

Permanence of the Papacy, Permanence of the Church

By Don Mauro Tranquillo

Everyone who knows that the Council truly contains errors against doctrines already defined is certainly aware of the origin of the problem concerning the power of jurisdiction in the Church. The Catholic Church is a jurisdictionally perfect society, founded by Jesus Christ, and as with all societies, it must possess authority proportionate to the one who governs it. Authority is the formal cause of a society, that is to say, it is what defines society. More precisely, the type of authority, together with the relations that it causes to arise between itself and the members of the society, constitutes society itself. In the Church militant, the invisible authority of Jesus Christ, who is the sole head of the Church and the source of all other power in heaven and on earth, is delegated directly by Him to one single person, His vicar on earth, successor of Peter the apostle, the bishop of Rome. We have explained many times how *Lumen gentium* contradicts this dogma, defined by Vatican I, in supporting the notion that the bishop's power of the government (and that of the "Episcopal college" over the whole Church) itself comes directly from Jesus Christ. This destroys the notion of the *pontifical monarchy*. The term *monarchy* when applied to the papacy, effectually indicates that the sole person to receive governmental authority directly from Christ is the pope. Every other person receives authority mediately, from the pope (*ex Petro*). This happens in several different forms: ranging from the residential bishop who governs a diocese in a stable manner, down to the heretic priest who must receive his authority *per modum actus* in order to hear the confession of a dying person, in virtue of the law of the Church. It is important to note in this regard that only the diocesan bishops occupy an office instituted by God, but their authority, even though ordinary, is received from the pope and subordinated to him. Nothing is opened nor closed unless the Keys be at the origin.

In the current situation of the Church, we are often presented with the problem of the role of authority, and in particular, the question of the possibility of the supreme authority falling into error, and even into heresy. Certain people have wished to make use of old theses of those theologians who considered that a pope who comports himself as a heretic would be removed from his charge immediately, or that he could not have been validly elected if he had already been a heretic before his election.

They refer to theses supported by opinions of great and important theologians and even some saintly doctors (we shall later touch upon the more or less applicable uses of a famous bull of Paul IV)¹.

¹ The encyclical *Cum ex apostolatus* is nothing other than a *lex inhabilitans*, i.e. that it declares every person having been **condemned** for heresy incapable (even retroactively) of accessing any civil or ecclesiastical charge, and renders him incapable of active and passive electoral rights. The canonical terms are very clear: one does not speak of heretics in a general sense, but employs three verbs which indicate three modes of juridical and public condemnation: by apprehended misdemeanor (*deprehendentur*), by confession of the fault (*confitebuntur*), by trial with discussion of the case and conviction of heresy (*convincuntur*). The history of the encyclical itself demonstrates this: the pope would have wanted to inabilitate everyone who was even just *accused* of heresy, but he renounced this project by reason of the (logical) opposition of the Sacred College. Cf. PASTOR, Histoire des Papes, vol.VI

These theses are certainly of great interest but, at the age in which they were written, were purely academic and were never verified in concrete cases. We should speak, for their theses, of a pure *hypothesis* involving an outcome that seemed at the time impossible. The case elaborated by the theologians of the past differs from the present case in one essential element: in the theses of the ancient theologians, it was only the pope who fell into heresy, the body of bishops remained more or less stable, and so guaranteed the perpetuation of the existence of the Church, exactly in the same way as occurs at the death of a pope. According to the current *sedevacantisms*, it is not only the chair of Peter that is vacant, but also all of the episcopal seats. Anyone who would like to apply these theses to the present situation should remember that we are not presented with the case of a Church “without a pope” (which happens at every period of a papal conclave), but a Church without any hierarchy whatsoever upon earth and without any residential episcopacy. This is, therefore, a Church without the presence of ordinary jurisdiction.

Taken in this sense, the duration during which the apostolic chair remains vacant is not indifferent: there is a limited duration. That duration is determined by the continued existence of the other individuals having ordinary jurisdiction received from the previous pope that they retain after his death². If ordinary jurisdiction completely disappeared from individuals living upon earth, as certain theses claim today, no extraordinarily delegated jurisdiction would then exist. This is because, in terms of law, it is delegated by *someone*, and not by “the Church” understood in an abstract sense. Certainly, canon law uses the expression *supplet Ecclesia [the Church supplies]*, but theologically and metaphysically, jurisdiction resides among the men who have received it from the pope (or solely in the pope’s case, directly from Christ). Jurisdiction isn’t just floating in the air waiting for someone to grab it!

