

§ IX. *Papal Encroachments on Episcopal Rights*

In order completely to subvert the old constitution of the Church and the regular administration of dioceses by bishops, the institution of Legates was brought in from Hildebrand's time. Sometimes with a general commission to visit Churches, sometimes for a special emergency, but always invested with unlimited powers, and determined to bring back considerable sums of money over the Alps, the legates traversed different countries surrounded by a troop of greedy Italians, and armed against opposition by ban and interdict, and held forced synods, the decrees of which they themselves dictated. Contemporaries in their alarm compared the appearance of these legates to physical calamities, hail-strokes or pestilence.¹ Complaints and appeals to Rome availed nothing, for it was a fixed principle with the Popes to uphold the authority of their legate.

The Pope in the new system is not only the chief, but is in fact the sole legislator of the Church. He, as Boniface VIII. expressed it, carries all rights in the shrine of his breast, and draws out thence from time to time what he thinks the needs of the world and Church require. And so it comes to pass that a single Pope of the thirteenth or fourteenth century, an Innocent III., Gregory IX., or John XXII., has made more laws than fifty Popes of an earlier period put together. The notions about the plenary powers of the Caesars prevalent in the latter days of the Roman empire had their influence here, and the Popes called their acts by the same name as the Caesarean laws, Rescripts and Decrees. And as the Pope makes laws by his supreme authority, so too he can wholly or temporarily suspend them; thus he, and he alone, can dispense with Church laws, whether canons of Councils or decrees of Popes. The customary limitation—that he cannot dispense with the law of God—was frequently superseded by the canonists, especially since Innocent III., by his declaration about marriage, and the yet holier bond between a bishop and his diocese, which the

Pope can dissolve at his good pleasure, prepared the way for the belief that it is not beyond papal power to dispense with some at least of the laws of God.

Whenever the Pope issued a new law the *Curia* reckoned what the necessary dispensations would bring in, and many laws were unmistakably framed with a view to the purchase of dispensations. So too with exemptions from episcopal jurisdiction; every exempted corporation or monastery had to pay a yearly tribute to the See at Rome, whose interest it was to thwart and restrain episcopal authority whenever it tried to act. And thus a bishop who took in hand the administration of his diocese in good earnest found himself cramped at every step, surrounded, as it were, in his own country by hostile fortresses closed against him, and in perpetual danger of incurring suspension or excommunication, or being cited to Rome for violating some papal privilege; for every college and convent watched jealously over its own privileges and exemptions, and regarded the bishops as its natural enemies. And as bishops and corporations were in mutual hostility, so the parochial clergy found opponents and dangerous rivals in the richly privileged Mendicant Orders, who were indefatigable in their attempts to appropriate the lucrative functions of the priesthood, and to decoy the people from the parish churches into their own. The members of the *Curia*, as John of Salisbury remarks, had one common view: whoever did not agree to their doctrines was either a heretic or a schismatic.² The *Curia* wanted to be infallible even before the Popes made that claim. They thought this shield indispensable for carrying on their business.

The Popes made their first experience with the Pallium of the irresistible charm, which signs of honor, decorations, titles, distinctions in the color and cut of a garment, have for ordinary men, and especially clerics, and thus learned what effective instruments of power they might become. From the fifth century the Popes had bestowed the pall on archbishops named as vicars of their patriarchal rights, and in the eighth it began also to be given to metropolitans, although these last hesitated to receive it on the conditions offered by Rome, as was proved by the attitude of the Frankish archbishops towards

the thoroughly Romanizing Boniface.³ On the strength of the pseudo-Isidorian fabrications, which exercised a most destructive influence on metropolitan rights, the Popes who became founders of the new system—Nicolas I., John VIII., Gregory VII.—insisted that a metropolitan could perform no ecclesiastical function before receiving this ornament. The next step was to ascribe a secret and mystical power to it, and when Paschal II., and all the Popes after him, and the Decretals maintained that the fullness of high priestly office was attached to it, it inevitably followed that this office is an outflow of the papal plenary power, so far as it extends. Meanwhile this notion of metropolitan jurisdiction being delegated from the Pope was developed in contradiction to facts; for the Popes had appropriated to themselves the weightiest and most valuable rights of metropolitans, and did this still more after the beginning of the thirteenth century; and next they began to give the pall to some bishops avowedly as a mere ornament, and without any single right being attached to it. But as a means for reducing metropolitans to complete dependence on Rome, sealed moreover by an oath of obedience, it quite answered its end. Gregory VII. altered the previous form into a regular oath of vassalage, so that the relation was one of personal loyalty, and the terms of the oath were borrowed from oaths of civil fealty.⁴

The next thing was to mold the bishops by a vow of obedience into pliant tools of the Roman sovereignty, and guard against any danger of opposition on their part to the expanding schemes and claims of the *Curia*. For a long time bishops were much better off than metropolitans, for in the thirteenth century they still received their confirmation—which in the ancient Church was not separated from ordination—from the metropolitan, while the latter had to buy the pall and the accompanying license to exercise this office at a high price from Rome.⁵

Innocent III. grounded on a misrepresentation of a passage of Leo I.'s letter to the Bishop of Thessalonica, whom he had made his vicar, saying, that he had committed to him part of his responsibility, and on one of the Isidorian fabrications, the

principle that the Pope alone has plenary jurisdiction in the Church, while all bishops are merely his assistants for such portions of his duty as he pleases to entrust to them. This may be said to be the completion of the papal system. It reduces all bishops to mere helpers, to whom the Pope assigns such share of his rights as he finds good, whence he can also assume to himself at his arbitrary will such of their ancient rights as he pleases.⁶

And now the term "Universal Bishop," used by the Pope, gained its true significance. Though rejected even by Leo IX., it described quite correctly the Pope's position as understood at Rome since the beginning of the thirteenth century. In the ancient sense of the word there were no more any bishops, but only delegates and vicars of the Pope.

