latter adheres (see the synoptic outline of pp. 111-112, position B-II, 2, and pp. 48 ff). It is unquestionable that the concrete application of this opinion in the eventual case of a Pope heretic could occasion the gravest confusions and afflictions for the Church. It seems to us nevertheless, that supposing the hypothesis of a Pope heretic, these confusions and afflictions would follow ineluctably, whatever be the sentence of the theologians which one had adopted. Considering things only from the point of view of the schisms, the confusions and the rivalries which could arise, we do not see how to prefer one of the opinions to the rest. We shall take as an example only the position of Suarez. What divisions could not arise if some cardinals and bishops declared the Pope a heretic, while others supported him! We believe however that the true point of view from which the question ought to be enfocused is not this. It is not a question fundamentally, of asking which is the solution which would conserve “peace” better, *but rather asking which would conserve the Faith better, and which would be more in accord with the divine institution of the Church*. And from this point of view, as we will say further on (pp 53 ff.), we judge that there are solid reasons to embrace, with Saint Robert Bellarmine, Wernz-Vidal and others, the fifth opinion.

7. Today, the thesis according to which he who is not the true Pope can be “made Pope by God without the election and ministry of men” does not sound so bad, to the ears of many theologians.

perplexity: if he lost the charge by reason of heresy, he ought absolutely to abandon the pontificate, which is most serious and almost contrary to natural law, for it is to denounce oneself; but he could not retain the episcopate, for this would be intrinsically evil. This being the case, even the defenders of the contrary opinion confess that in this case it would be licit to conserve the episcopacy, and that he would therefore be the true Pope; this is the common opinion of the canonists, and that of the Gloss (c. “*Nuno autem*”, d.21). From thence one infers an evident argument against them, for granted that the pontifical charge is not restored by God through penance, as grace is restored, for it is unheard of that he who is not the true Pope be made Pope by God without the election and ministry of men.⁷

Finally, the faith is not absolutely necessary in order that a man be capable of spiritual and ecclesiastical jurisdiction and be able to exercise true acts which demand this jurisdiction and be able to exercise true acts which demand this jurisdiction; then, etc. The foregoing is obvious, granted that, as in taught in the treatises on penance and censures, in case of extreme necessity a priest heretic may absolve, which is not possible without jurisdiction.⁸

(...) The Pope heretic is not a member of the Church as far as the substance and form which constitute the members of the Church; but he is the head as far as the charge and action; and this is not surprising, since he is not the primary and principal head who acts by his own power, but is as it were instrumental, he is the vicar of the principal head, who is able to exercise his spiritual action over the members even by means of a head of bronze; analogously, he baptizes at times by means of heretics, at times he absolves, etc., as we have already said.

(...) I affirm: if he were a heretic and incorrigible, the Pope would cease to be Pope just when a sentence was passed against him for his crime, by the legitimate jurisdiction of the Church. This is the common opinion among the doctors, and it is gathered from the first epistle of Saint Clement I, in which one reads that Saint Peter taught that a Pope heretic must be deposed. The reason is the following: It

For Saint Alphonse de Liguori admits, in principle, such an eventuality. He teaches that a Pope intruder would become a true Pope when he were peacefully accepted by the Church universally. This is a little known and extremely delicate point of doctrine which we analyze in pages 72 ff.

8. See on pp. 48 the observations which we make on the “*in radice*” (in its root), but not absolute incompatibility, which exists between heresy and ecclesiastical jurisdiction.

9. Here is the principal objection which can be raised against this fourth opinion. As Suarez

would be most gravely prejudicial to the church to have such a pastor and not be able to defend herself in so grave a danger; in addition to this it would be contrary to the dignity of the church to oblige her to remain subject to a heretic Pontiff, without being able to expel him from herself; for such as are the prince and the priest, so the people are accustomed to be; this is confirmed by the reasons adduced in favor of the previous opinion (that of deposition “*ipso facto*”), above all by that which says that heresy “propagates itself like cancer”, a motive for which the heretics must be avoided as much as possible, and therefore much more so a Pastor heretic; but how could he be avoided, if he did not cease to be pastor?

(...) In respect to this conclusion some explanations must be given. In the first place, who ought to pronounce such a sentence? Some say that it would be the Cardinals; and the Church would be able undoubtedly to attribute to them this faculty, above all if it were thus established by the consent or determination of the Supreme Pontiffs, as was done in regard to the election. But up to today we do not read in any place that such a judgment has been confided to them. For this reason, one must affirm that, as such, it pertains to all the Bishops of the Church, for, being the ordinary pastors and the pillars of the Church, one must consider that such a case concerns them. And since by divine law there is no greater reason to affirm that the matter is of more interest to these bishops than to those, and since by human law nothing has been established in the matter, one must necessarily sustain that the case refers to all, and even to the general council. That is the common opinion among the doctors. One can see what Cardinal Albano explained lengthily over this point (*De Cardinalibus*, q. 35 - edition of 1584, tom 13, p. 2).

A second doubt: how could such a Council meet legitimately, since it pertains to the Pope to convoke it legitimately? One answers, in the first place, that perhaps it would not be necessary for a general council as such to meet, but it might be enough if in each region there met provincial or national Councils, convoked by the Archbishops or Primate, and that all arrived at the same conclusion. In the second place, if a general council meets to define matters of faith or to lay down universal laws, it is only legitimate if it is convoked by the Pope; but if it meets to treat the matter of which we speak, which especially concerns the Pontiff himself and is in a certain manner contrary to him, the council can be legitimately convoked either by the College of Cardinals or by agreement among the bishops;

and if the Pontiff attempted to prevent such a meeting, he should not be obeyed, for, acting against justice or the common good, he would be abusing his supreme power.

(...) From this arises a third doubt: by what right could the Pope be judged by that assembly, being superior to it?⁹ In this matter Cajetan makes extraordinary efforts to avoid seeing himself forced to admit that the Church or a Council are above the Pope in case of heresy; he concludes in the end that the Church and the Council are superior to the Pope, not as Pope, but as a private person. This distinction however does not satisfy, for with the same argument one would be able to say it belongs to the Church to judge or to punish the Pope, not as Pope, but as a private person (...).

Others affirm that, in case of heresy, the Church is superior to the Pope. But this is difficult to admit for Christ constituted the Pope as the absolutely supreme judge; the canons also affirm this principle in a general way and without distinctions, and finally the Church cannot exercise any act of jurisdiction over the Pope, and on electing him does not confer the power upon him, but designates the person upon whom Christ directly confers the power.

Therefore on deposing a heretical Pope, the Church would not act as superior to him, but juridically, and by the consent of Christ, she would declare him a heretic and therefore unworthy of Pontifical honors;¹⁰ he would be then “*ipso facto*”¹¹ and immediately deposed

demonstrates, Cajetan does not meet it successfully. It seems to us that the solution presented by Suarez is not satisfactory either, as we will say further on (p. 58).

10. Behold the central point -- that which appears weak to us -- of the argumentation of Suarez. He admits that the Council, while inferior to the Pope, would be able nevertheless to “juridically” declare him a heretic and destitute of his charge. Things being so, the Council would be, in the true sense, *judging* the Pope -- and one cannot admit that this faculty belongs to it, not even in the case of heresy in the person of the Pontiff. It is not enough to say that the Council would not *depose* the Pope, but would only *judge* him and Christ would depose him -- for even this power to *judge* a Pope does not exist.

Note, on the other hand, that the *juridical* declaration defended by the fourth opinion has nothing to do with the *non-juridical* declaration, which would be able to be made by the Council or by anyone of the faithful, before or after the loss of the Pontificate by the Pope heretic. Such a declaration, even though previous to the effective loss of the charge, *would not be an official juridical act* by reason of which the destitution would take place; but it would only seek to warn Catholic opinion against heresy of the chief of the Church. Such a *non-juridical* declaration is admitted as legitimate by all the authors (see Chapter XI, pp. 95).

11. One must not confuse the deposition “*ipso facto*” which characterizes the fifth sentence, with this to which Suarez refers here. Here the “*fact*” is the declaration of the heresy of the Pope; there, the “*fact*” is the manifest heresy itself.

12. Suarez, *De Fide*, disp. X, sect. VI, nn. 3-10, pp. 316-318.

by Christ, and once deposed he would become inferior and would be able to be punished.”¹²

2. Refutation of this opinion by Saint Robert Bellarmine

Saint Robert Bellarmine, who did not approve this fourth opinion, refutes it thus:¹³

“The fourth opinion is that of Cajetan, for whom (*de auctor. papae et cono.*, cap. 20 et 21) the manifestly heretical Pope is not “*ipso facto*” deposed,¹⁴ but can and must be deposed by the Church. To my judgment, this opinion cannot be defended. For, in the first place, it is proven with arguments from authority and from reason that the manifest heretic is “*ipso facto*” deposed. The argument from authority is based on Saint Paul (*epist. ad Titum*, 3), who orders that the heretic be avoided after two warnings, this is, after showing himself to be manifestly obstinate - which means before any excommunication or judicial sentence. And this is what Saint Jerome writes, adding that the other sinners are excluded from the Church by sentence of excommunication, but the heretics exile themselves and separate themselves on their own from the body of Christ. Now, a Pope who remains Pope cannot be avoided, for how could we be required to avoid our own head? How can we separate ourselves from a member united to us?

This principle is most certain. The non-Christian cannot by any means be Pope, as Cajetan himself admits (*ibidem*, cap. 26). The reason for this is that he cannot be head of what he is not a member; now he who is not a Christian is not a member of the Church, and a manifest heretic is not a Christian, as is clearly taught by Saint Cyprian (*lib. 4, epist. 2*), Saint Athanasius (*Ser. 2 cont. Arian.*), Saint Augustine (*lib. de grat. Christ. cap. 20*), Saint Jerome (*cont. Lucifer.*) and others; therefore the manifest heretic cannot be Pope.

To this Cajetan responds (in *Apol. pro tract. praedicto cap. 25 et*

13. In the text cited immediately below, Saint Robert Bellarmine presents and refutes the principal reasons alleged by Cajetan in defense of this fourth opinion. To the reader who wishes to know in more detail the position of Cajetan on the question of a Pope heretic, we point out his works *De Comparatione Auctoritatis Papae et Concilii* and *Apologia de Comparata Auctoritate Papae et Concilii*.

14. We recall again that the term “deposition” is employed by Saint Robert Bellarmine in the generic sense of the loss of the papacy, and not in the current acceptance, of an act by which a human power deprives someone of a charge. See note 3 of page 38.

15. According to present-day Canon Law, there is no deposition *latae sententiae*; therefore heretic

in *ipso tract. cap. 22*) that the heretic is not a Christian “*simpliciter*”, but is one “*secundum quid*”. For, granted that two things constitute this Christian - the faith and the character - the heretic, having lost the faith, is still in some way united to the Church and is capable of jurisdiction; therefore, is also Pope, but ought to be removed, since he is disposed, with ultimate disposition to cease to be Pope: as the man who is still not dead but is “*in extremis*”.

Against this: in the first place, if the heretic, by virtue of the character, would remain, “*in actu*”, united to the Church, he would never be able to be cut or separated from her “*in actu*”, for the character is indelible. But there is no one who denies that some people may be separated “*in actu*” from the Church. Therefore, the character does not make the heretic be “*in actu*” in the Church, but is only a sign that he was in the Church and that he must return to her. Analogously, when the sheep wander lost in the mountains, the mark impressed on it does not make it be in the fold, but indicates from which fold it has fled and to which fold it ought to be led back. This truth has a confirmation in Saint Thomas who says (*Summa Th. III, 8, 3*) that those who do not have faith are not united “*in actu*” to Christ, but only potentially - and Saint Thomas here refers to the internal union, and not to the external which is produced by the confession of faith and visible signs. Therefore, as the character is something internal, and not external, according to Saint Thomas the mere character does not unite a man, “*in actu*”, to Christ.

Further against the argument of Cajetan: either faith is a disposition necessary “*simpliciter*” for someone to be Pope, or it is only necessary for someone to be Pope more perfectly (“*ad bene esse*”). In the first hypothesis, in case this disposition be eliminated by the contrary disposition, which is heresy, the Pope immediately ceases to be Pope: for the form cannot maintain itself without the necessary dispositions. In the second hypothesis, the Pope cannot be deposed by reason of heresy, for otherwise he would also have to be deposed for ignorance, improbity, and other similar causes, which impede the science, the probity and the other dispositions necessary for him to be Pope in a more perfect way (“*ad bene esse papae*”). In addition to this, Cajetan recognizes (*tract. praed.*, cap. 26) that the Pope cannot be deposed for the lack of the dispositions necessary, not “*simpliciter*”, but only for greater perfection (“*ad bene esse*”).

To this, Cajetan responds that faith is a disposition necessary “*simpliciter*”, but partial, and not total; and that, therefore, the faith

disappearing the Pope can still continue being Pope, by reason of the other part of the disposition, which is the character, which still endures.

Against this argument: either the total disposition, constituted by the character and by faith, is necessary “simpliciter”, or it is not, the partial disposition then being sufficient. In the first hypothesis, the faith disappearing there no longer remains the disposition “simpliciter” necessary, for the disposition “simpliciter” necessary was the total, and the total no longer exists. In the second hypothesis, the faith is only necessary for a more perfect manner of being (“ad bene esse”), and therefore its absence does not justify the deposition of the Pope. In addition to this, what finds itself in the ultimate disposition to death, immediately thereafter ceases to exist, without the intervention of any other external force, as is obvious; therefore, also the Pope heretic ceases to be Pope by himself, without any deposition.

Finally, the Holy Fathers teach unanimously not only that heretics are outside of the Church, but also that they are “ipso facto” deprived of all ecclesiastical jurisdiction and dignity. Saint Cyprian (lib. 2, epist. 6) says: “we affirm that absolutely no heretic or schismatic has any power or right”; and he also teaches (lib. 2, epist. 1) that the heretics who return to the Church must be received as laymen, even though they have been formerly priests or bishops in the Church. Saint Optatus (lib. 1 cont. Parmen.) teaches that heretics and schismatics cannot have the keys of the kingdom of heaven, nor bind nor loose. Saint Ambrose (lib. 1 de poenit., cap. 2), Saint Augustine (in Enchir. cap. 65), Saint Jerome (lib. cont. Lucifer.) teach the same (...).

Pope Saint Celestine I (epist. ad Jo. Antioch., which appears in Conc. Ephes., tom. I, cap. 19) wrote: “It is evident that he has remained and remains in communion with us, and that we do not consider destitute, anyone who has been excommunicated or deprived of his charge, either episcopal or clerical, by the Bishop Nestorius or by the others who followed him, after these latter commenced preaching heresy. For the sentence of him who has already revealed himself as one who must be deposed, can depose no one”.

And in a Letter to the Clergy of Constantinople, Pope Saint Celestine I says: “The authority of our Apostolic See has determined that the Bishop, cleric or simple Christian who has been deposed or excommunicated by Nestorius or his followers, after the latter began to preach heresy shall not be considered deposed or excommunicated.

For he who has defected from the faith with such preachings, cannot depose or remove anyone whatsoever”.

Saint Nicholas I (Epist. ad Michael) repeats and confirms the same. Finally, Saint Thomas also teaches (S. Theol., II-II, 39, 3) that schismatics immediately lose all jurisdiction, and that anything they try to do on the basis of any jurisdiction will be null.

There is no basis for that which some respond to this: that these Fathers based themselves on ancient Law, while nowadays, by decree of the Council of Constance, they alone lose their jurisdiction who are excommunicated by name or who assault clerics. This argument, I say has no value at all, for those Fathers, in affirming that heretics lose jurisdiction, did not cite any human law, which furthermore perhaps did not exist in relation to the matter, but argued on the basis of the very nature of heresy. The council of Constance only deals with the excommunicated, that is, those who have lost jurisdiction by sentence of the Church, while heretics already before being excommunicated are outside the Church and deprived of all jurisdiction., For they have already been condemned by their own sentence, as the apostle teaches (Tit. 3, 10-11), that is they have been cut from the body of the Church without excommunication, as Saint Jerome explains.¹⁵

Besides that, the second affirmation of Cajetan, that the Pope heretic can be truly and authoritatively deposed by the Church, is no less false than the first. For if the Church deposes the Pope against his will it is certainly above the Pope; however, Cajetan himself defends, in the same treatise, the contrary of this. Cajetan responds that the Church, in deposing the Pope, does not have authority over the Pope, but only over the link that unites the person to the Pontificate. In the same way that the Church in uniting the Pontificate to such a person, is not because of this above the Pontiff, so also the Church can separate the Pontificate from such a person in case of heresy, without saying it be above the Pope.

~~bishops and priests continue occupying their~~ charges and enjoying jurisdiction until they are deposed by their superiors (see note 6 of page 39). Would such a determination be contrary to the principles which Saint Robert Bellarmine expounds in the passage cited here? In part, yes, for he does not admit in any way the permanence in jurisdiction of a manifest heretic. However, if we consider that the Pope can sustain, for the sake of the good of the Church, the jurisdiction in a heretic (see pp. 55-56), and if we see that the holder of jurisdiction loses it, *in radice* (in its roots) by the very fact of his fall into heresy (see pp. 53-54), we verify that the affirmations of Saint Robert Bellarmine continue entirely defensible as long as the nuances in these two points are preserved. For a perfect comprehension of what has just been said, it is necessary to keep in mind what we observe in Chapter VII of this Part II (pp. 53 ff.)

16. Saint Robert Bellarmine, *De Rom. Pont.*, lib. II, cap. 30, pp. 418-420.

But contrary to this it must be observed in the first place that, from the fact that the Pope deposes Bishops, it is deduced that the Pope is above all the Bishops, though the Pope on deposing a Bishop does not destroy the episcopal jurisdiction, but only separates it from that person. In the second place, to depose anyone from the Pontificate against the will of the deposed, is without doubt a penalty; then, the Church, on deposing a Pope against his will, is without doubt punishing him; however, to punish is proper to a superior or to a judge. In the third place, given that according to Cajetan and the other Thomists, in reality the whole and the parts taken as a whole are the same thing, he who has authority over the parts taken as a whole are the same thing, he who has authority over the parts taken as a whole, being able to separate them one from another, has also authority over the whole itself which is constituted by those parts.