Let us take an example: a priest who does not have the ordinary power of jurisdiction, (e.g. an SSPX priest, or even an excommunicated or heretical priest, or a priest who does not have the charge of souls), finds himself before a dying person (or faced with a situation of grave common necessity, such as the current situation in the Church), and a person asks him to hear his confession³. This priest can absolve him; he receives jurisdiction for this act in virtue of divine law and Canon law. Theologically speaking, this priest draws the authority to absolve from someone who possesses it habitually, whether from the residential bishop or from the pope. The ecclesiastical legislator, in conjunction with the supreme divine law of the *salus animarum [salvation of souls]*, has foreseen this case and has accorded

² The question of whether the jurisdiction delegated by the pope (by Church law) to prelates other than residential bishops “resides”, and how and in what manner it resides, is a canonical-theological problem that does not change whatsoever the substance of our argument; we will not then discuss this issue here.

³ We take for granted the dogma that requires the priest who is to receive confessions not only to have the power of orders, but also jurisdiction over those whom he absolves. Sacramental confession is essentially a judgment, which necessitates the authority of government with regards to the penitent. If the power of the sacerdotal Order radically confers the power to absolve sins, the power of jurisdiction over the penitent is necessary as a condition of the validity of the sacrament. Pastors or other priests in charge of souls should receive this authority in a stable manner; all priests, even heretics or those excommunicated, receive it *ad casum* to absolve the dying or in a case of grave common necessity.

this “automatic” delegation that no prelate may deny, since the authority is given for the good (and to deny it in these cases would be completely irrational and contrary to divine law).

But if not only the pope but also every residential bishop has disappeared, we must ask from whom the priest may receive jurisdiction, even if only to hear a dying man’s confession. The problem is not therefore to know *if*, in certain situations, authority may be delegated under extraordinary forms (which is absolutely indisputable), but *by whom*.

One answers that he can receive it directly from Jesus Christ, must know that he thus introduces an exception to the principle, which states that all jurisdiction upon the earth comes from the pope, while the pope is alone in receiving this authority from Christ Himself. In other words, such a one actually undermines the very principle of a papal monarchy that he wishes to defend: he commits an error similar to that of *Lumen gentium*, and ultimately fails to take account of the necessity of the papacy itself (one starts saying that the Church could exist for decades, or even definitively, without a pope!) One starts out with the praiseworthy intention of defending the papacy, but ends up considering the papacy, *de facto*, as totally superfluous for the day to day life and existence of the Church. The extreme example of the confession of a dying man allows us to understand that no one can do anything within the Church without the papacy; *a fortiori* if one suppressed all authority from among the residential bishops, that is to say all authority **caused** by the pope’s authority, which could continue after the pope’s death (the pope himself being always the origin).

A famous theory of the sedevacantists sought to remedy these problems in part by the *material/formal* distinction: this distinction would explain (not without different contradictions) how the juridical authority could return to the Church tomorrow, but – like all other varieties of sedevacantism – it offers no explanation of how the Church is able to exist today without any hierarchy upon earth whatsoever.

It is therefore manifest that the solution of certain ancient theologians concerning the heretic pope does not apply to our situation, or we should admit not only the impossibility of going to confession, but also the cessation of the Catholic Church, at least in terms of a society in the *form* (in the philosophical sense of the term) that dogma has defined.

It is clear that, speaking in theological and not merely juridical terms, the concurrence of the profession of a heresy and the possession of the power of jurisdiction is not absolutely metaphysically impossible. We are not arguing here about whether a heretic should be considered to be outside of the Church, since it is admitted by the law itself that those outside of the Church can receive the jurisdiction, as we have seen in the case of the heretic priest who can give sacramental absolution in the case of necessity. If there was a metaphysical incompatibility, the Church could not, even in this case, even for a moment, give jurisdiction to these subjects. This common case demonstrates that the Church admits that profession of a heresy and jurisdiction can coexist within the same subject. This demonstrates then that it is not absolutely certain that one who is a heretic automatically loses his authority, without a sentence or an intervention of a positive law (that does not apply to the pope).

Having admitted that the post-Conciliar popes (and the residential bishops) must remain such (since one cannot explain how the Church can continue without this structure), and once it is understood that one does not necessarily lose the power of jurisdiction by heresy, we must ask how it is possible that error be spread even by the very authorities of the Church.