The example of the electors, who have the power to designate a certain person for the Pontificate, without having however power over the Pope, given by Cajetan, is also destitute of value. For when something is being made, the action is exercised over the matter of the future thing, and not over the composite, which still does not exist, but when a thing is being destroyed, the action is exercised over the composite, as becomes patent on consideration of the things of nature. Therefore, on creating the Pontiff, the Cardinals do not exercise their authority over the Pontiff, for this still does not exist, but over the matter, that is, over the person who by the election becomes disposed to receive the Pontificate from God. But, if they deposed the Pontiff, they would necessarily exercise authority over the composite, that is, over the person endowed with the pontifical power, that is over the Pontiff”.¹⁶

CHAPTER VI

FIFTH OPINION - FALLING INTO MANIFEST HERESY, THE POPE LOSES THE PONTIFICATE “IPSO FACTO”

This opinion is defended by numerous renowned theologians, such as Saint Robert Bellarmine, Sylvius, Pietro Ballerini, Wernz-Vidal, Cardinal Billot.¹

1. Defense of this opinion by Saint Robert Bellarmine

After refuting the other opinions in this matter, Saint Robert Bellarmine expounds his position in the following terms:

“Therefore, the true opinion is the fifth, according to which the Pope manifestly a heretic ceases by himself to be Pope and head, in the same way as he ceases to be a Christian and a member of the body of the Church; and for this reason he can be judged and punished by the Church. This is the opinion of all the ancient Fathers, who teach that manifest heretics lose immediately all jurisdiction, and outstandingly that of Saint Cyprian (lib. 4 epist. 2), who refers like this to Novatian, who was Pope (anti-pope) in the schism which occurred during the Pontificate of Saint Cornelius: “He would not be able to retain the Episcopate, and, if he was made Bishop before, he separated himself from the body of those who were like him Bishops and from the unity of the Church”. According

1. Saint Robert Bellarmine, text which we cite below; Sylvius: ad II II, q. 39, a. 1; Pietro Ballerini: text which we cite on pp. 169-170; Wernz-Vidal: *Ius-Can.*, tom, II, pp. 433 ff.; Billot: text which we cite at page 11.

to what Saint Cyprian affirms in this passage, even though Novatian had been truly the legitimate Pope, he would have however automatically fallen from the Pontificate in case he had separated himself from the Church.

This is the opinion of great recent doctors, as John Driedo (lib. 4 de Script. et dogmat. Eccles. cap. 2, par. 2, sent.2), who teaches that they only separate themselves from the Church who are expelled, like the excommunicated, and those who by themselves depart from her or oppose her, as heretics and schismatics. And in his seventh affirmation, he sustains that in those who turn away from the Church, there remains absolutely no spiritual power over those who are in the Church. Melchior Cano says the same (lib. 4 de lo ., cap. 2), teaching that heretics are neither parts nor member of the Church, and that it cannot even be conceived that anyone be head and Pope, without being member and part (cap. ult. ad argument. 12). And he teaches in the same place, with plain words, that occult heretics are still of the Church, they are parts and members, and that therefore the Pope who is an occult heretic is still Pope. This is also the opinion of the other authors whom we cite in book I *De Eccles.*

The foundation of this argument is that the manifest heretic is not in any way a member of the Church, that is, neither spiritually nor corporally, which signifies that he is not such by internal union nor by external union. For even bad Catholics are united and are members, spiritually by faith, corporally by confession of faith and by participation in the visible sacraments; the occult heretics are united and are members although only by external union; on the contrary, the good catechumens belong to the Church only by an internal union, not by the external; but manifest heretics do not pertain in any manner, as we have already proved.”²

2. Defense of this opinion by Father Pietro Ballerini

The explanation, which Father Pietro Ballerini, eminent Italian theologian of the XVIIIth Century, another defender of this fifth opinion, gives for his position seems very enlightening to us. After observing that the Council would only be able to pass sentence over a Pope heretic if he were already deposed, Father Ballerini ponders:

“A peril for the faith so imminent and among all the most grave, as this of a Pontiff who, even only privately, defended heresy, would not be able to be supported for long. Why, then, expect the remedy to come from a General Council, whose convocation is not easy? Is it not true that, confronted with such a danger for the faith, any subjects can by fraternal correction warn their superior, resist him to his face, refute him and, if necessary, summon him and press him to repent? The Cardinals, who are his counselors, can do this; or the Roman Clergy, or the Roman Synod, if, being met, they judge this opportune. For any person, even a private person, the words of Saint Paul to Titus hold: “Avoid the heretic, after a first and second correction, knowing that such a man is perverted and sins, since he is condemned by his own judgment” (Tit. 3, 10-11). For the person, who admonished once or twice, does not repent, but continues pertinacious in an opinion contrary to a manifest or public dogma - not being able, on account of this public pertinacity to be excused, by any means, of heresy properly so called, which requires pertinacity - this person declares himself openly a heretic. He reveals that by his own will he has turned away from the Catholic Faith and the Church, in such form that now no declaration or sentence of any one whatsoever is necessary to cut him from the body of the Church. In this matter the argument given by Saint Jerome in connection with the cited words of Saint Paul is very clear: “Therefore it is said that the heretic has condemned himself: for the fornicator, the adulterer, the homicide and the other sinners are expelled from the Church by the priests; but the heretics pronounce sentence against themselves, excluding themselves from the Church spontaneously: this exclusion which is their condemnation by their own conscience”. Therefore the Pontiff who after such a solemn and public warning by the Cardinals, by the Roman Clergy or even by the Synod, maintained himself hardened in heresy and openly turned himself away from the Church, would have to be avoided, according to the precept of Saint Paul. So that he might not cause damage to the rest, he would have to have his heresy and contumacy publicly proclaimed, so that all might be able to be equally on guard in relation to him. Thus, the sentence which he had pronounced against himself would be made known to all the Church, making clear that by his own will he had turned away and separated himself from the body of the Church, and that in a certain way he had abdicated the Pontificate, which no one holds or can hold if he does not belong to the Church. One sees then

2. Saint Robert Bellarmine, *De Rom. Pont.*, lib. II, cap. 30, p. 420.

that in the case of a heresy, to which the Pontiff adhered privately, there would be an immediate and efficacious remedy, without the convocation of a General Council: for in this hypothesis whatever would be done against him before the declaration of his contumacy and heresy, in order to call him to reason, would constitute an obligation of charity, not of jurisdiction; and if, after his turning away from the Church had been made manifest, there was a sentence passed on him by the Council, such a sentence would be pronounced against one who was no longer Pope nor superior to the Council.”³

3. Subdivision of this fifth position

We think that this fifth opinion ought to be subdivided into three.⁴

1. Some authors affirm that the Pope loses the Pontificate “ipso facto” in the moment in which he exteriorizes his heresy.

2. Others maintain that that loss occurs when the heresy becomes known to a certain number of persons, even though small.

3. Others, finally, judge that the heretical Pope only falls from the Roman See when his heresy turns “notorious and publicly divulged”.⁵



This divergence is connected to a dispute of many centuries duration, which still divides theologians today, over the exact moment when a heretic ceases to be a member of the Church.⁶ We do not judge it necessary to expound here, in detail, the peculiarities of the subdivisions of this fifth opinion. It did not seem indispensable to us, moreover, to indicate in a precise way the position of every holder of this opinion - all the more so since many of them are not clear in this respect. We will make only brief observations about the thinking of Saint Robert Bellarmine and Wernz-Vidal.

3. Pietro Ballerini, *De Potestate Ecclesiastica...*, pp.104-105.

4. We indicate this subdivision in the observations at position B-II-2 of the synoptic outline of pp. 110-111.

5. “Notoria et palam divulgata” - The expression is of Wernz-Vidal: *Ius Can.*, vol. II, p. 433.

6. As we have already observed, there does not exist, however, an absolute correspondence between the position assumed by each author in regard to the moment in which the heretic is excluded from the Church, and his opinion about the question of a Pope heretic. See pp. 28-29.



Salvo meliori iudicio, it seems to us that Saint Robert Bellarmine did not leave sufficiently clear his thesis about the moment in which the Pope heretic would “ipso facto” lose the Pontificate.

He says that this would take place when the heresy turned “manifest”; and he opposes to the concept of “manifest” that of “occult.”⁷ Now, occult heresy can be internal (occult “per se”), as it can be external unknown by another person (occult “per accidens”). If one attributes to Saint Robert Bellarmine the first of these interpretations, the Pope would lose the Pontificate in the moment in which he exteriorized his heresy, even though no one perceived it. If one attributes to him the second interpretation, the loss of the Pontificate would take place when some other persons - perhaps only one - knew the fact.

Is there room for still a third interpretation? Can one understand as occult heresy that which is already known to many persons, but has still not reached the grand public, has still not become “notorious and publicly divulged”? - Such an interpretation is adopted by Wernz-Vidal, who even affirms, without hesitating, that according to Saint Robert Bellarmine the Pope hereto would only be deposed when his defection in faith became “notorious and publicly divulged”.⁸

4. Evaluation of this opinion

We dispense ourselves from presenting again the reasons which can be alleged against this fifth opinion. They were already expounded in previous pages⁹

As we shall say in the following chapter, we judge that this fifth opinion is the true one, and that Wernz-Vidal is right when he says - interpreting Saint Robert Bellarmine - that a Pope who should become heretical loses the Pontificate “ipso facto”, in the moment in which his heresy turns “notorious and publicly divulged”.

7. *De Rom. Pont.*, lib. II, cap. 30. - See also *De Ecclesia Militante*, lib. III, cap. 4-10.

8. We would exceed the limits of this exposition if we tried to analyze how fluctuating are, even in the best authors, the concept of “occult”, “manifest”, “public”, “notorious”, etc. - We cite here only some bibliography concerning this: *Cod. Juris Can.*, can. 2197; can. 2259, 2; can. 2275, 1; Billot, *Tract. de Ecl. Christi*, tom. I, pp. 608-609; Lercher, *Instit. Theol. Dogm.*, vol. I, p. 233, n. 407; Herve, *Manuale Theol. Dogm.*, vol. I, p. 448; Sipos, *Ench. Inuris Can.*, p. 7874, item a; p. 810; p. 833, item b; Salaverri, *De Ecl. Christi*, p. 879, n. 1047; Miguelz-Alonso-Cabreros, *Cod. de Der. Can.*, commentary on can. 2197.

9. See especially the citations we make from Suarez, (pp. 37 ff.) and Bouix (pp. 31 ff.).

CHAPTER VII

IN DEFENSE OF THE FIFTH OPINION ENUMERATED BY SAINT ROBERT BELLARMINÉ

In the course of the previous chapters we have already made some reflections over the arguments alleged by the various schools. We would like to present now an over-all vision of the conclusions to which the examination of the matter has led us.

1. Possibility of a Pope heretic

We do not find, either in Scripture or in Tradition,¹ reasons which demonstrate the impossibility of the fall of a Pope into heresy. On the contrary, numerous testimonies of Tradition speak in favor of the possibility of such a fall. This being so, we must consider it as theologically possible that a Pope fall into heresy, and study the consequences which such a fact would have for the life of the Church.

2. Incompatibility “in radice”

Scripture and Tradition make clear the existence of a profound incompatibility, “in radice” (in its root) between the condition of heretic and the possession of ecclesiastical jurisdiction,² since the heretic ceases

1. See pp. 15ff. - Tradition in the broad sense, to which we refer, includes both Divine Tradition and Ecclesiastical Tradition. We know it through the acts of the councils, pontifical documents, patristic writing, the works of theologians, etc. (See Pesch, *Praelect. Dogm.*, tomus I, nn. 564-571.

2. See the text of Saint Robert Bellarmine and Suarez which we have transcribed respectively on pp. 43 ff. and 28.

to be a member of the Church.³

This incompatibility is such that normally the condition of heretic and the holding of ecclesiastical jurisdiction cannot be harmonized. Nevertheless, this is not absolute, or, that is, it is not such that, falling into internal heresy, or even external, the holder of ecclesiastical jurisdiction is destituted of his charge “ipso facto”, in every case and immediately.

The arguments presented by the divers authors in connection with this ultimate point are decisive,⁴ and particularly the arguments drawn from the practice of the Church: by the Code of Canon law the heretic only loses jurisdiction when a condemnatory and declaratory sentence is passed against him;⁵ priests who have abandoned the Church have jurisdiction to give absolution to persons in peril of their lives;⁶ it is commonly admitted that the schismatic eastern rite bishops (they are also heretics) possess a jurisdiction which the Popes tacitly concede to them;⁷ etc.

Therefore, we do not qualify that incompatibility as “absolute”, but we speak only of “incompatibility in radice”. Heresy cuts the root and foundation of jurisdiction, this is, the faith and the condition of being a member of the Church. But it does not eliminate “ipso facto” and necessarily the jurisdiction itself. Just as a tree can conserve life even for some time after its roots are cut off, so also, in frequent cases, the jurisdiction perdures even after the fall into heresy of him who possessed it.⁸

Nevertheless, the jurisdiction is only conserved in the person of

3. On the moment in which the heretic ceases to be a member of the Church, see p. 28, note 2.

4. See the reasons alleged by Suarez, reproduced by us on pp. 28-29.

5. Canon 2264 - This canon, by itself, would be sufficient to demonstrate that the texts of the Fathers of the Church referring to the incompatibility between heresy and jurisdiction cannot be understood in the sense of an incompatibility absolute and in every respect.

6. Canon 882 - Lacking another priest, they can also administer the other sacraments and sacramentals to persons in peril of their lives: Can. 2261, 3.

7. See Herve, *Man Theol. Dogm.*, vol. I, p. 449, n. 453, note 1, and bibliography there indicated.

8. As Suarez says in the text cited on p. 162, in this case ‘the Pope heretic is not a member of the Church as regards the substance and the form which constitute the members of the Church, but is the head as regards the charge and the action.’

the heretic by a precarious title, in a state of violence and in the measure in which it is required for a precise and evident reason, dictated by the good of the Church or of souls. - Thus we eliminate the position according to which under no hypothesis would the heretical Pope lose his charge (third opinion enumerated by Saint Robert Bellarmine); furthermore this position has against it other arguments of weight drawn from Tradition and natural reason.⁹

3. The jurisdiction of the heretic

Already cut off at the root, the jurisdiction of the heretic only subsists to the extent that it be sustained¹⁰ by someone else. Thus it is that the Pope sustains, for good of souls and as a safeguard of the juridical order in the Church, the jurisdiction of a Bishop heretic still not deposed.¹¹

If it is the supreme Pontiff who falls into heresy, who will be able to sustain jurisdiction in him? - The Church? We don't believe it, for the latter, when it is considered in contraposition to the Pope, is not superior to him, and for that reason can not sustain his jurisdiction. The Pope is not subject to Ecclesiastical Law. - Jesus Christ? Yes, to the extent to which it be licit to attribute to Him the intention of sustaining the jurisdiction in the person of a heretic Pontiff.

4. The central question

Here is planted, then, the central question: could there be circumstances in which one can or one must say that Our Lord established

9. See pp. 28, 29, 35-36, 48 ff.

10. Normally it is said that, in certain cases provided for by Law, the jurisdiction of him who does not have it is "supplied" by the Pope or by the Church. In the hypothesis of a common error, for example, the church "supplies" the in existent jurisdiction, as canon 209 disposes. However, according to what the authors teach, the "supplied" jurisdiction only exists as "act", and not as "habit" (Lehmkuhl, *Theologia Moralis*, tom. II, 281, n. 387; Wernz-Vidal, *Ius Can.*, tom. II, pp. 367-368; Vermeersch-Creusen, *Epit. Iuris Can.*, tom. I, p. 278). Now, in the hypothesis which we are discussing, the jurisdiction would exist as a "habit", and not only as an "act". To our knowledge there is no technical term which indicates such a juridical situation. Such being the case, we say that the jurisdiction is then "sustained" in the person of the heretic.

11. Some authors, above all ancient ones, do not consider that, for the sake of an eminent interest of souls or of the Church, jurisdiction can be "sustained" in the heretic. For this reason, even Saint Robert Bellarmine, as we pointed out in note 15 of page 46, seems to deny the possibility of the permanence of jurisdiction in a manifest heretic - a permanence, that, which the practice of the Church in the last centuries, above all in relation to heretic Bishops not yet deposed, obliges one to admit as legitimate.

that he would sustain, at least for some time, the jurisdiction of an eventually heretical Pope?

There exists nothing, in Sacred Scripture and in Tradition, which constitutes a secure and definite answer to that question. As we are not seeking, here, only arguments of probability, but principally reasons which justify a certainty, we must find out if we can discover elsewhere sure elements to answer the question which is proposed.

As is obvious, in theological material one cannot conceive an argumentation which does not start at least from a revealed premise. What we are looking for therefore, is a minor premise, drawn not from Revelation but from natural reason, and which, united to a major revealed premise, furnishes a sure solution to the question presented above.

We judge that the revealed major premise from which we must start is the dogma that the church is a visible and perfect society.¹² As a minor premise, we must put the principle, drawn from nature itself, according to which the events of the public and official life of a visible and perfect society ought to be "notorious and publicly divulged."¹³ Thence one would conclude that the eventual destitution of the chief of the Church would not be a juridically consummated fact as long as it did not become "notorious and publicly divulged".



12. See: Denz.-Umb., systematic index, item Iia; Denz.-Sch., systematic index, item G 4a.

13. We believe that this minor premise does not need demonstration, but it requires some explanations. It does not need demonstration because one would not be able to conceive that the public and official life of a visible and perfect society developed through occult events. Suarez expounds this principle in the text which we reproduce on page 30. And Dominic Soto uses a particularly happy expression on saying that, in case there were depositions of prelates on account of causes which could not be known externally, "all jurisdictions would become ambiguous and confused" ("omnes jurisdictiones versarentur in ambiguo et in confusto" - *Comment. in IV Sent.*, dist. 22, q. 2, a. 2, p. 1022.) For an analogous reason the authors say that the resignation of the Pope is only consummated in the moment in which it is communicated to the Church (see Coronata, *Instit. Iuris Can.*, vol. I, p. 366). Some necessary explanations:

1. We have already observed (note 8 of p. 52) that the concept of "notoriety" does not have an entirely defined sense in Canon Law. We understand here by notorious" that which, legally and in fact act, fulfills all the conditions necessary so that it can be known by all, with certainty and without great difficulties.

2. We understand by "publicly divulged" that which in fact has come to the knowledge of the great public, or at least of a sufficient number of persons so that the process of its divulgation to the grand public has already become irreversible.

3. The expression "notorious and publicly divulged" is found in Wernz-Vidal, as we have pointed out in note 5 of p. 51.

In scholastic form, we would be able to draw up the following sorties:

- The Church is a visible and perfect society.
- Now, the facts of the official and public life of a visible and perfect society, only become juridically consummated when they are notorious and publicly divulged.
- Now, the loss of the Papacy is a fact of the public and official life of the Church.
- Consequently, the loss of the Papacy only becomes juridically consummated when it is notorious and publicly divulged.



Such a conclusion, flowing from a revealed truth and a premise evident to the natural reason, expresses the sure will of Our Lord. It would not be a formally revealed truth, but a virtually revealed truth, a theological conclusion.

Jesus Christ Himself, therefore, would sustain the jurisdiction of a heretical Pope up to the moment in which his defection in the faith became “notorious and publicly divulged”.



In consequence, all the jurisdictional acts of the Pope during that period would be valid. Imagining even the case of his pronouncing a dogmatic definition, this would be infallible. The Holy Spirit, in such an eventuality, would speak through him as he spoke through the mule of Balsam¹⁴



Note that the argumentation of which we avail ourselves is not the same as that of Saint Robert Bellarmine, taken up again by Wernz-Vidal.¹⁵ They start from the principle that he who is not, in any way, a member of the Church, cannot be its head. Such argument appears true

14. See note 9 of p. 13 - Laymann pronounces in this same sense, *Theol. Mor.*, lib. II, tract. I, cap. VII, no 1, p. 146.

15. See pp. 43 ff. and 52.

to us, provided that one adds a clause to it according to which Our Lord would sustain the jurisdiction of a Pope heretic as long as his heresy had to become “notorious and publicly divulged”. However even formulated thus, this argument raises another question, very much disputed: that of the exact moment when a heretic ceases to be a member of the Church.¹⁶ According to what we think, whatever be that moment, the Pope eventually heretic would only effectively fall from the Pontificate when his defection in the faith turned “notorious and publicly divulged”.

5. The necessity of a declaration is excluded

In our view, the arguments presented above eliminate the opinions according to which the Pope would lose the Pontificate in the moment in which he fall into internal heresy,¹⁷ in external occult heresy,¹⁸ and in manifest external heresy but not “notorious and publicly divulged”.¹⁹

There would still remain two positions to be examined: that of the loss “ipso facto” for “notorious and publicly divulged” heresy,²⁰ and that of the loss by means of a declaration.²¹

Now, this last appears unsustainable, for, as Saint Robert Bellarmine showed in his argumentation against Cajetan,²² it cannot be harmonized with the principle that the Pope cannot be judged by any man.²³

16. See p. 30.

17. The second opinion referred by Saint Robert Bellarmine - See pp. 28ff.

18. The first subdivision proposed by us to the fifth opinion referred by Saint Robert Bellarmine - See p. 51.

19. The second subdivision which we proposed to the fifth opinion. - See p. 51.

20. The third subdivision which we proposed to the fifth opinion. - See p. 51.

21. The fourth opinion referred by Saint Robert Bellarmine. - See pp. 37 ff.

22. We transcribe that long argumentation on pp. 43 ff. - See also note 13 p. 43.

23. One ought not to see shades of conciliarism in the principle that ecclesiastical organisms, as the Council, can omit a pronouncement declaring the eventual cessation of functions of a Pope heretic, as long as these organisms do not claim for themselves any right other than that enjoyed by any one of the faithful. For motives of mere convenience or courtesy, it could behoove these organisms to make such a declaration, in the first place; but this priority would not constitute for them a right of their own, or even less exclusive.

6. The degree of notoriety and divulgation

What is the degree of notoriety and divulgation necessary for the eventually heretical Pope to be considered deposed? - In response to this question we must initially observe that there would be a certain degree of notoriety and divulgation in which, without any doubt, the loss of the charge would be produced. The problem would be created - that yes - in relation to the precise moment in which the destitution is produced. As to this detail, the question which is proposed would only be able to be finally answered in function of the concrete circumstances. The concepts of “notorious” and “publicly divulged”²⁴ appear to us clear in theory; their application in the concrete order would require the examination of an extensive casuistry, which we do not have room to treat here.

It is enough, for the moment, to recall an observation which we made above:²⁵ One does not have to hold this opinion to be false because of the fact that in practice it would be able to bring about dissensions of magnitude.

7. Conclusion

Resuming: We believe that a careful examination of the question of a Pope heretic, with the theological elements of which we dispose today, permits one to conclude that an eventual Pope heretic would lose his charge in the moment in which his heresy became “notorious and publicly divulged”. And we think that this sentence is not only intrinsically probable, but certain, since the reasons alleageable in its defense appear to us as absolutely cogent. Beside, in the works which we have consulted, we have not found any argument which persuaded us of the opposite.

Anyway, other opinions remain extrinsically probable, seeing that they have in their favor authors of weight. Therefore, in the order of concrete action it would not be licit to take a determined position, seeking to impose it without more ado. It is for this reason that, as we said in the beginning,²⁶ we invite the specialists in the material to restudy the question. Only thus will it be possible to arrive at a general agreement among the theologians, so that a determined opinion can be classified as theologically certain.

24. See note 13 of p. 56.

25. See note 6 of p. 39.

26. See pp. 5-6.

CHAPTER VIII

THE SCHISMATIC POPE & THE DUBIOUS POPE

Along with the question of the Pope heretic, the theologians usually study various other extraordinary cases which would be able to create delicate juridical situations for the person of the Pope considered in his relations with the supreme Pontificate.

It is a question of the hypothesis of a schismatic Pope, a doubtful Pope, a Pope resigning, an incompetent Pope, a scandalous Pope, a demented Pope, a Pope excessively old but still master of himself, a Pope imprisoned, of the election of a person juridically incapable of the Pontificate, etc.

As is obvious, we cannot examine all these hypotheses in the light of all circumstances. Such an analysis would even be devoid of interest, in view of the fact that in connection with various of the cases indicated the Church teaches a doctrine that is well known and about which no one feels uncertain.

We shall say only a word about the hypotheses which at the moment are not relevant to our theme, and afterwards we will study in a leisurely fashion the two cases which are intimately related with the question which occupies us: that of a schismatic Pope and that of a doubtful Pope.



On the right of resignation which belongs to the Pope, Canon 221 determines:

“If it happens that the Roman Pontiff resigns, an acceptance of his resignation by the Cardinals or anyone whatsoever is not necessary for its validity”¹



In regard to the hypothesis of dementia, Claeys Bouuaert teaches that the Pope who loses definitively the use of his mental faculties ceases to be Pope; and he explains:

“(…) becoming incapable of doing a human act, the demented Pope would be in consequence incapable of exercising his jurisdiction. The help of a vicar would not be able to supply this, given that infallibility and the primacy of jurisdiction cannot be delegate.”²

Almost all the authors express the same opinion.³ There are, however, those who say, with Cappello, that it is not possible to prove certain and perpetual dementia;⁴ this last position is difficult to sustain today, in view of the progresses of medicine and of psychology.



Treating in the same text various of the hypotheses which we have indicted, Suarez teaches:

“(…) unless a true and certain Pontiff falls into perpetual insanity - in which hypothesis he is destituted, by divine right, from the Pontificate - he always remains in his charge. And he cannot be deprived of it, even though other troubles and calamities impede him from governing the Church fittingly. Under this conclusion I

1. In the same sense, you may see: Boniface VIII, c. *Quonism*, de Renunt., in 6; Suarez, *De Fide*, disp. X, sect. VI, n. 1, pp. 315-316; Billot, *Tract. de Eccl. Christi*, tom. I, pp. 603-605; Coronata, *Inst. Iuris Can.*, vol. I, p. 366; Claeys Bouuaert, *Traite ...*, tome I, p. 376; *Dictionnaire ...*, article *Pontifé Romain*, col. 27.

2. *Traite ...*, tome I, p. 376.

3. See, for example: Wernz-Vidal, *Ius Can.*, vol. II, n. 452, p. 433; Wilmers, *De Christi Eccl.*, p. 258; Chelodi, *Ius de Personis*, n. 155, p. 245; Cocchi, *Comment. In Cod.*, I. Can., III, n. 155, p. 25; Vermearsch-Creusen, *Epit. I. Can.*, I, n. 340, p. 292.

4. Cappello, *De Curia Romana*, Roma, 1913, II, pp. 13-15 (cited by Coronata, *Inst. Iuris Can.*, I, p. 3766, note 7). - On this point, one can consult also: Coronata, *Inst. Iuris Can.*, I, p. 366; Sipos, *Enchiridion ...*, p. 156, note 31. In another work, Cappello affirms that in the concrete order God will never permit it to happen that a Pope become insane: *Summa Iuris Can.*, I, n. 309, p. 276.

include the many events which Cajetan, Torquemada and Pighi treat at length in the passage indicated above, and I am in entire accord with them. For perpetual insanity is equivalent to death as far as the use of reason and liberty are concerned, and, therefore, as far as the capacity of jurisdiction and occupation of a charge. This is demonstrated also by the reasons presented above (...). For if it were licit to imagine other cases in which the Pope ought to be deposed - advanced senility, perpetual captivity and such like - this would create the occasion for schisms, and frequently the true Pontiff would be justly or unjustly placed in doubt. It was absolutely necessary for this reason to block the way for seditions and disturbances in the Church in respect to the true Pontiff.”⁵



It is fitting to say a specific word about the cases of the incompetent Pope and the morally scandalous Pope. In these hypotheses, the circumstances would eventually create for the Pontiff an obligation in conscience to renounce his charge; if however he did not do it, by no means would he lose the Papacy or would he be able to be destituted of it. This is what the Tradition of the Church unanimously and dogmatically affirms.⁶ As is obvious, the right or perhaps the duty to admonish the erring Pope in his personal conduct could fall to the Bishops, the priests or even the simple faithful.⁷

The hypothesis of the election, for the Pontificate, of a person who legally cannot occupy the charge, is of interest for the study of the problem of a doubtful Pope, as we shall indicate farther on. For now it is enough, to reproduce what the authors say: at present there is no provision of ecclesiastical law in respect to this matter, but by divine law the following classes of persons cannot be elected Pope: women; persons who do not have the use of reason, that is, children and made persons; persons who are not members of the Church, that is, pagans, apostates, heretics⁸ and

5. Suarez, *De Fide*, disp. X, sect. VI, no 17.

6. See for example: Suarez, *De Fide*, disp. X, sect. VI, nn. 14-18, pp. 320-322; *De Legibus*, lib. IV, cap. VII, nn. 3-5, p. 359; Bouix, *Tract. de Papa*, tom. II, pp. 664 ff.; Billot, *Tract. de Eccl. Christi*, tom. I, pp. 605-606; Ballerini, *De Potestate ...*, p. 99.

7. On this matter, see Chapter XI, pp. 95 ff.

8. It is this aspect of the question - the election of a heretic - which will be of particular interest for the hypothesis of a doubtful Pope, as we shall indicate on p. 74 ff.

schismatics. The election would be valid therefore in case it fell upon a non-Cardinal, even so far as a layman or a married man.⁹

A. THE HYPOTHESIS OF A SCHISMATIC POPE

The possibility of the Pope falling into schism appears absurd in principle. For is schism not the breaking off of one of the faithful from the Pope? How can the Pope break off with himself? “Ubi Petrus, ibi Ecclesia”: Where Peter is, there is the Church.

Nevertheless, numerous authors of importance do not exclude the hypothesis.¹⁰

1. Suarez

Suarez explains it in the following terms:

“Schism may come about not only by reason of heresy, but also without it, as takes place when someone, conserving the faith, does not wish to maintain the unity of the Church in his actions and his manner of practicing our religion. And this may come about in two ways. In the first way, separating oneself from the head of the Church, as one reads in the chapter “Non vos”, 23, question 5, where the Gloss says that schism consists in not having the Roman Pontiff as one’s head - not denying that the Roman Pontiff is the head of the church, for this would be schism united to heresy, but either rashly denying some Pontiff in particular, or behaving oneself in relation to him as if he were not the head: for example, if someone tried to convoke a General Council without his authorization, or elect an anti-pope. This is the most common mode of schism.

There could be schism of a second mode if someone separated himself from the body of the Church not wishing to communicate with it in the participation of the Sacraments. Saint Epiphanius

9. On the persons unqualified for the Papacy by divine law, see other data on page 74.

10. Among them we can cite: Torquesmeda, *Summa de Ecclesia*, lib. II, cap. 102; lib. IV, cap. 11; Cajetan, in II-II, q. 39, a. 1; Suarez, *De Caritate*, disp. XII, sect. I, n. 2, pp. 733-734; sect. II, n. 3, p. 737; Sylvius, in II-II, 39, 1, pp. 228-229; Tenner, *De Spe et Carit.*, q. 6, dub. 2 (cited by Wernz-Vidal, *Ius Can.*, tom. II, p. 435); Van Laak, *Institutionum ...*, pars I, p. 506; Billot, *Tract. de Eccl. Christi*, tom. I, p. 606; Wernz-Vidal, loc. cit.; M.-J. Congar, article *Schisme ...*, in *Dict. de Theol. Cath.*, cols. 1303, 1306; Journet, *L’Eglise ...*, vol. II, pp. 839-840; Kueng, *Structures ...*, pp. 306 ff.; Mondello, *La Dottrina ...*, pp. 182 ff.

11. Suarez, *De Caritate*, disp. XII, sect. I, no. 2, pp. 733-734. As one sees, the hypothesis of a Pope

narrates an example of this (“Haeres.”, 68), in respect to the sect of Melecius, who dissenting with his Patriarch, Peter the Alexandrine, separated himself from him in all the sacrifices, and was accused of schism, there not existing between the two any divergence in matters of faith, as Epiphanius attests. And in this second mode the Pope could be schismatic, in case he did not want to have due union and coordination with the whole body of the Church as would be the case if he tried to excommunicate the whole Church, or if he wanted to subvert all the ecclesiastical ceremonies founded on apostolic tradition, as we observed by Cajetan (ad II-II, q. 39) and, with greater amplitude, Torquemada (1. 4, c. 11).¹¹

2. Cardinal Journet

On the same matter, Cardinal Journet writes:

“1. The ancient theologians (Torquemada, Cajetan, Banez), who thought, in agreement with the “Decree” of Gracian (part I, dist. XV. c. VI), that the Pope, infallible as Doctor of the Church, could however personally sin against faith and fall into heresy (see *L’Eglise du Verbe Incarne*, t. I, p. 596), admitted with greater reason that the Pope could sin against charity, even in the measure that is latter constitutes the unity of the ecclesiastical communion and thus fall into schism.¹²

The unity of the Church, according to what they said, subsists when the Pope dies. Therefore, it could subsist also when a Pope fell into schism (Cajetan, II-II, q. 39, a. 1, no. VI).

They ask themselves, however, in what manner can the Pope become schismatic. For he can separate himself neither from the chief

falling into schism, as it is conceived by the theologians who really study the question, is logically possible, granted that it does not involve a contradiction. We do not comprehend, then, how a canonist of incontestable authority, like Father Cappello could write:

“Some cite also (among the cases of cessation of pontifical power) schism (of the Pope) and they match it with heresy (cfr. Wernz, II, n. 616). But how can the Pope become schismatic? For where he is, is not the (cfr. Can. 1325, 2) true Church there also? This opinion, as others, must be considered antiquated” (*Summa Iures Can.*, I, p. 276, note 21).

A Position analogous to that of Father Cappello is adopted also by Phillips, *Du Droit Eccl.*, vol. I, p. 178. In our view, the attitude taken by these authors induces one to think that they did not study the question *ex professo*.

12. In a footnote, Cardinal Journet makes here the following observation:

“This possibility is not universally admitted. Still, says M. J. Conger: “Considered in a purely theoretical manner, it does not appear doubtful” (D.T.C., article *Schisme*, col. 1306). It is taught by Suarez (*De Charitate*, disp. 12, sect. I, no. 2, t. XII, p. 733)”.

13. In a footnote, Cardinal Journet cites the Latin text itself of Cajetan, which we translate: “The

of the Church, that is, from himself, nor from the Church, for where the Pope is, there is the Church.

To this Cajetan responds that the Pope could break the communion by ceasing to comport himself as the spiritual chief of the Church, deciding for example to act as a mere temporal prince. To save his liberty, he would flee thus from the duties of his charge; and if he did this with pertinacity there would be schism.¹³ As for the axiom “where the Pope is, there is the Church”, it holds when the Pope comports himself as Pope and chief of the church; otherwise, the Church is not in him, nor is he in the Church (Cajetan, *ibidem*).