Without expanding too much on the subject, we must remember here that to find a better solution it is sufficient simply to shift the focus of problem to the possession of infallibility and its use⁴. One cannot deny the possession of authority by the present hierarchy without sacrificing the constitution of the Catholic Church and a certain number of dogmas. Against this denial, our counterargument would rather focus on the issue of the use that is made of this authority or rather (as we have oft repeated) of its non-use. This explanation is much more credible and does not present the grave inconveniences of the other thesis: it does not touch the authority of the pope and does not thrust back the responsibility on God. God continues to procure the authority necessary for teaching and governing, but man does not make good use of this. What is important is to view authority not as a sort of mystical providence that prevents the pope from guiding the Church down the wrong path. It is a power, particularly the infallibility *in docendo*, that must be exercised in the precise acts that the pope can have the duty to accomplish, like condemning an error or defining a doctrine, and which cannot be accomplished by negligence or (by the same token) in bad will, if not by complicity with the enemies of the Church.

Today, enormous obstacles stand before those who really want to know the doctrine of the Church, even if discovering it is never totally impossible. This reality can still be reasonably accounted for and in no way attacks the existence or the constitution of the Church: the fact that the authorities in the Church implement an error that is harmful to the faithful, without, however, using their authority to do so (i.e. not using the teaching power in a formal manner), does not go against any dogma or promise of Jesus Christ (unless, as we have said, one has an extremely romantic, general and vague view of the divine assistance toward the papacy and the Church).

One could again object that today, apparently, certain erroneous doctrines are presented as doctrines of the Church, and that God thus permits many souls to be led into error. This problem is not solved, but rather it assumes terrifying proportions, by attempting to seek a resolution in saying that a non-pope passes for pope: the error remains and becomes increasingly fundamental because it touches not only the actions, but also the quality of the person responsible for these actions.

No matter how serious the crisis in the Church, it may never taint the essential elements even if it succeeds in reducing its prerogatives to an extent which is extreme: there will always be the authority of government coming from Christ **only** by the intermediary of the pope, even if it is perhaps poorly used (there is no promise from Christ on the subject of the good use of this power). There will always be access to defined doctrines from the past, as difficult as it may be, and there will always be the power infallibly to condemn new errors, even if by negligence or complicity – and therefore, by the fault of man

⁴ We won't delay too much because the point was already made in the treaty of numerous articles in this review [La Tradizione Cattolica] or elsewhere.

– this power is not used (just as could have been the case for the popes of the past; it is certain that infallibility in teaching cannot, by definition, be *poorly used* but it could *not be used*, like a talent put to the side). One must not, on the other hand, claim a wider and more mysterious divine assistance, not found in dogma, to justify every action, including those that are not formally magisterial, of the recent popes or of a council that did not intend to be infallible (and which *de facto* did fail). Infallibility touches precise actions as a barrier against error, and it must not be confused with Providence. Providence, moreover, does not guarantee that everything will always be well, but only whatever evil God permits in the Church will lead to good.

It is therefore permitted to read the non-magisterial acts of the popes, even publically, in the light of the Magisterium of all time (in the true sense of the word) and to refuse and denounce their errors; it is permitted, according to the teachings of all theologians, to disobey particular orders that go against faith or morals, enjoined through an abuse of the authority, because for such acts there is no guarantee of infallibility.

Finally, some have attempted to justify the alleged overthrow of the constitution of the Church by making reference to the *end of times*. If great calamities will surely indicate the end of times, it would indicate a form of *pessimistic pseudo-Joachimism*⁵ to imagine that there could then be a Church with a constitution other than that given by Jesus Christ. The Church with her hierarchy, sacraments and other essential elements, will remain as She is until the coming of Christ, not until one minute or a few years before this event: for she is the final means of salvation granted to men in God's economy. Until the last day, one will obtain the remission of sins by confession thanks to a power which, in the last analysis, is always traced back to the pope and never through the direct intervention of Jesus Christ. This is the most profound sense of the submission to the pope, necessary for all creatures according to the Bull *Unam Sanctam* of Boniface VIII. And this remains true and assured today, even when the pope causes scandal before the whole Church with his personal doctrines, because the institution must be able to remain, in its essence, despite the malice of men. The guilty party is men who do not use the gifts of God, not God Himself, who remains faithful to His promises.

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⁵ [The Joachimites were a millenarian group of Franciscans in the thirteenth century who rejected the institutional Church of their day - Ed].