2. It is said at times that the Pope, being unable to disobey, has only one gateway to schism.¹⁴ From the analyses which we are carrying on its turns out, on the contrary, that he also can sin against the ecclesiastical community in two ways: 1. Breaking the unity of connection, which would suppose on his part the will to avoid the action of grace as far as this is sacramental and what brings into being the unity of the Church; 2. Breaking the unity of direction, which would result, according to the penetrating analysis of Cajetan, if he rebelled as a private person against the obligations of his charge and refused to the Church (trying to excommunicate the whole Church or simply resolving, in a deliberate way, to live as a mere temporal prince) the spiritual orientation which she has the right to expect from him in the name of Someone who is greater than he: in the name of Christ and of God”.¹⁵

3. Cardinal John de Torquemada

On analyzing the possibility of a schismatic Pope, both the authors of past centuries as well as the modern authors usually refer to a classic study of the matter: that of Cardinal John de Torquemada.¹⁶ One of the

person of the Pope may refuse to submit himself to the Papal charge. (...) And if he did this with pertinacity of spirit, he would become schismatic by separating himself from the unity of the head. In effect, his person is bound, before God, by the laws of his charge” (*ibidem*).

14. In a footnote, Cardinal Journet cites a topic of the text of Suarez which we cite above, and makes the following commentary: “According to Suarez, the Pope therefore would not be able to sin against the unity of direction. But, he presents as an example that which we consider precisely as a sin against the unity of direction.”

15. Cardinal C. Journet, *L'Eglise ...*, vol. II, pp. 839-840.

16. Cardinal Torquemada was uncle of the so much discussed (even up to the present) Spanish

most illustrious theologians of the XV Century, a famous defender of the pontifical prerogatives against the conciliarists, Cardinal Torquemada wrote treatises on the Church, whose authority is made evident by Hans Kueng in the following terms:

“(…) the Spanish Cardinal John Torquemada is a vigorous and the most influential paladin of the pontifical primacy of the XV Century, to whose writings all the future defenders of the primacy went to draw their arguments: from Domenico Jacobazzi and Cajetan, thru Melchior Canc, Suarez, Gregorio de Valencia and Bellarmine, up to the theologians of the First Vatican Council.”¹⁷

And Father M. J. Congar observe that the *Summa de Ecclesia* of Torquemada is a treatise “of real and durable value.”¹⁸

To demonstrate that “the Pope can separate himself illegitimately from the unity of the Church and from obedience to the head of the Church, and therefore fall into schism, Cardinal Torquemada uses three arguments:

1 - (...) by disobedience, the Pope can separate himself from Christ, who is the principal head of the Church and in relation to whom the unity of the Church is primarily constituted. He can do this by disobeying the law of Christ¹⁹ or by ordering something

inquisitor Thomas de Torquemada. Among the expanders of the question of a schismatic Pope who appeal to the authority of Torquemada, we indicate here some significant names: Suarez, *De Carit. disp. XII, sect. I, n. 2, p. 734*; Sylvius, ad II-II, 39, 1; Kueng, *Structures ...*, pp. 351 ff.; Journet, *L'Eglise ...*, vol. II, p. 839; Yves M. J Congar, *Dict. de Th. Cath.*, article *Schisms*, col. 1306.

17. Hans Kueng, *Structures ...*, p. 351.

18. Yves M.-J. Congar, article *Schisms*, in *Dict. de Theol. Cath.*, col. 1295. On the authority which Cardinal Torquemada enjoys in this matter, see also De Vooght, *Le Conciliarisme ...*, p. 176; A. Michel, article Torquemada, Jean de, in *Diction. de Theol. Cath.*, cols 1235-1239; Mondello, *La Dottrina ...*, pp. 44-45.

19. As is obvious, the sin of schism is not committed in any act of disobedience whatsoever, but only in that in which one denies the very principle of authority in the Church, breaking thus the ecclesiastical unity (see Saint Thomas, *Summa Theol.*, II-II, 39, 1; M.-J. Congar, *Dict. de Th. Cath.*, article *Schisme*, col. 1304). Such a conception is presupposed by Torquemada in the text cited. We make this observation because it might possibly appear to the reader that the passage transcribed above grossly confounds “disobedience to the law of Christ” with schism - which would have the absurd consequence that for any sin whatsoever the Pope would become schismatic. Torquemada is, moreover, one of the greatest defenders of the principle that a scandalous and immoral, but not heretical or schismatic, Pope conserves the Pontificate (see *Summa de Ecl.*, lib. II, cap. 101).

20. Cardinal Torquemada, *Summa de Ecclesia*, pars I, lib. IV, cap. 11, p. 369 v.

which is contrary to natural or divine law. In this way, he would separate himself from the body of the Church, while it is subject to Christ by obedience. Thus, the Pope would be able, without doubt, to fall into schism.

2 - The Pope can separate himself without any reasonable cause, just for pure self will, from the body of the Church and the college of priests. He will do this if he does not observe that which the Church Universal observes on the basis of the Tradition of the Apostles according to the chapter *Ecclesiasticarum*, di. 11, or if he did not observe that which was universally ordained by the Universal councils or by the authority of the Apostolic See above all in relation to Divine Worship. For example, not wishing to observe personally something from the universal customs of the Church, or the universal rite of the ecclesiastical cult. This would take place in case he did not wish to celebrate with the sacred vestments, or in consecrated places, or with candles, or if he did not wish to make “The Sign of the Cross” like the other priests make it, or other similar things which have been decreed in a general way for perpetual utility, according to the canons *Quae ad perpetuam, Violatores, Sunt Quidam and Contra Statuta* (25, q. 1). Departing in such a way, and with pertinacity, from the universal observance of the Church, the Pope would be able to fall into schism. The consequence is good; and the antecedent is not doubtful, for the Pope, just as he could fall into heresy, could also disobey and pertinaciously cease to observe that which was established for the common order in the Church. For this reason, Innocent says (c. “De Consue.”) that one ought to obey the Pope in everything as long as he does not turn against the universal order of the Church, for in such a case the Pope must not be followed unless there is reasonable cause for this.

3 - Let us suppose that more than one person considers himself Pope, and that one of them be the true Pope, but considered by some to be probably dubious. And let us suppose that this true Pope comported himself with such negligence and obstinacy in the pursuit of unity in the Church, that he did not wish to do everything he could for the reestablishment of unity. In this hypothesis the Pope would be considered as a fomenter of schism, according to the way many have argued, even in our days, in connection with Benedict XIII and Gregory XII.”²⁰

21. The apostates are also excluded from the Church. An apostate Pope would be him who wholly

4. A Schismatic Pope would lose the Pontificate

The authors who admit the possibility of a schismatic Pope, in general do not hesitate to affirm that in such a hypothesis, as in that of a Pope heretic, the Pontiff loses the charge. The reason for this is evident: schismatics are excluded from the Church, in the same way as heretics.²¹

In this matter, Suarez constitutes an exception, in sustaining that the schismatic Pope is not deprived of nor can he be deprived of his charge;²² his opinion however does not merit particular attention, since it is based upon the Suarezian thesis, today abandoned by all,²³ that the schismatics, even public ones, do not cease to be members of the Church.

Since this is so, we can conclude, with Cajetan, that

“(…) the Church is in the Pope when he comports himself as Pope, that is, as Head of the Church; but in case he did not want to act as Head of the Church, neither would the Church be in him, nor he in the Church.”²⁴

Moreover, it is opportune to remember that “he who is pertinacious in schism, is practically indistinguishable from a heretic”²⁵; that “no schism fails to think up some heresy to justify its separation from the Church”;²⁶ that schism constitutes a disposition for heresy²⁷

abandoned the Christian religion - for example, becoming a Mohammadan or a Buddhist. The hypothesis, though fantastical, is however mentioned in passing by some authors, as Billot, *Tract. de Eccl. Christi*, tom. I, p. 606, and Schmatzgrueber, *Ius Eccl. Univ.*, tomus I, pars I, disert. proem., 8, n. 317, p. 132.

22. Suarez, *De Caritate*, disp. XII, sect. II, n. 3, p. 737.

23. See M.J. Congar, *Dict. de The. Cath.*, article *Schisme*, col. 1306-1307.

24. Cajetan, in II-II, 39, 1, ad VI. - The same thesis that the schismatic Pope loses the Pontificate is defended by: Torquemada, *Summa de Ecclesia*, lib. II, cap. 102, p. 341 v.; lib. IV, cap. 11, pp. 369-370; Sylvius, in II-II, 39, 1, concl. 2, p. 229; Tanner, *De Spe et Carit.*, q. 6, dub. 2 (cited by Wernz-Vidal, *Ius Can.*, tom II, p. 435; Billot, *Tract. de Eccl. Christi*, tom. I, p. 606; Wernz-Vidal, *Ius Can.*, tom. II, p. 435; M.-J. Congar, article *Schisme*, col. 1306; Journet, *L'Eglise ...*, vol. II, pp. 839-840; Kueng, *Structures ...*, pp. 306 ff.; Mondello, *La Dottrina ...*, pp. 182-184, 189.

25. Pietro Ballerini, *De Pot. Eccl.*, cap. VI, nn. 14-15, cited by Bouix, *Tract. de Papa*, tom. II, p. 681.

26. Saint Jerome (in *Epist. ad Titum*, c. III, v. 11; P.L. 26, 598), cited by M.J. Congar, *Dict. de Th. Cath.*, article *Schisme*, col. 1293.- See also Sylvius, in II-II, 39, 1, ad 3, p. 228.

27. Principle enunciated by Saint Jerome, Saint Augustine and Saint Raymond of Penafort (see M.J.

and that the schismatic, according to Canon Law and Natural Law, is suspect of heresy.²⁸

B. THE HYPOTHESIS OF A DUBIOUS POPE

Among the authors of the treatises in general, the hypothesis of a dubious Pope is related especially to the Pope whose election was doubtful. For, if the election was certain, the doubts which can appear are reduced to the other extraordinary cases enumerated above.²⁹ Indeed, any doubt posterior to a certain election can only arise - with or without foundation - in case the Pope falls into heresy, shows signs of insanity, lapses into schism, etc.

Such being the case, we shall analyze especially here the eventuality of a dubious election. And we shall also make some considerations about determined cases of doubt arising from a possible heresy in the person of the Pontiff.

1. A dubious Pope is a null Pope

In this respect, Wilmers writes:

“In case the election of a Pope has become so doubtful that it is impossible to know with certainty who is the true Pontiff, he whose election was dubious must resign, according to what the majority of the authors say, so that new elections can be held. If he does not renounce, the Church or the bishops can declare that he is not Pope, since his election was doubtful. This is based on the principle “a dubious Pope is a null Pope”. Indeed, he whose authority is uncertain, cannot require one to obey him for the same reason for which men are not obliged to obey a law which has not been promulgated.”³⁰

Congar, *Dict. de Th. Cath.*, article *Schisme*, col. 1296).

28. See M. J. Congar, *Dict. de Th. Cath.*, article *Schisme*, col. 1305.

29. See pages 60 ff.

30. Wilmers, *De Christi Ecl.*, p. 258. - On the same matter, one may see also: Saint Robert Bellarmine, *De Conc.*, 2, 19, ad. 3 arg. Gerson; Suarez, *De Fide*, disp. 10, sect. 6, n. 19; *De Caritate*, disp. XII, sect. I, n. 11, p. 736; Sylvius, in II-II 39, 1, p. 228; Ferraris, *Prompta Bibl.*, article *Papa*, nn. 69-70, col. 1846; Saint Alphonse de Liguori, *Opere ...*, Vol. VIII, p. 720; *Oeuvr. Dogm.*, vol. 17 bis, p. 11; Pesch, *Compendium ...*, tom. I, p. 208; Camillus Mazzella, *De Rel. et Ecl.*, p. 747; Billot, *Tract. de Ecl. Christi*, I, 612-613; Wernz-Videl, *Ius Can.*, II, pp. 436-438; Wilmers, *De Christi Ecl.*, pp. 258-259; Coronata, *Inst. Iuris Can.*, vol. I, p. 367.

31. Bouix, one of the partisans of this opinion, writes: “we shall prove that, as a remedy for the case

There are authors who disagree with this way of thinking and deny such an interpretation of the axiom “a dubious Pope is a null Pope” (“Papa dubious, Papa nullus”). It does not seem to us however that such theologians have enfocused the question in its due terms. For they sustain only - which everyone admits - that no earthly authority can depose a legitimate Pope, who however is considered dubious by many.³¹

What such authors do not seem to take into consideration, is that which Wilmers observed on refuting Phillips, another adversary of the principle “a dubious Pope is a null Pope”:

“He seems to confuse an election which is legitimate before God, with an election which can be and really is known by men as legitimate. It is not enough that the election has been legitimate before God; it is necessary that it also be known as legitimate and as not subject to serious doubt. Analogously, it is not enough for a law to have been approved, but it is required that it have been also promulgated.”³²

This controversy develops above all around the questions raised by the Council of Constance. We think it unnecessary to treat this matter at length here, since it is not our purpose to enfocus historical problems as such.

2. Declaration by a Council

On whom would be incumbent the responsibility of declaring that the dubious Pope is not the true Pope? Our ancestors used to attribute this mission to the Bishops united in council. Saint Robert Bellarmine, for example, wrote:

“a dubious Pope must be considered as not being Pope; therefore, having power over him is not having power over the Pope (...). Though the Council without the Pope cannot define new dogmas of faith, it can however, in time of schism, judge who is the true Pope and provide the Church with a true shepherd, when the latter is null or dubious (...).”³³

under study, Christ did not institute any authority with power over the true and legitimate Pope” - *Tract. de Papa*, tom. II, p. 673.

32. Wilmers, *De Christi Ecl.*, p. 258, note 1.

33. Saint Robert Bellarmine, *De condiliis*, lib. II, cap. 19. - On this passage of Saint Robert Bellarmine,



The Apostolic Constitution “Vacante Sede” (December 25, 1904) and the Code of Canon Law (promulgated in 1917) modified some norms for the election of the Supreme Pontiff. After these documents entered into effect, certain authors continued to maintain that it pertained to the Bishops met in Council to decide the validity of the election of a dubious Pope;³⁴ other authors, however, judge that this attribute belongs at present to the College of Cardinals. Among these last is found Coronata, who expounds his point of view thus:

“If the doubt, therefore, is antecedent, because the legitimacy of the election was always doubted, (the authors commonly) attribute to the Ecumenical Council the power to judge about this legitimacy (...). This position however does not appear correct, at least according to the law in force. For two hypotheses are then possible. Either the election is objectively and truly doubtful according to the thinking of the whole Church, and in this case the Pope is null even without the judgment of any Council, for the election was not made in a legitimate manner (can. 219); or the objective doubt is not so probable and universal, but is of more difficult solution according to the thinking of the learned and prudent, and in this case the judgment which will resolve the doubt does not belong to the Ecumenical council, which cannot be conceived without the Roman Pontiff (see canons 222 and 229) and to which this power has not been attributed by anyone whatsoever in a manner that one can prove, but is within the competency of the College of Cardinals, to which the Constitution “Vacante Sede” expressly conceded the right of interpreting the laws covering the election of the Roman Pontiff (nn., 3-4). Furthermore, in this same Constitution (n. 29) and in Canon 229 any continuation or new reunion of an Ecumenical Council, and, it would seem “a fortiori”, its convocation is absolutely prohibited during a vacancy in the Apostolic See (...).”³⁵



see: Wilmers, *De Christi Eccl.*, pp. 258-259; Pesch, *Compendium ...*, tom. I, p. 206.

34. For example: Wernz-Videl, *Ius Can.*, II, p. 437.

35. Coronata, *Instit. Iuris Can.*, Vol. I, pp. 367-368.

36. Suarez, *De Fide*, disp. X, sect. VI, no. 19, p. 322.

What is one to think of this dispute? We believe that the partisans of judgment by the Council would not oppose what Coronata says. The hypothesis studied by them is another, that is, that the cardinals had not reached a definitive solution of the doubt. In that case, “the Church would always have the right to know with certainty who is her true chief”, as Suarez, a follower of judgment by the Council, observes.³⁶

Can one prove that the right to pronounce over such a question belongs to the Bishops? Coronata denies it; it seems to us however, that Suarez would found this right on the fact that the Bishops are “the ordinary pastors and the columns of the Church” - the argument presented by him to defend the thesis of the declaration of papal heresy by the Council, is what we judge by analogy to be applicable to the case of a dubious Pope.³⁷ Such circumstances would destroy the arguments of Coronata, for ecclesiastical law cannot prevent the Bishops from asserting their divine right to know with certainty who is the true Pope.

3. Pacific and universal acceptance

In respect to a doubtful Pope, it is necessary to make it very clear here that the peaceful acceptance of a Pope by the whole Church is “a sign and an infallible effect of a valid election”.³⁸ This is the common teaching of the authors.³⁹

Analyzing simultaneously aspects of the questions of a Pope heretic and of a dubious Pope, Cardinal Billot expounds that principle in the following terms:

“Finally, whatever you still think about the possibility or

37. Compare Suarez, *De Fide*, disp. X., sect. VI, n. 7, with n. 19.

38. Wernz-Videl, *Ius Can.* II, p. 437, note 170. - The expression “infallible effect” does not indicate here an effect which infallibly follows from its cause. But it indicates something which, if it occurs, can only have been produced by such a cause, of which therefore it is, beyond a shadow of doubt, an effect - that is, an “infallible effect”. See the exposition of this specific point in Suarez, *De Fide*, disp. X. sect. V, n. 8, p. 315.

39. So teach, for example: Suarez, *De Fide*, disp. X, sect. V, especially nn. 6-8 (pp. 314-315); Ferraris, *Prompta Bibl.*, article *Papa*, col. 1846, n. 69; Saint Alphonse de Ligouri, a text which we cite on p. 74; Bouix, *Tract. de papa*, tom. II, pp. 683 ff.; Wernz-Videl, *Ius Can.*, tom. II, pp. 436-438; Billot, text which we cite below; Journet, *L'Eglise ...*, vol. I, p. 624.

40. Billot, *Tract. de Eccl. Christi*, tom. I, pp. 612-613.

impossibility of the aforementioned hypothesis (of a Pope heretic), at least one point must be considered absolutely incontrovertible and placed firmly above any doubt whatever: the adhesion of the universal Church will be always, in itself, an infallible sign of the legitimacy of a determined Pontiff, and therefore also of the existence of all the conditions required for legitimacy itself. It is not necessary to look far for the proof of this, but we find it immediately in the promise and infallible providence of Christ: “The gates of hell shall not prevail against it”, and “Behold I shall be with you all days”. For the adhesion of the Church to a false Pontiff would be the same as its adhesion to a false rule of faith, seeing that the Pope is the living rule of faith which the Church must follow and which in fact she always follows will become even more clear by what we shall say later. God can permit that at times a vacancy in the Apostolic See be prolonged for a long time. He can also permit that doubt arise about the legitimacy of this or that election. He cannot however permit that the whole Church accept as Pontiff him who is not so truly and legitimately. Therefore, from the moment in which the Pope is accepted by the Church and united to her as the head to the body, it is no longer permitted to raise doubts about a possible vice of election or a possible lack of any condition whatsoever necessary for legitimacy. For the aforementioned adhesion of the Church heals in the root all fault in the election and proves infallibly the existence of all the required conditions. Let this be said in passing against those who, trying to justify certain attempts at schism made in the time of Alexander VI, allege that its promoter broadcast that he had most certain proofs, which he would reveal to a General Council, of the heresy of Alexander. Putting aside here other reasons with which one could easily be able to refute such an opinion, it is enough to remember this: it is certain that when Savonarola was writing his letters to the Princes, all of Christendom adhered to Alexander VI and obeyed him as the true Pontiff. For this very reason, Alexander VI was not a false Pope, but a legitimate one. Therefore he was not a heretic at least in that sense in which the fact of being a heretic takes away one’s membership in the Church and in consequence deprives one, by the very nature of things, of the pontifical power and of any other ordinary jurisdiction.”⁴⁰

On this same “sanatio in radice” by virtue of the acceptance of

the Pope by the whole Church, Saint Alphonse de Liguori writes, in less heated but perhaps even more incisive terms:

“It is of no importance that in past centuries some Pontiff was illegitimately elected or took possession of the Pontificate by fraud; it is enough that he was accepted afterwards by the whole Church as Pope, since by such acceptance he would have become the true Pontiff. But if during a certain time he had not been truly and universally accepted by the Church, during that time the Pontifical See would have been vacant, as it is vacant on the death of a Pontiff”⁴¹

4. The election of a person who cannot be Pope

The designation, as Pope, of a person who cannot occupy the charge, would constitute a special case of dubious election. For it is a common opinion⁴² that the election of a woman, of a child, of a demented person and of someone who were not a member of the Church (a person not baptized, a heretic, an apostate, a schismatic) would be invalid by divine law.

Among these causes of invalidity, it seems to us that it would be necessary to distinguish those which would admit of a “sanatio in radice” from those which would not. A woman could not become Pope under any hypothesis. But the same thing would not apply with a demented person, who could be cured; with a child, who could grow; with a non-baptized person, who could have himself baptized; with a heretic, an apostate and a schismatic, who could be converted.

This being laid down, we ask: in the hypotheses of invalidity which admits of “sanatio in radice”, would the eventual acceptance by the whole Church of the invalidly elected Pope remedy the vices of the election?

A complete answer to this question would require a detailed analysis of each of the cases of invalidity. And this would exceed the objectives which we have set for ourselves.

42. See: Ferreres, *Inst. Canonicas*, tom. I, p. 132; Coronata, *Inst. Iuris Canonici*, vol. I, p. 360; Schmalzgrueber, *Ius Ecl. Univ.*, tom. I, pars II, p. 376, n. 99; Cajetan, *De Auctoritate* ..., cap. XXVI, n. 382, pp. 167-168.

Such being the case, we shall only consider the hypothesis which is most relevant to the perspective in which we place ourselves: the election of a heretic to the Papacy. What would happen if a notorious heretic were elected and assumed the Pontificate without anyone having contested his election?

At first sight, the answer to this question is, in theory, very simple: since God cannot permit that the whole Church err about who is her chief, the Pope peacefully accepted by the whole Church is the true Pope.⁴³ It would be the duty of the theologians, on the basis of this clear theoretical principle, to resolve the concrete question which would then be put: either proving that in reality the Pope had not been a formal and notorious heretic at the moment of election; or showing that afterwards he had been converted; or verifying that the acceptance by the Church had not been pacific and universal; or presenting any other plausible explanation.

A more attentive examination of the question would reveal, nevertheless, that even on purely theoretical grounds, an important difficulty arises, which would consist in determining precisely what is the concept of pacific and universal acceptance by the Church. For such acceptance to have been pacific and universal would it be enough that no Cardinal had contested the election? Would it be enough that in a Council, for example, almost the totality of the Bishops had signed the acts, recognizing in this way, at least implicitly, that the Pope be the true one? Would it be enough that no voice, or practically no voice had publicly given the cry of alert? Or, on the contrary, would a certain very generalized, though not always well defined, distrust be sufficient to destroy the apparently pacific and universal character of the acceptance of the Pope? And if this distrust became a suspicion in numerous spirits, a positive doubt in many, a certainty in some, would the aforementioned pacific and universal acceptance subsist? And if such distrusts, suspicions, doubts and certainties cropped out with some frequency in conversations or private papers, or now and again in published writings, could one still classify as pacific and universal the acceptance of a Pope who was already a heretic on the occasion of his election by the Sacred College?



It is not in the nature of the present work to try to respond to questions such as these. We only wish to formulate them here, asking those who are learned in the matter to clear them up.

43. See pp. 72-74.

CHAPTER IX

CAN THERE BE ERROR IN THE DOCUMENTS OF THE PONTIFICAL OR CONCILIAR MAGISTERIUM?

Many are the reasons which Sacred Theology furnishes us in defense of the thesis that, in principle, there can be errors in those documents of the Magisterium which do not fulfill the conditions of infallibility¹

Such reasons are indeed so many and of such weight, that we deem it sufficient to call attention to some of them in order to give the reader a summary view of the matter.

1. Possibility of error in episcopal documents

First of all we must note that the Magisterium of the Church is composed of the pope and the bishops - the only ones authorized to speak officially in the name of the Church, as authentic interpreters of Revelation. Priests and theologians do not enjoy the privilege of infallibility, under any hypothesis, not even when they teach with a canonical mission received from a Pope or a bishop.

Also the Bishops, when they speak alone or together, can err - unless, in council or outside of it, they define a dogma, solemnly, with the Supreme Pontiff.

1. In substance, this chapter reproduces the article which we published in *Catholicism*, no. 223, July 1969.

The principle that the bishops are never infallible in pronouncements which they make without the supreme Pontiff is pacifically received in the doctrine of the Church. In his pastoral Letter on Problems of the Modern Apostolate, Dom Antonio de Castro Mayer, Bishop of Campos, writes:

“The Pontifical Magisterium being infallible, and that of each bishop, even though official, fallible, the possibility that one or the other bishop fall into error is within the limits of human frailty; and history records some of these eventualities.”²

Here, then, a conclusion imposes itself: when evident reasons show that a bishop, some bishops in concert, or even the whole Episcopate of a country or of a part of the globe, have fallen into error, nothing authorizes one of the faithful to embrace this error on the basis of the allegation that it is not licit for him to disagree with those who have been placed by Our Lord at the head of his flock. It will be licit for him, or even a duty, to disagree with such episcopal teachings. Such disagreement could be even, according to the circumstances, public.³

2. A definition of Vatican I

Passing from episcopal documents to the pontifical ones, we shall see initially, that in principle, also in one or the other of these there can be some error, even in matters of faith and morals.

This one deduces from the very definition of pontifical infallibility by the First Council of the Vatican. There are established the conditions under which the Pope is infallible. It is easy to understand, then, that, when such conditions are not fulfilled, there can be in principle error in a papal document⁴

2. D. Antonio de Castro Mayer, *Pastoral Letter on Problems of the Modern Apostolate*, p. 119. - On the possibility, admitted by all Catholic authors, of bishops and even entire episcopates falling into error and even into heresy, one can consult: Pesch, *Prael. Dogm.*, tomus I, pp. 259-261; Hurter, *Theol. Dogm. Comp.*, tomus I, p. 263; D'Herbigny, *Theol. de Ecc.*, vol. II, p. 309; Herve, *Man. Theol. Dogm.*, vol. I, p. 485; Salaverri, *De Ecc. Christi*, p. 682.

3. See Chapter XI, pp. 95 ff.

4. The First Council of the Vatican teaches that the supreme Pontiff is infallible “when he speaks ex-cathedra, that is, when, in the use of his prerogative as Teacher and Pastor of all Christians, and by his supreme apostolic authority, he defines a doctrine which in matters of faith and morals must be

In other terms, we could say that the simple fact that the documents of the Magisterium are divided into infallible and non-infallible ones, leaves open, in thesis, the possibility of error in some one of the non-infallible ones. This conclusion is imposed on the basis of the metaphysical principle enunciated by Saint Thomas Aquinas: “quod possibile est non esse, quandoque non est” - “what can possibly not be, at times is not”.⁵

If, in principle, in a papal document there can be error because of the fact that it does not fulfill the four conditions of infallibility, the same thing must be said in relation to the conciliar documents which do not fulfill the same conditions. In other words, when a Council does not intend to define dogmas, strictly speaking it can fall into errors. Such a conclusion follows from the symmetry existing between the pontifical infallibility and that of the Church, stressed by the First Vatican Council itself.⁶

3. Suspension of internal assent

In favor of the thesis that, in principle, there can be error even in pontifical and conciliar documents, there also militates the argument that theologians among the most highly regarded admit that, in very special cases, a Catholic suspend his assent to the decision of the Magisterium.

As such, pontifical decisions, even when they are not infallible, postulate the external respectful silence (“*silentium obsequiosum*”) and the internal assent of the faithful. Pius XII declared this truth in incisive terms:

“One must not believe, that the teachings of the Encyclicals do not require assent “*per se*”, under the pretext that the Pontiffs do not exercise in them the power of their supreme Magisterium. Such teachings form part of the ordinary Magisterium, to which also apply the words: “He who hears you hears me” (Lk. 10, 16).”⁷

sustained by all the Church” (Denz.-Sch. 3074).

5. St. Thomas Aquinas. *Summa Theol.*, I, q. 2, a. 3, c., *Tertia via*.

6. Denz. Sch. 3074.

7. Pius XII, Enc. *Humani Generis*, p. 11.

When, however, there would be “a precise opposition between a text of an Encyclical and the other testimonies of Tradition”,⁸ then it would be licit for one of the faithful who is learned and who has carefully studied the question, to suspend or deny his assent to the papal document.

The same doctrine is found among theologians of great authority. Let us cite some of them:

a) Diakamp:

“These non infallible acts of the Magisterium of the Roman Pontiff do not oblige one to believe, and do not postulate an absolute and definitive subjecting. But it behooves one to adhere with a religious and internal assent to each decisions, since they constitute acts of the supreme Magisterium of the Church, and are founded upon solid natural and supernatural reasons. The obligation to adhere to them can only begin to terminate in case, and this only occurs very rarely, a man fit to judge such a question, after a repeated and very diligent analysis of all the arguments, arrives at the conviction that an error has been introduced into the decision.”⁹

b) Pesch:

“(. . .) one must assent to the decrees of the Roman Congregations, as long as it does not become positively sure that they have erred. Since the Congregations, ‘per se’, do not furnish an absolutely certain argument in favor of a given doctrine, one may or even must investigate the reasons for that doctrine. And thus, either it will come to pass that such a doctrine will be gradually accepted in the whole Church, attaining in this way the condition of infallibility, or it will happen that the error is little by little detected. For, since the religious assent referred to is not based on metaphysical certainty, but only on a moral and general one, it does not exclude all suspicion of error. For this reason, as soon as there arise sufficient motives for doubt, the assent will be prudently suspended; nevertheless, as long as such motives for doubt do not arise, the authority of the Congregations is sufficient to oblige one to assent.

The same principles apply without difficulty to the declarations which the Supreme Pontiff omits without involving his supreme

8. Pius XII, Enc. *Humani Generis*, p. 11.

9. Dickamp, *Theol. Dogm. Man.*, vol. I, p. 72.

authority, as well as the decisions of the other ecclesiastical superiors who are not infallible”⁹

c) Merkelbach:

“(…) when the Church does not teach with her infallible authority, the doctrine proposed is not as such unreformable; for this reason, if “per accidens”, in an hypothesis which is however very rare, after a very careful examination of the matter, it appears to someone that there exist very grave reasons contrary to the doctrine thus proposed, it will be licit, without falling into temerity, to suspend internal assent (…).”¹¹

d) Hurter:

“(…) if grave and solid reasons, above all theological ones, present themselves to the mind of one of the faithful, against (decisions of the authentic Magisterium, either episcopal or pontifical), it will be licit for him to fear error, assent conditionally, or even suspend assent (…).”¹²

e) Cartechini:

“In this hypothesis of non-infallible decisions, “the subject must give his internal assent, except in the case in which he has evidence that the thing commanded is illicit (…)(…) if some learned and studious person has very grave reasons to suspend his assent, he can do so without temerity and without sin (…).”¹³

The counsel frequently given to the faithful in such cases is that he “suspend judgment” on the matter. If this “suspension of judgment” implies an abstention, on the part of the faithful, from the taking of any attitude in relation to the pontifical teaching in question, it represent only one of the licit positions in the hypothesis under consideration. Indeed, the “suspension of internal assent” of which the theologians speak, has a

10. Pesch, *Prael. Dogm.*, vol. I, pp. 314-315.

11. Merkelbach, *Summa Theol. Mer.*, vol. I, p. 601.

12. Hurter, *Theol. Dogm. Comp.*, vol. I, p. 492.

13. Cartechini, *Dall’Op. al Domma*, pp. 153-154. - The following authors express the same opinion: Pesch, *Comp. Theol. Dogm.*, vol. I, pp. 238-239; Lercher, *Inst. Theol. Dogm.*; Vol. I, pp. 297-298; Forger, article *Congregations Romaines*, in *Dict. Theol. Cath.*, tome III, sole. 1108-1111; Norg, *Inst. Theol. Fundam.*, tomus II, p. 187; Aertava-Damen, *Theol. Nor.*, tomus I, p. 270; Zelba, *Theol. Mor. Comp.*, vol. II, p. 30, note 21.

more ample sense than the mere “suspension of judgment” of current language. According to the case, the right of “suspending internal assent” admits of the right to fear that there be error in the document of the Magisterium, to doubt the teaching contained therein, or even to reject it.

4. There are those who do not admit the suspension of internal assent

It would be possible to object to the thesis which we are defending that not all the authors admit this suspension of internal assent. Such is the case of Coupin,¹⁴ Pagues,¹⁵ Salaverri.¹⁶

However, even these authors do not deny the possibility of error in the documents of the Magisterium: “given that the decision does not come guaranteed by infallibility, the possibility of error is not excluded”.¹⁷

They only maintain that the great religious authority of the Pope, the scientific value of his advisers, and all the rest which surrounds the non-infallible documents, counsel one not to suspend internal assent, even when a studious person has serious reasons to admit that the pontifical decision labors in error.

There is no reason for us to analyze the position of these theologians in more detail here. For the moment it is enough for us to show, as we have done, that even they admit the possibility of error in documents of the ordinary Magisterium.

As far as the judgment to be made in relation to their thesis, according to which it is never permitted to suspend internal assent,¹⁸ we do not believe that these authors have directly considered the hypothesis of the interplay in the same case of the following factors:

14. *Valeur des Dec. Doct. et Disc. du St.-Sierge*, pp. 53 ff. and 59 ff.; *Motu Proprio Praest.*, pp. 119 ff.; *Le Decret du St.-Off.*, pgs. 415-416.

15. Article in *Ravus Thomiste*, November-December 1904, p. 531, cited by Coupin, *Valeur des Dec., doct. et Disc. du St.-Sierge*.

16. *De Ecc. Christi*, pp. 725-726.

17. Choupin, *Valeur des Dec., Doct. et Disc. Du St.-Sierge*, p. 54 - Ses Pagues, article in *Revue Thomiste*, November-December 1904, p. 531; Salaverri, *De Ecc. Christi*, p. 722.

18. See our article *What is the doctrinal authority of the pontifical and conciliar documents?*, in *Catholicismo*, no. 202, October 1987, p. 7, 1st column.

1) that the real circumstances of life oblige one of the faithful, in conscience, to take an attitude in relation to a problem;

2) that he has evidence that there is, in this respect, a precise opposition between the teaching of the ordinary Magisterium and the other testimonies of Tradition;

3) that the infallible decision capable of putting an end to the question not be pronounced.

In the hypothesis, doctrinally admissible, of the interplay of these three factors, it does not seem to us that any theologian might condemn the suspension of internal assent to the non-infallible decision. To condemn it would even be an antinatural and violent act, for it would redound in obliging one to believe, contrary to the very evidence, in something which is not guaranteed by the infallibility of the Church.

5. There are those who deny the possibility of error in non-infallible documents.

Against the thesis that there could be errors in documents of the ordinary pontifical or conciliar Magisterium, there would be room for even another objection: according to some authors of weight, as the Cardinals Franzelin and Billot, even the non-infallible documents are guaranteed against any error by the assistance of the Divine Holy Spirit.¹⁹

Thus, the thesis which we are defending could appear at least uncertain. And - one would ask - would it not be more consonant with the eminently hierarchical, and even monarchical spirit of the organization of the Church, to adopt the opinion of these eminent theologians? Would it not be more in accord with the condition of sons of the Church, to admit that even in pronouncements which are not “ex cathedra” it would be absurd for error to occur?

An exhaustive analysis of this question would lead us far beyond the objectives of the present work. For this reason, we would only like to show that even Cardinals Franzelin and Billot, as well as the theologians

19. Frangelia, *Tract. de Div. Trad., et Scrip.*, pp. 116-120; Billot, *Tract. de Enc. Christi*, tome I, pp. 428-434.

who adopt their position, in the ultimate analysis admit the possibility of error in the non-infallible documents.

They start with the presupposition that the documents of the Holy See either teach an infallible doctrine, or declare that a determined opinion is secure or not secure.

“In these declarations, though the truth of the doctrine not be infallible - granted for the hypothesis there is no intention to use the power of the keys - there is an infallible assurance, in that it is secure for all to embrace it, and it is not secure to reject it, nor can this be done without violation of the due submission to the Magisterium constituted by God.”²⁰

Thus, then, these authors sustain that in the non-infallible pronouncements, the Magisterium does not compromise itself with an affirmation of the truth of the doctrine which it proposes, but sustains only that such doctrine does not offer any danger for the faith, in the circumstances of the moment.

Such theologians recognize clearly that the teaching contained in these documents can be false:

“the doctrine in favor of which there exists solid probability that it is not opposed to the rule of faith, MAY BE PERHAPS THEOLOGICALLY FALSE ON THE SPECULATIVE PLANE, that is, if it were taken in relation to the norm of faith, objectively considered.”²¹

It becomes patent, therefore, that even these authors admit the possibility of error in respect to the doctrine contained in documents of the supreme ordinary Magisterium.

What is one to think about the theory that the non-infallible pronouncements only aim to declare that a doctrine is safe or not safe? - Such a theory does not seem to agree with the terms of the majority of the documents of the Holy See. In some, it is clear that it is only a question of the safety or the danger of a certain doctrine. But in many others - in

20. Franzelin, *Tract. de Div. Trad. et Scrip.*, loc. cit.

21. Billot, *Tract. de Ecc. Christi*, tome 1, p. 430. - The capitals are ours.

the Encyclicals, for example - the intention of presenting teachings as certain, and not merely secure is manifest. Moreover, the authors in general have abandoned this theory.²²

We do not have room here, however, to analyze minutely the aforementioned position of the Cardinals Franzelin and Billot. We only wish to point out that, even according to them, in principle the possibility of doctrinal error is not excluded in pontifical and conciliar documents.

6. Conclusion

From all that has been expounded, one infers that, in principle, the existence of errors in non-infallible documents of the Magisterium is not impossible - even in the pontifical and conciliar Magisterium.

Without doubt, such errors cannot be proposed for a long time in the Holy Church, to the point of putting upright souls in the dilemma of accepting the false teaching, or breaking with Her. For, if it were so, hell would have prevailed against the Church. However, it is possible, in principle, that for some time, above all in periods of crisis and of great heresies, some error be found in documents of the Magisterium.

As is patent, we do not make such observations with any destructive purpose. We do not seek to plant the foundations for the heretizing “contestations” with which the progressives seek, at every moment, to undermine the principle of authority in the Holy Church.

What we do, indeed seek, by making evident the possibility of error in the non-infallible documents, is to help clear up the problems of conscience and studies of many antiprogressives who, because they do not know of such a possibility, frequently feel perplexed.

22. See Herve, *Man. Theol. Dogm.*, vol. I, p. 513; Cartechini, *Dall’Op. al Domma*, passim; Salaverri, *De Ecc. Christi*, p. 726; Journet, *L’Eglise du Verbe Inc.*, vol. I, pp. 455-456, who, appealing to the opinion of Card. Franzelin, in reality gives, to the words of the old professor of the Gregorian University, an interpretation which modifies his thinking entirely.

CHAPTER X

CAN THERE BE HERESY IN DOCUMENTS OF THE PONTIFICAL OR CONCILIAR MAGISTERIUM?

In the previous chapter we have shown that the existence of some error in official non-infallible documents of the Magisterium - be it episcopal, conciliar or pontifical - is not, in principle, impossible.

Here we must carry on our investigations of the matter, asking ourselves if, in principle, beyond errors there could be some heresy in such documents.

In order to simplify the treatment of the question, we are going to take it up directly at its most thorny point: in principle, can one admit the existence of heresy in some official pontifical document, though evidently not an infallible one? Or do the Catholic teachers who do not reject the hypothesis of a Pope heretic only air the possibility of his fall into heresy as a private person?

We said that, focalizing the question directly in this its thorny point, we would be able to resolve it in the most simple manner. Indeed, in case the hypothesis of a Pope teaching some heresy in an official document of the Magisterium is not to be excluded on principle, then with equal reason there could be heresy in a non-infallible conciliar document¹ and - what all admit and History does not permit one to put

1. The hypothesis of having some heresy in a non-infallible conciliar document evidently is not confounded with the hypothesis that all the Bishops or the entire Church fall into heresy. Indeed, as regards a document which does not fulfill all the conditions which would make it infallible, adherence to it would not be imposed in an absolute way on the bishops who had rejected it in the conciliar session, nor on the Bishops who had been absent from that session, nor on the priests and faithful of

in doubt - in official pronouncements of bishops.

1. A hasty answer

A superficial examination of the passages in which the great theologians have treated the problem of a Pope heretic, would lead a hasty reader to make, in an immediate and peremptory way, a negative answer to the question which we present.

Really, all the authors whom we know to have studied the hypothesis of a Pope heretic formulate the question only in relation to the eventual heresy of the Pontiff as a private person. Such being the case, it appears inevitable to conclude that it is theologically impossible to have heresy in an official pontifical document, that is, in a pronouncement of the Pope as a public person.

We cite below some texts which indicate well the terms in which the theologians usually formulate the question.

The chapter in which Saint Robert Bellarmine expounds his opinion on the possibility of a Pope heretic is entitled: "On the Pontiff as a private person". And the great Jesuit doctor formulates his opinion in the following terms:

"It is probable, and piety permits one to believe, that the Supreme Pontiff not only cannot err as Pontiff, but also that as a private person he cannot be a heretic believing pertinaciously something false contrary to the Faith."²

Suarez writes:

"Though many sustain, with verisimilitude, (that the Pope can fall into heresy) (...), to me however, in a few words, it seems more pious and more probable to affirm that the Pope, as a private person, can err through ignorance, but not contumaciously."³

the entire world. As is evident, the fall of the whole Catholic world into heresy is impossible, for that would contradict frontally the divine promises of assistance to the Holy Church.

2. Saint Robert Bellarmine, *De Rom. Pont.*, lib. IV, cap. VI.

3. Suarez, *De Fide*, disp. X, sect. VI, no. 11, p. 319. We have already cited this whole text on p. 14.

Dominicus Soto, the Dominican of the XVI Century, taught:

“(...) though some masters of our time sustain that the Pope cannot be a heretic in any way, the common opinion is however the opposite one. For though he might not be able to err as Pope - that is, he could not define an error as an article of faith, because the Holy Spirit will not permit it - nevertheless as a private person he can err in faith, in the same way that he can commit other sins, because he is not impeccable.”⁴

The Jesuit moralist Paul Laymann (+ 1625) wrote:

“It is more probable that the Supreme Pontiff, as a person, might be able to fall into heresy even a notorious one, by reason of which he would merit to be deposed by the Church, or rather, declared to be separated from her (...).”

Observe however, that, though we affirm that the Supreme Pontiff, as a private person, might be able to become a heretic and therefore cease to be a true member of the Church, (...) still, while he were tolerated by the Church, and publicly recognized as the universal pastor, he would really enjoy the pontifical power, in such a way that all his decrees will have no less force and authority than they would have if he were truly faithful (...).⁵

The canonist Marie-Dominique Bouix (+ 1870) expounds his thinking in the following terms:⁶

“In the first place, therefore, we have said that the papal heresy of which we treat here does not constitute an evil so grave that it necessarily obliges one to think that Christ would desire the deposition of such a Pontiff. We are treating here, really, of exclusively private heresy, that is, professed by the Pontiff not as Pastor of the Church and in his papal acts and decrees, but only as a private teacher and

4. Soto, *Comm. in IV Sent.*, dist. 22, q. 2, a. 2, p. 102.

5. Laymann, *Theol. Mor.*, lib. II, tract. I, cap. VII, pp. 145-146.

6. We have already cited this passage, in its context, on p. 31. Other texts of Bouix in the same sense are found in his *Tract. de papa*, II, pp. 653, 665, note 1.

limited to his personal sayings and writings. Now, since the Pope always teaches the true faith when he defines the pronounces as Pontiff, the faithful are sufficiently secure, even though it be known at the same time, that the Pope himself adheres privately to some heresy. All will easily understand that an opinion defended by the Pope as a private teacher would be completely lacking in authority, and that he would only have to be obeyed when he defined the imposed truths of faith officially and with his pontifical authority”⁷

The neo-scholastic canonist Matthacus Conte a Coronata, O.M.C., studying the diverse cases in which the Pope loses the Pontificate, observes that one of them is falling into notorious heresy. And, in this respect, he writes:

“Some authors deny the supposition, that is, that there could be a Roman Pontiff (...). However it cannot be proved that the Roman Pontiff, as a private doctor, cannot become a heretic (...).”⁸



It would be useless to multiply citations. The theologians are unanimous in presenting the problem to this manner. The doubt which is raised refers exclusively to the possibility of heresy in the Pope as a private person.

We believe however that he would err who judged that he saw here a decisive argument in favor of the thesis that the Catholic Tradition has always excluded, in an absolute way, the possibility of heresy in a document of the Pontifical Magisterium.

This is what one verifies, salve meliori iudicio, by a more detailed analysis of the matter.

2. A forgotten hypothesis

The reading of some of the texts which we have just presented, and even more of the ones which we shall present shortly, reveals a curious and unexpected fact. On studying the question of a Pope heretic, both

7. Bouix, *Tract. de Papa*, tom. II, p. 670.

8. Coronata, *Inst. Iuris Can.*, vol. I, p. 367.

the ancients as well as the moderns have considered only two kinds of Papal acts: the infallible pronouncements, and the private ones. The official but not infallible documents do not appear to exist.

Note the argument of Soto: The Pope cannot err as Pope, that is, on defining an article of faith, because the Holy Spirit will not permit it; but he can err as a private person. - The great Dominican did not consider the third hypothesis: that of the Pope who makes a pronouncement as Pope, but without defining an article of faith.

See also what was argued by Bouix: the heresy of the chief of the Church would not be so grave because it would be restricted to his private person, at the same time that one would have to obey him without fear of error “when he defined and imposed truths of faith officially and with the pontifical authority”. - Now, neither did Bouix consider the third hypothesis: that of a Pope heretic who pronounced “officially and with the pontifical authority”, but without “defining and imposing truths of faith”.

The same silence about this third hypothesis occurs in the texts which follow, in which now they treat of the question of the Pope heretic, now of the pontifical infallibility:

Cardinal Camillo Mazzella wrote:

“(…) it is one thing that the Roman Pontiff cannot teach a heresy when speaking “ex cathedra” (what the Council of the Vatican defined); and it is another thing that he cannot fall into heresy, that is becomes a heretic as a private person. On this last question the Council said nothing, and the theologians and canonists are not in agreement among themselves in regard to this.”⁹

Later, the silence of Cardinal Camillo Mazzella about the aforementioned third hypothesis becomes even more strange:

“(…) the Supreme Pontiff can act as a teacher in two ways: in a first way, in that which he has in common with all the other private teachers, for example on publishing books or theological commentaries, like other theologians; in a second manner, when he

9. Card. C. Mazzella, De Relig. et Eccl., p. 817, n. 1045.

teaches the whole Church as supreme and authentic teacher. In his capacity as private teacher, he does not enjoy any pontifical authority, and even less infallibility (...); but as supreme and authentic teacher he is infallible”¹⁰

On treating of the pontifical infallibility, the Jesuit theologian Horatius Mazzella wrote:

“By virtue of the gift of infallibility, the Pontiff cannot fall into heresy when he speaks “ex cathedra”: and this was defined in the Vatican Council. But the theologians dispute whether he can, as a private person, become a true heretic, adhering publicly¹¹ and pertinaciously to an error against faith. As is evident, we treat (in this chapter on infallibility) of the Pontiff who speaks “ex cathedra”, and not as a private person.”¹²

The words of Dominicus M. Pruemmer, O.P.:

“It is the common opinion of the authors that for certain and notorious heresy the Pope loses his power, but they rightly doubt whether this case be in fact possible. Supposing that the Pope falls into heresy as a private man (for as Pope, being infallible, he cannot err in the faith), the divers authors developed various opinions to explain how he would be deprived of power; but none of these opinions is more than probable.”¹³

Saying that one of the conditions for the Pope to be infallible is that he speak as a public person, the manual of dogmatic theology of the Capuchins Iragui and Abarmusa indicates what the concept of public person excludes, thus:

“Not then as Bishop of a particular church, or as Patriarch of the Occident; in a word, not as a private person who converses familiarly

10. Card. C. Mazzella, De Relig. et Eccl., p. 819.

11. Note that adhering “publicly” to an error against faith does not signify here adhering as a public person, but rather as a private person, in a document which, however, comes to the knowledge of the public.

12. H. Mazzella, Praelectiones..., vol. I, p. 545.

13. Pruemmer, Man. Iuris, Can., p. 131.

about common things, exhorts the people in sermons, publishes scientific books, etc.”¹⁴

The Dogmatic Constitution *Lumen Gentium*, of the II Vatican Council, also presents an explanation of pontifical infallibility in which it counterpoises the Pope as a private person with the Pope when he uses his infallibility. Though shortly before the document had treated of the official non-infallible pontifical pronouncements, the silence in this text about the third hypothesis is worthy of attention. Here follows the text:

“(…) his definitions (those of the Pope) are irreformable as such and not by virtue of the consent of the Church, for they were uttered with the assistance of the Holy Spirit promised to him in the Blessed Peter. And for this reason they do not require the approbation of anyone nor do they admit of appeal to another tribunal. For, in the case in question, the Roman Pontiff does not speak as a private person, but expounds or guards the doctrine of the Catholic Faith as the supreme teacher of the whole Church, in whom in a special way resides the charism of infallibility of the Church itself.”¹⁵

3. A gap which has already been noted

Undoubtedly, one would not be able to admit that the theologians in general have purely and simply left in oblivion the existence of official non-infallible pontifical documents. Nor is this the affirmation which we make. We sustain, this yes, that about the concept of “private person” there is a certain imprecision in theological writings. And that such imprecision is responsible for the apparent exclusion, in the authors who treat the problem, of the possibility of heresy in non-infallible documents of the pontifical Magisterium.

To make our position clear, we make the three following observations:

1) Firstly, it is to the purpose to reaffirm that even the writings which have the gap pointed out admit somewhere the existence of official non-infallible pontifical documents.¹⁶

14. Iragui, *Man. Theol. Dogm.*, vol. I, p. 429.

15. II Council of the Vatican, *Lumen Gentium*, n. 25.

16. See, for example: II Council of the Vat., *Lumen Gentium*, n. 25; Laymann, *Theol. Mor.*, lib. II, tract.

2) In the second place, note that numerous documents and treatises recognize, in a direct or indirect way, that it is in principle possible to have heresy in some non-infallible pronouncement of the pontifical Magisterium.

In relation to the letters of Pope Honorius to the Patriarch Sergius, for example - letters whose official character no one contests - it is common among theologians to find the explanation, presented even before the examination of their contents, that they do not compromise the privilege of infallibility because they are not “ex cathedra” documents. Now, such an explanation would be inoperative if it were altogether impossible to have any heresy in official non-infallible pontifical documents. An analogous explanation is given in the other cases, which history records, of papal pronouncements suspected of heresy.¹⁷

Moreover in relation to the letters of Pope Honorius, it must be observed that Adrian II, and with him the Roman synod and the VIII Ecumenical Council, admitted that in them there was heresy. It is true - as Saint Robert Bellarmine observes¹⁸ - that probably Adrian II was mistaken in his evaluation of the concrete case; it is certain, nevertheless, that he and the assemblies we cited judged it possible for there to be heresy in the aforementioned letters.¹⁹

3) In the third place, it is very important to observe that the imprecision with which many employ the expression “private teacher” have already been pointed out by the theologians. Below we give some examples of this worthy of note.

Immediately after showing that the Pope can make a pronouncement without involving his infallibility, Palmieri writes:

I, cap. VII, p. 1467; Camillo Mazzella, *De Relig. et Eccl.*, p. 819; Horatio Mazzella, *Praelectiones...*, vol. I, pp. 551-552.

17. In respect to this, one can see: Diekamp-Hoffman, *Th. Dogm. Man.*, II, pp. 270-271; D’Herbigny, *Theol. de Eccl.*, II, p. 319; Hurter, *Theol. Dogm. Comp.*, I, p. 422; Lercher, *Inst. Th. Dogm.*, I, p. 294; Horatius Mazzella, *Prael. Sch. Dogm.*, I, p. 552; Tanqueray, *Syn. Th. Dogm. Fund.*, I, p. 599; Herve, *Man. Theol. Dogm.*, I, p. 481; Iragui, *Man. Th. Dogm.*, I, pp. 440-441; Ott, *Manual de Teol. Dogm.*, p. 438; Salaverri, *De Eccl. Christi*, pp. 666, 717.

18. See p. 25.

19. See p. 17-18.

“In this hypothesis, one who speaks of his as a “private teacher” does not speak with sufficient propriety, for, while he does not speak with the plenitude of his authority, he speaks however with authority; for this reason, when he makes a pronouncement in this form the Roman Pontiff cannot be reduced to the category of any private teacher who has no authority.”²⁰

In the *Dictionnaire de Theologie Catholique*, article *Infailibilitze du Pape*, Dublanchy shows that there are non-infallible pontifical teachings, to which the faithful must however morally adhere.²¹ Refuting one possible objection against the principle that there exist such official but non-infallible pontifical pronouncements, he writes:

“It is true that in the XVI Century and in those that follow many theologians frequently give one to understand that the Pope speaks as a private doctor when he does not teach infallibly as Pontiff. As Saint Robert Bellarmine (*De Romano Pontifice*, lib. IV., cap. XXII);²² Banes (*Commentaria in II-II*, q.1, a. 10, dub. II, Venise, 1602, p. 127).²³ But if one examines attentively all these assertions, which are besides frequently contradictory on account of totally opposing assertions, it is easy to verify that it is only a matter of answers given in passing to certain historical objections, without it having been intended to establish by this a doctrine applicable in a general way to all the cases in which the pontifical infallibility does not exist.”²⁴



How can one explain such a lack of precision in the concept of “private doctor” in theologians of such authority? We believe that the explanation is to be found in the fact that only since the XIX Century have the official non-infallible pronouncements of the Pope become object of mere

20. Palmieri, *Tract. de Rom. Pont.*, p. 632.

21. Cols. 1709 ff.

22. We believe there is a mistake in the indication of chapter XXII, which does not treat of this matter. What Dublanchy says is found in chapters VI and VII.

23. Observe that both the text cited from Saint Robert Bellarmine (admitted the mistake pointed out in our previous note) as well as that of Banez treat of the question of the Pope heretic.

24. Dublanchy, article *Infailibilitze du Pape*, in *Dict. de Theol. Cath.*, col. 1710.

profound studies.²⁵ Before that, the matter was undoubtedly treated, but in a not very explicit and clear way; for this reason certain less appropriate expressions were employed,²⁶ which the more recent authors have still not defined exactly or even duly rectified.

4. A hypothesis which still stands

In consideration of the reasons expounded, we do not see how to exclude, in principle, the hypothesis of heresy in an official document of the pontifical or conciliar Magisterium which does not include the conditions which would make it infallible.

Consequently, if some time a heresy were found in an official non-infallible pontifical or conciliar document, one would not have to conclude, with that, that the Holy Spirit had failed His Church. Nor would the absurdity of the hypothesis oblige one to find, at whatever cost, a non heretical interpretation for the text indicated as being opposed to the faith. Nor would one apply the celebrated saying of Saint Ignatius in these circumstances:

“that which appeared to us as white, we would hold to be black, if the Holy Church declared it so.”²⁷

In conclusion: the admirable Ignatian principle, complete expression of faith in the infallibility of the Pope and the Church, holds without restrictions for the pronouncements of the Magisterium which involve infallibility. But he would be wanting in the very “feeling with the Church” who attributed to this saying a comprehension which Catholic doctrine does not justify - interpreting it for example, in the sense that one must accept always and unconditionally even against the evidence, each and every non-infallible teaching of the ecclesiastical Magisterium.

25. “This non-infallible doctrinal authority (of the Supreme Pontiff) was affirmed particularly in the second half of the XIX Century” - Dublanchy, article *Infailibilitze du Pape*, in *Dict. de Theol Cath.*, col. 1710.

26. Other expressions of little precision used in treating this subject are: dogma, heresy, define, solemn definition, extraordinary Magisterium, and anathema (see our articles: “*What is the doctrinal authority of the documents of the pontifical and conciliar Magisterium?*”, “*Not only heresy can be condemned by the ecclesiastical authority*” and “*Can a Catholic reject Humanae Vitae?*”, in numbers 202, 203 and 212-2314, respectively of the monthly *Catolicismo* of October of 1967, November of 1967, and August-October of 1968).

27. Saint Ignatius of Loyola, *Spiritual Exercises*, rule n. 13 for thinking with the Church.

CHAPTER XI

PUBLIC RESISTANCE TO DECISIONS OF ECCLESIASTICAL AUTHORITY

The Church teaches that, in the face of an erroneous decision of the ecclesiastical authority, it can happen that it be not only licit for the enlightened Catholic to deny his assent to this decision, but also, in certain extreme cases, to oppose them even in public. Furthermore, such opposition may constitute a true obligation¹

A. BISHOPS AND LOWER ECCLESIASTICAL AUTHORITIES

In taking up this matter, we prefer not to mix our voice with those of the great Saints and of the theologians approved in the Holy Church. Such being the case, in the present item and in the one which follows, we shall limit ourselves to reproducing what some of them have said. To them we shall leave the charge of teaching us not only the extension of the theses which they defend, but also which are the arguments upon which they are founded.

We shall not occupy ourselves, except in passing, with the principle according to which it is licit to resist, even publicly, those Bishops and lower ecclesiastical authorities who, by their evil doctrine, their scandalous life or their iniquitous decrees, endanger the faith and the salvation of souls. So many are the examples, in the history of the Church, of Saints who have raised their voices against evil shepherds, that the difficulty would rather consist in selecting from among the many proofs of the

1. In substance, this chapter reproduces the article which we published in the monthly *Catholicismo* under the same title, no. 224, August 1969.

legitimacy of such a procedure. Among the theologians there is no doubt in respect to this matter.

Here are some texts which refer to the legitimacy of public resistance to episcopal authority:

a) D. Gueranger. Writing about Saint Cyril of Alexandria, the outstanding adversary of Nestorianism, Dom Prosper Gueranger, Abbot of Solesmes, teaches:

“When the pastor becomes a wolf, it is the flock in the first place, which has the duty to defend itself. Normally, undoubtedly, doctrine comes down from the Bishops to the faithful, and subjects, in the domain of faith, must not judge their chiefs. But there are, in the treasury of Revelation, essential points which every Christian, by virtue of his very title of Christian, necessarily knows and has an obligation to defend.”²

b) Herve. In analyzing the divers factors which contribute to an ever greater explicitation of dogma in the course of the centuries, Herve eulogizes the opposition mounted by the faithful against Nestorius, the heretical Patriarch of Constantinople:

“By an instinct of the Holy Spirit, the faithful may be led to a better understanding and belief in respect to what increases piety and worship, favoring in this way the progress of dogma. Indeed, the murmuring of the faithful against Nestorius was a great help toward the definition of the Divine Maternity of the Most Holy Virgin (...).”³

c) D. Antonio de Castro Mayer. The illustrious Bishop of Campos published recently a document in which he called to mind the traditional doctrine on the right of resistance to iniquitous ecclesiastical authorities. It was in a letter of approbation of the magnificent “Vadmeccum of the faithful Catholic”, in which four hundred priests of different countries, combating progressivism, expounded the principles of the true Catholic Faith and invited the faithful to oppose the new heresy which today invades the whole world. In his letter of approbation to this

2. D. Gueranger, *L'Anne Lit.*, Feast of St. Cyril of Alexandria, pp. 340-341.

3. Herve, *Man. Theol. Dogm.*, vol. III, p. 305.

Vademecum, the Lord Bishop of Campos declares it most opportune and adds:

“(…) let no one come and say to us that it is not for the faithful –as the “Vademecum” proclaims – to pass judgment on what is happening in the Church;’ that it is for them only to follow docilely the orientation given by the Ministers of the Lord.

It is not true. The History of the Church eulogizes the attitude of the faithful of Constantinople who opposed the heresy of their Patriarch Nestorius.”

Afterwards, D. Antonio de Castro Mayer cites the text of Dom Gueranger which we reproduce above.

B. “I RESISTED HIM TO HIS FACE, BECAUSE HE MERITED REPREHENSION”

Would it be legitimate, in extreme cases, to resist even decisions of the Sovereign Pontiff?

In answering this question, we shall transcribe only documents which are related to public resistance because, if in certain circumstances this is legitimate, with greater reason it would be legitimate to oppose a papal decision privately. No author, of whom we have heard, has ever raised any doubt about the right of such private resistance. This can be done in two ways: manifesting to the Holy See the objections that there be against the document; or by means of what is called “fraternal correction”, that is, by means of an observation made in private, with the object of obtaining the amendment of the fault committed⁴

We shall pass on to the texts which admit public resistance in very special cases:

a) Saint Thomas Aquinas. The Angelic Doctor teaches, in various of his works, that in extreme cases it is licit to publicly resist a papal decision, as Saint Paul resisted Saint Peter to his face:

4. On private resistance to decisions of the Pope or of the Roman Congregations, one may consult: St. Thomas Aquinas, in IV Sent., dist. 19, q. 2, a. 2; Summa Theol., II-II, 33, 4; Suarez, Def. Fidei Cath., lib. IV cap. VI, nn. 14-18; Pesch, Prael. Dogm., tomus I, pp. 314-315; Bouix, Tract. de Papa, tomus II, pp. 635 ff.; Hurter, Theol. Dogm. Comp., tomus I, pp. 491-492; Peinador, Cursus Brev. Theol. Mor., tomus II, vol. I, pp. 286-287; Salaverri, De Ecc. Christi, pp. 7825-726.

“(…) when there is a proximate danger for the faith, prelates must be questioned even publicly by their subjects. Thus, Saint Paul who was a subject of Saint Peter, questioned him publicly on account of an imminent danger of scandal in a matter of Faith. And, as the Gloss of Saint Augustine says, “Saint Peter himself gave an example of those who govern, so that if the latter should ever depart from the right path, they will not refuse correction coming even from their subjects as being injurious to their dignity” (ad Gal. 2, 14).”⁵

In his commentary on the Epistle to the Galatians, on studying the episode in which St. Paul resisted St. Peter to his face, St. Thomas writes:

“The rebuke was just and useful, and its motive was not light: it was a question of a danger to the preservation of the evangelical truth (…).

The manner in which the rebuke was given was appropriate, for it was public and manifest. For this reason St. Paul writes: “I spoke to Cephas” that is, to Peter, “before all”, because the simulation practiced by St. Peter created a danger for all. – In I Tim. 5, 20, we read: “as to those who sin, let them be rebuked before all”. This has to be understood of manifest sins, and not of the hidden sins, because in case of the latter one must proceed according to the order which is proper to fraternal correction.”⁶

Saint Thomas observed further that the passage from the Scripture referred to contains instructions both for superiors as well as for subjects:

“to superiors (was given an example) of humility, so that they might refuse to accept rebuke on the part of their inferiors and subjects; and to the subjects (was given) an example of zeal and liberty, so that they would not be afraid to correct their superiors above all when the crime were public and redounded in danger for many.”⁷

5. St. Thomas Aquinas, Summa Theol., II-II, 33, 4, 2.

6. St. Thomas Aquinas, ad Gal., 2, 11-14, lect. III, nn. 83-84.

7. St. Thomas Aquinas, ad Gal., 2, 11-14, lect. III, n. 77.

b) Vitoria. The eminent Dominican theologian of the XVIth Century writes:

“Cajetan, in the same work in which he defends the superiority of the Pope over the Council, says in Chap. XXVII: “Then one must resist to his face a Pope who publicly destroys the Church, for example not wishing to confer ecclesiastical benefices except for money or in exchange for services; and one must deny, with all obedience and respect, the possession of such benefices to those who have bought them.”

And Sylvester (Prierias), at the word Papa, 4, asks: “What must one do when the Pope, by his evil customs, destroys the Church?” And in 15: “What must one do if the Pope wishes, without cause, to abrogate positive law?” To this, he responds: “He would certainly sin; one should not permit him to carry on like this, nor should one obey him in that which is evil; but one should resist him with a courteous rebuke”.

Therefore, if he wished to hand over all the treasure of the Church or the patrimony of Saint Peter to his family, if he wished to destroy the Church, or other similar things, one should not permit him to act in this way, rather one would be obliged to resist him. The reason for this is that he does not have power to destroy; therefore, it being clear that he does, it is licit to resist him.

From all of this it follows that, if the Pope, by his orders and his acts, destroys the Church, one can resist him and impede the execution of his commands (...).

A second proof of the thesis: According to natural law, it is licit to repel violence with violence. Now, with such orders and dispensations, the Pope does violence, because he acts against the law, as was proven above. Then, it is licit to resist him. As Cajetan observes, we do not affirm all this in the sense that someone has the right to be judge of the Pope or authority over him, but rather in the sense that it is licit to defend oneself. Anyone, indeed, has the right to resist an unjust act, to try to impede it and to defend himself.”⁸

c) Suarez:

“If (the Pope lays down an order contrary to right customs, one does not have to obey him; if he tries to do something manifestly opposed to justice and to the common good, it would be licit to resist

8. Vitoria, *Obras de Francisco de Vitoria*, pp. 486-487.

him; if he attacks by force, he could be repelled by force, with the moderation characteristic of a just defense (cum moderamine inculpatae tutelae).”⁹

d) Saint Robert Bellarmine:

“(…) just as it is licit to resist the Pontiff who attacks the body, so also it is licit to resist him who attacks souls, or who disturbs the civil order, or, above all, him who tried to destroy the Church. I say that it is licit to resist him not doing what he orders and by impeding the execution of his will; it is not licit, however, to judge him, to punish him or depose him, for these acts are proper to a superior.”¹⁰

e) Cornelius a Lapide.

The illustrious exegete shows that, according to St. Augustine, St. Ambrose, St. Bede, St. Anselm and many other Fathers, the resistance of St. Paul to St. Peter was public “so that in this way the public scandal given by Saint Peter was remedied by a rebuke which was also public.”¹¹

After analyzing the divers theological and exegetical questions raised by the attitude assumed by St. Paul, Cornelius a Lapide writes:

“that superiors can be rebuked, with humility and charity, by their subjects, in order that the truth be defended, is what St. Augustine (Epist. 19), St. Cyprian, St. Gregory, St. Thomas and the others cited above declare on the basis of this passage (Gal. 2, 11). They clearly teach that St. Peter, being superior, was reprimanded by St. Paul (...). Rightly, then, did St. Gregory say (Homil. 18 in Ezech.): “Peter held his tongue in order that, being the first in the apostolic hierarchy, he old be also the first in humility”. And St. Augustine wrote (Epist. 19 ad Hieronymum): “Teaching that the superiors should not refuse to let themselves be reprimanded by their subjects, St. Peter left to posterity an example more unusual and more holy than that which

9. Suarez, *De Fide*, disp. X. sect. VI, n. 16.

10. St. Robert Bellarmine, *De Rom. Pont.*, lib. II, c. 29.

11. Cornelius a Lapide, *ad Gal.* 2, 11.

St. Paul left on teaching that, in defense of the truth, and with charity it is given to the juniors to have the boldness to resist their elders without fear”¹²

f) Wernz-Vidal. Citing Suarez, the work *Ius Canonicum*, of Wernz-Vidal, admits that, in extreme cases, it is licit to resist a bad Pope:

“The just means to be employed against a bad Pope are, according to Suarez (*Defensio Fidei Catholicae*, lib. IV, cap. 6 nn. 17-18), the more abundant help of the grace of God, the special protection of one’s guardian Angel, the prayer of the Church Universal, admonition or fraternal correction in secret or even in public, as well as legitimate defense against aggression whether it be physical or moral.”¹³

g) Peinador. The authors of our days adopt as their own the assertions of the classical authors about the matter which we are analyzing. Thus it is that Peinador, citing large sections from St. Thomas, writes:

“(…) a subject also can be obliged to the fraternal correction of his superior” (S. Theol., II-II, 33, 4). For the superior also can be spiritually needy, and there is nothing to prevent that he be liberated from such need by one of his subjects. Nevertheless, “in a correction by which subjects reprehend their prelates, it behooves them to act in an appropriate manner, that is, not with insolence and asperity, but with meekness and reverence” (S. Theol., *ibidem*). Therefore, in general the superior must always be admonished privately. “Keep in mind however that, when there is a proximate danger for the faith, prelates must be censured even publicly, by their subjects” (S. Theol., II-II, 33, 4, 2).”¹⁴

C. A DIVERGENCE WHICH WE CONSIDER ONLY APPARENT

As we see, the authors who declare that it is licit in extraordinary

12. Cornelius a Lapide, *ad Gal.* 2, 11.

13. Wernz-Vidal, *Ius Canon.*, vol. II, p. 436.

14. Peinador, *Cursus Brevior Theol. Mor.*, tomus II, vol. I, p. 287. - For further consultation in this matter, one may also see: St. Thomas Aquinas, in IV Sent., d. 19, q. 2, a. 2, ql. 3, sol. et ad 1; Suarez, *De Logibus*, lib. IX, cap. XX, nn. 19-29; *Def. Fidei Cath.*, lib. IV, cap. VI, nn. 14-18; Reiffenstuel, *Theol. Mor.*, tract. IV, dist. VI, q. 5, nn. 51- pp. 162-163; Mayol, *Praeamb. ad Dec.*, tomus XIII, q. III, a. 4, col. 918; Gury-Ballerini, *Comp. Theol. Mor.*, tomus I, pp. 222-227; Card. C. Mazzella, *De Relig. et Ecc.*, pp. 747-748; Urdanos, *Comment. on Vit.*, pp. 426-429.

cases to oppose, even publicly, some erroneous decision of the ecclesiastical authority and of the very Roman See itself are numerous and of great importance. And if we add to this the historical examples of Saints who proceeded in this way, we shall conclude that this is a thesis which is accepted without discussion in the Holy Church.

However, there is a fact which according to some takes away from this thesis its pacific character: in works both of dogmatic theology and of moral theology, it is frequent - and even common - to find the opinion that it is never licit for one of the faithful to break his respectful silence (“*silentium obsequiosum*”) in relation to a papal document, even when there is evidence that there is some error in the latter.

In a previous work, we have already taken up the delicate question of breaking the respectful silence.¹⁵ Just to set out the fundamental points of the problem, we shall resume rapidly that which we wrote then:

1) a document of the Magisterium is only infallible by itself when it fulfills the conditions made explicit by the first Council of the Vatican;¹⁶

2) the documents which do not fulfill those conditions are not by themselves infallible, and can therefore, in principle, and in very rare cases, contain some error;

3) the hypothesis that a learned person, after a very careful examination of a particular document of the non-infallible magisterium, come upon evidence that there is some error in it, is not therefore to be excluded, in principle;

4) in this case, it will be necessary to proceed with circumspection and humility, employing all reasonable means to clear up the question, the most outstanding of these being representations to the organism of the magisterium from which the document emanated;

5) if after all advisable means have been employed, the evidence

15. See our article *Pode haver erro em documentos do Magisterio?* (*Catholicismo*, n. 223, July 1969), which we reproduce substantially in Chapter IX of the present study (pp. 76 ff.).

16. See our article *Qual a autoridade doutrinaria dos documentos pontificios e conciliares?*, in *Catolocismo*, n. 202, October 1967, item “que e um pronunciamento pontificio ex cathedra?” (“What is a pontifical ex cathedra pronouncement?”)

of error persists, it would be licit to suspend, in this point, the internal assent which the document by itself demands.



And here is planted the question which occupies us now: would it be licit also, at least in extreme cases, to refuse to the pontifical declaration external submission, that is, the so called respectful silence? In other words: would it, in any circumstances, be licit to oppose externally, perhaps even publicly, a document of the Roman Magisterium?

It is in the answer to this question that the authors apparently differ.

On the one hand, indeed, great theologians, as those cited above, admit in principle that, in certain circumstances, one of the faithful has the right and even the obligation of ‘resisting Peter to his face’. On the other hand, eminent theologians appear to maintain that under absolutely no hypothesis would it be licit to break the so called respectful silence.

However, before proposing the solution which we believe conciliates the opinions of the former and the latter, we would like to place before the eyes of the reader some characteristic texts which appear to close off any way whatever of breaking the respectful silence.

D. THE RESPECTFUL SILENCE APPEARS TO BE ALWAYS REQUIRED

a) Straub expounds the question thus:

“It can happen, per accidens, that (...) to someone the decree appears to be certainly false or opposed to an argument so solid (...), that the force of this argument will not be in any way annulled by the weight of the sacred authority; (...) in the first hypothesis, it would be licit to dissent; in the second, it would be licit to doubt, or even to hold as probable an opinion which disagrees with the sacred decree; however, in view of the reverence due to the sacred authority, IT WOULD NEVER BE LICIT TO CONTRADICT IT PUBLICLY (...); BUT THAT SILENCE which is called respectful WOULD HAVE TO MAINTAINED.”¹⁷

17. Straub, *De Ecc. Christi*, vol. II, 968; see Salaverri, *De Ecc. Christi*, p. 725. -The capitals are ours.

b) Merkelbach. In the *Summa Theologiae Moralis*, Merkelbach closes his examination of the matter with the following words:

“If par accidens, in a case which however would be most rare, after a very careful examination, it appears to someone that there exist very grave arguments against a doctrine proposed in this way, it would be licit, without rashness, to suspend internal assent; externally, however, THE RESPECTFUL SILENCE WOULD BE OBLIGATORY, on account of the reverence which is owed to the Church.”¹⁸

c) Mors. Father Jose Mors defines the “respectful silence” in the following way:

“It is external and reverential submission to the ecclesiastical authority; it consists in that nothing be said (in public) against its decrees. Such silence is demanded by the respect owed to the ecclesiastical authority and for the good of the Church EVEN IN THE CASE IN WHICH THE CONTRARY WERE TRULY EVIDENT.”¹⁹

And Father Mors, after expounding the traditional doctrine of the assent which is due to the documents of the Magisterium concludes:

“However, if there were truly evident arguments against the decree, the obligation of internal assent would cease; BUT EVEN THEN THE OBLIGATION OF SILENCE WOULD CONTINUE TO EXIST. Such a case, however, would not occur easily.”²⁰

d) Zalba:

“Per accidens, internal assent could be denied in case the error (of the teaching of a Roman Congregation) were known with certainty; in the same way, it would be licit to doubt, when there were truly solid reasons to do so. But, both in one case as in the other, IT BEHOOVES ONE TO MAINTAIN THE RESPECTFUL

18. Merkelbach, *Summa Theol. Mor.*, vol. I, p. 601. - The capitals are ours

19. Mors, *Inst. Theol. Fundam.*, tomus II, p. 187. - The capitals are ours.

20. Mors, *Inst. Theol. Fundam.*, tomus II, p. 187. - The capitals are ours.

E. TWO ENLIGHTENING EXAMPLES

Would there be a true contradiction between the opinion of the theologians who defend the lawfulness, in very rare cases, of publicly resisting papal decisions, and of those who declare that it is always illicit to break the respectful silence? Would these be two different orientations which really and effectively divide the authors?

We do not believe that. A considered analysis of the question will show that it is easy to harmonize the two opinions - which therefore, as we see it, are only contradictory in appearance.

Indeed, it is frequent in theology, above all in Moral theology - and our case is rather of the moral order than the dogmatic - to encounter affirmations which are general, decisive, and absolute, but which still do not have the universal force which they appear to have. The author resolves the question in principle, not considering all the very rich casuistry which could bring about greater precision in the solution which is proposed. Or, to resolve a concrete case, he presents his conclusion in abstract and general terms, which can lead one to believe - contrary to his own most intimate opinion - that the norm which is enunciated admits of no exceptions.

Two examples will make the understanding of the fact to which we allude easier. Let us take, on the one hand, the apparent condemnation of private property by Fathers of the Church and medieval authors; and, on the other, the prohibition of loans for interest, by St. Thomas Aquinas, and by the classic theologians in general.

1. Apparent Condemnation of Private Property

Saint Ambrose wrote:

“Nature gives her goods to all in common. God ordained that things be made in such a way that food be common to all and that the

21. Zalba, *Theol. Mor. Comp.*, vol. II, p. 30, note 21. The following also express the same opinion: Tanqueray, *Syn. Theol. Dogm.*, tomus I, p. 640; Coupon, *Valeur des Dec. Doctr. et Diso. du St. Siege*, p. 91; Cartechini, *Dall'Op. al Domma*, p. 154.

In addition to this, various Fathers of the Church and the “Corpus Juris Canonici” declared that it is not licit for anyone to say: “this is mine”, because nature made all things for all.²³

Such affirmations, so general and absolute, do not however have the universal force they would appear to have. The very Fathers who formulated them, in other passages affirm clearly the legitimacy of private property.²⁴ In the texts under consideration, the aforementioned Fathers either thought to combat an excessive attachment to material goods; or they thought to affirm the principle that, in case of extreme necessity, the common destination of the goods takes precedence over the right of ownership or they sought to emphasize other principles of Catholic doctrine about the limits of the right of property.

What is certain, however, is that their affirmations contrary to the individual possession of material goods do not have the absolute force which a superficial reader could attribute to them.²⁵

2. Apparent Condemnations of all and every loan for interest

Another very enlightening example, of the phenomenon to which we allude, is that of the condemnation, by the classical theologians, of loans for interest. Saint Thomas, for example, writes in a peremptory fashion: “to receive interest for a loan of money is in itself unjust.”²⁶ The absolute character of the assertion appears to indicate that, for the Angelic Doctor, in each and every historical situation loaning for interest would be immoral.

Now, a careful analysis of the writings of Saint Thomas and of

22. St. Ambrosius, *De Offic.*, lib. 1, c. 28, cited by Cathrein, *Phil. Mor.*, n. 457.

23. See Cathrein, *Phil. Mor.*, no. 457.

24. See Cathrein, *Phil. Mor.*, n. 457; Schwalm, in *Dict. de Theol. Cath.*, article *Communisme*, tome III, cols. 579 ffl; Urdanoz, *Comment. on Suma Teol.*, tome VIII, p. 480.

25. See Cathrein, *Phil. Mor.*, no. 457; Schwalm, in *Dict. de Theol. Cath.*, article *Communisme*, tome III, cols. 585-586; Peinador, *Cursus Brevior Theol. Mor.*, tomus II, vol. I, 2764, note 27; Urdanoz, *Comment. on Suma Teol.*, vol. VIII, pp. 479-481.

26. St. Thomas Aquinas, *Summa Theol.*, II-II, 78, 1, c.

the classic theologians in general, shows that they prohibited interest because they considered money a simple instrument destined for the facilitation of exchanges. In modern economics, however, the function of money has been increased tremendously. In addition to facilitating exchanges, it has come to represent the goods themselves for which it can be exchanged at any moment:

“he who is the owner of money - writes Cathrein - possesses, not formally, but equivalently all that in concrete can be acquired with that money.”²⁷

That being the case, loans at interest have today a character fundamentally different from that which they had in the Middle Ages, equivalent in a certain way to rents and leases. The moralists do not hesitate, thus, in declaring that Saint Thomas, in spite of his absolute affirmations to the contrary, could not condemn interest in an economic order like this in which we live.²⁸

F. RESOLVING AN APPARENT DISAGREEMENT

This being so, we invite the reader to review carefully the passages quoted above, or any others in which the theologians declare it to be always illicit to break the respectful silence. The text and the context of such passages make it clear that in them was established only a general principle, valid for ordinary cases. They did not consider, there, hypotheses which are admissible, but rare and extraordinary, which rather pertain to casualty, as are those which Saint Thomas Aquinas and the other authors cited before had in mind. They did not consider, for example:

1) the case of an error which occasions for the Christian people “a proximate danger for the faith” (as was the case, Saint Thomas explained, in the episode in which Saint Paul resisted Saint Peter to his face);

27. Cathrein, *Phil. Mor.*, no. 498.

28. See: Cathrein, *Phil. Mor.*, pp. 344-351; Tanqueray, *Syn. Theol. Mor. et Past.*, tomus III, pp. 445-448; Du Passage, in *Dict. de Theol. Cath.*, article *Usure*, tome XV, cols. 2382-2390; Peinador, *Cursus Brevior Theol. Mor.*, tomus II, vol. II, pp. 266 ff.; Urdanoz, *Comment. on Suma Teol.*, tomo VIII, p. 688.

2) the case of an error which constitutes an aggression against souls (the expression of Saint Robert Bellarmine).



In other words, the reading of the passages in which the authors declare each and every breaking of the respectful silence prohibited, shows that they considered only the case of someone who, “insede doctrineria”, that is, entirely in the realm of theological speculation, diverges from a point in the magisterial document. They do not intend, by this, to declare that also in the practical order, in the solution of a concrete case of conscience which afflicts one of the faithful, it would always be illicit to act publicly contrary to a decision of the magisterium.

If these authors then, were faced with “a proximate danger for the faith” (Saint Thomas), we can maintain with all assurance that they also, following in the footsteps of the Angel of the Schools - not to say those of Saint Paul - would authorize a public resistance.

If they found themselves faced with an aggression against souls (Saint Robert Bellarmine) or a “public scandal” (cf. Cornelius a Lapide) in a doctrinal matter; or a Pope who had “departed from the right path” (Saint Augustine) by his erroneous and ambiguous teachings; or “a public crime” which redounded in peril for the faith of many (Saint Thomas) - how would they be able to deny the right of resistance and, if necessary, of public resistance?



In our opinion, the explanation - which could occur to some - that the aforementioned disagreement among the authors would be resolved by the distinction between disciplinary and doctrinal decisions would be absolutely insufficient and even erroneous. According to this explanation it would be licit to resist the former but not the latter. Such an explanation appears erroneous to us for two principal reasons:

1) The arguments presented by the first group of authors cited for both doctrinal and disciplinary decisions. The first and the second can, for example, occasion the “proximate danger for the faith” on which Saint Thomas based his reasoning. And on the other hand, the arguments of the second group of authors also hold for the disciplinary decisions as well as the doctrinal ones. If the “respect due to the sacred authority”, for

example, demands an absolute silence in presence of erroneous doctrinal decisions, why does it not demand it in the face of unjust disciplinary decrees?

2) Once one admits the possibility of doctrinal error in documents of the magisterium - a possibility that which in principle one does not see how to exclude²⁹ - it is unquestionable that also in the doctrinal order there would be room for very grave cases of conscience, which would make the resistance of one of the faithful licit or even obligatory. To sustain the contrary would be to ignore or to deny the fundamental role of faith in the Christian life.

29. See our article *Pode haver erro em documentos do Magisterio?* (*Catolicismo*, no 223, julho de 1969), which is reproduced in its essential features ad Chapter IX of the present work (pp. 76 ff.)

SYNOPTIC OUTLINE OF THE OPINIONS ABOUT THE	
THE DIVERSE OPINIONS STATED	POSITION OF EACH OPINION IN BELLARMINE'S CLASSIFICATION
A - The pope cannot fall into heresy.	FIRST OPINION in the classification of St. Robert Bellarmine.
B - Theologically, one cannot exclude the hypothesis of a pope heretic.	Stated by St. Robert Bellarmine on saying that the first opinion is not certain.
I: By reason of his heresy, the pope never loses the Pontificate.	THIRD OPINION of the classification of St. Robert Bellarmine.
II: The pope heretic loses the Pontificate.	Expounded by St. Robert Bellarmine together with the fourth opinion.
1) He loses the Pontificate in the very moment in which he falls into internal heresy, that is, before manifesting it externally.	SECOND OPINION of the classification of St. Robert Bellarmine.
2) He loses the pontificate when his heresy turns manifest.	FIFTH OPINION of the classification of St. Robert Bellarmine.
3) He loses the Pontificate only upon the declaration of his heresy by a Council, by the Cardinals, by groups of Bishops, etc.	Expounded by St. Robert Bellarmine together with the fourth opinion.
a) This declaration would be a deposition properly so called.	St. Robert Bellarmine does not list this opinion because it is heretical.
b) This declaration would not be a deposition properly so called, but a mere act declaring the loss of the Pontificate by the pope heretic.	FOURTH OPINION in the classification of St. Robert Bellarmine.

THEOLOGICAL HYPOTHESIS OF A POPE HERETIC		
OBSERVATIONS	PRINCIPAL DEFENDERS	INDEX
		<i>page to find each opinion studied</i>
In the exposition of this opinion, we subdivide its followers into three groups (pp. 13 - 14) 1. Authors according to whom this opinion constitutes a truth of faith. (Matthaeucci) 2. Authors according to whom this opinion is by far the most probable (Cardinal Billot) 3. Authors according to whom this opinion appears to be only more probable than the others. (St. Robert Bellarmine)	St. Robert Bellarmine (**), Suarez (**), Matthaeucci, Bouix (**), Billot (**)	Chapter II (pp. 11 - 27); Cardinal Billot (pp. 12-13); Suarez (pp. 14, 26); St. Robert Bellarmine (p. 26); Salaverri (p. 27); refutation based on Scripture and Tradition (pp. 15-24); we do not follow this opinion (pp. 53 ff.).
	See the following items (**)	Explanation by references (p. 28)
Of the 136 authors whose positions on the hypothesis of a pope heretic we examined, the only defender of this position is Bouix.	Bouix (**)	Chapter IV (pp. 31 - 36); we do not follow this opinion (pp. 53 ff.).
	See the following items (**)	St. Robert Bellarmine (pp. 43 ff.); objections Bouix (pp. 31 ff.); we hold this opinion (pp. 53 ff.).
Opinion abandoned by the theologians today.	Torquemada	Chapter III (pp. 28 - 30); an abandoned opinion (p. 30).
In expounding this opinion, we subdivide those who follow it into three groups (pp. 51-52): 1. Authors who understand by <i>manifest</i> a heresy merely exteriorized; 2. Authors who understand by <i>manifest</i> a heresy which, in addition to being exteriorized, has come to the knowledge of others; 3. Authors who understand by <i>manifest</i> a heresy which becomes notorious and publicly divulged (Wernz-Vidal). Some authors do not make entirely clear to which of these three schools they affiliate themselves (Bellarmine)	St. Robert Bellarmine (**), Billot (**), Cano	Chapter VI (pp. 48-52); St. Robert Bellarmine (pp. 48-49); Pietro Ballerini (pp. 49 - 51); subdivision (pp. 51 - 52); evaluation (p. 52); we follow this opinion, embracing the subdivision #3 (pp. 53 - 59).
	See the following items (**)	Exposition and refutation by St. Robert Bellarmine (pp. 43-47); we do not follow this opinion (p. 58).
Under the form of neo-conciliarism, this opinion is sprouting up in numerous progressive writings.	Conciliarists: Gerson, Pierre, D'Ailly, etc.	Opinion condemned by the Church (p. 37, note # 1); neo-conciliarism (p. 38, note #3).
As to who ought to make this declaration, see the passage of Suarez which we cite on pp. 41 - 42.	Cajetan, Suarez (**)	Chapter V (pp. 37 - 47); Suarez (pp. 37 - 43); refutation by St. Robert Bellarmine (pp. 43 - 47); we do not follow this opinion (p. 58).

(*) As we have already noted, we refer here only to the classification given by St. Robert Bellarmine in his work, *De Romano Pontifice*, lib. II, cap. XXX.

(**) The authors pointed out with two asterisks judge it more probable that the pope cannot fall into heresy, but they do not consider this opinion certain. For this reason, they analyze the hypothesis of a pope becoming a heretic and take a position in relation to the problem of his possible loss of the Pontificate. It is not strange, then, that the names of these authors appear twice in the column of the "principal defenders" of the different opinions, that is, among the followers of the thesis that a pope will never fall into heresy (the first opinion in the classification of St. Robert Bellarmine), and also among those who pronounce over the loss of the Pontificate by a pope heretic (from the second to the fifth opinion in the classification of St. Robert Bellarmine). On this matter see pp. 26 - 27.

(***) In view of the criterion which we have adopted for the classification of the different opinions, it becomes clear that the positions expressed in B, B-II and B-II-3 are general opinions, whose respective specific subdivisions appear immediately below them. This being the case, we do not indicate the principal defenders of the general opinions, who are obviously the same persons who defend the respective opinions.