A number of rights never thought of by the ancient Popes followed as a matter of course. There was no need of particular laws or papal reservations in many cases; it was enough to draw the necessary consequences from the Isidorian or Gregorian fabrications and interpolations. It seemed self-evident that the Pope alone could appoint and depose bishops, could interfere always and directly in their dioceses by the exercise of a concurrent jurisdiction, and bring any cases before his own Court. Innocent III., as we have seen, claimed a special Divine revelation for the Pope's right of deposing bishops. It has been charged against him as a wicked error and capricious invention; but we must remember that, when he had persuaded himself and others that every Pope possesses the fullness of jurisdiction, and is absolute ruler of the whole Church, not by concession of the Church, but by Divine appointment, he might fairly assume a Divine right to dispose of his bishops as an absolute monarch disposes of his officials. And, in fact, some bishops soon began to subscribe themselves as such "by the favor of the Papal See."

Whatever relics of freedom had hitherto been preserved from the ancient Church were now trampled and rooted out. No one had doubted before that a bishop could resign his office when he felt unequal to its duties. This was usually done at Provincial Synods. But from the time of Gratian and Innocent III., the new principle,

that only the Pope can dissolve the bond between a bishop and his Church, was extended to the case of resignation also.⁷ And then came the further requirement, made into a rule by John XXII., that sees vacated by resignation lapsed to the Pope.

Again, the appeals encouraged in every way by the Popes, and the ready grants of dispensations, paved the way for their acquiring one of the most important rights, in the appointment of bishops. As the pseudo-Isidore had given an unprecedented extension and impetus to appeals to Rome, the new Decretal legislation since Alexander III. was specially adapted for multiplying and encouraging appeals to the *Curia*. Alexander knew well what he was about when he declared appeals, which hung like Damocles' sword over the head of every bishop, to be the most important of his rights. Some thirteen new articles in the Decretals⁸ provided for the *Curia* being occupied annually with thousands of processes, which often extended over many years, bringing in a rich harvest to the officials, and filling the streets and also the churchyards of Rome. And a further point was secured by this, for the bishops and arch-deacons, impeded and disabled by the endless number of Papal exemptions and privileges, lost all desire to take Church discipline in hand, and thereby involve themselves in tedious and costly processes at Rome. And thus the anarchy in dioceses and wild demoralization of the clergy reached a point that one cannot read about in contemporary writers without horror. When appeals came to Rome on disputed presentations to benefices or episcopal elections, the Popes often took occasion to oust both the rival claimants, and appoint a third person. Abbot Conrad of Lichtenau says, "There is no bishopric or spiritual dignity or parish that is not made the subject of a process at Rome, and woe to him who comes empty-handed! Rejoice, mother Rome, at the crimes of thy sons, for they are thy gain; to thee flows all the gold and silver; thou art become mistress of the world through the badness, not the piety, of mankind."⁹

No people suffered more from these appeals and processes than the Germans. After the Concordat of Worms (1122), the Popes had gradually managed to exclude the German emperors from all share in episcopal appointments, and practically to

nullify the Concordat. And then, partly from the circumstances of the German dioceses, partly from the new Papal enactments, most elections came to be disputed, and a handle was given to one party or the other for an appeal to Rome, which was taken full advantage of. The candidates or their proctors had to waste years in Rome, and either died there or carried home with them nothing but debts, disease, and a vivid impression of the dominant corruption there. The Popes could now dispose as they liked of the German archbishops and their votes for the empire; for besides the pallium, the heavy tax, and the oath of obedience, they had the Roman debts and censures to fear, in case of insolvency, and this constrained them to follow the Pope's guidance even in secular matters, supposing the oath they had sworn was not sufficient to make them into mere machines of the will of the *Curia*. These facts alone explain the elections of Henry Raspo in 1246, William of Holland in 1247, Richard and Alphonsus in 1257, and the miserable interregnum from 1256 to 1273. Only in this way could the ruin of the Hohenstaufen House have been accomplished, and Germany have been kept in the state of weakness and division required for the French and Angiovine interest, and the policy of the French Popes, Urban IV., Clement IV., and Martin IV.

During the thirteenth and fourteenth centuries the Popes made gigantic strides in the acquisition of new rights and the suppression of other peoples'. Innocent III. had recognized the right of archbishops to confirm and ordain their suffragans,¹⁰ but Nicolas III. (1280) reserved their confirmation to the Pope. In the ancient Church it was held uncanonical for a Pope or Patriarch to make appointments or bestow benefices out of his own district. The Popes began their meddling in the matter only by begging recommendations of favorites of their own, and without specifying any particular benefice. So was it still in the twelfth century. But soon these recommendations took the form of mandates. Italians, nephews and favorites of the Popes, persons who had aided them in the controversies of the day, or suffered in their interest, were to be provided for, enriched, and indemnified in foreign countries. Rights of patronage were not respected if they stood in the way; the Papal lawyer knew

how to manage that, often through means of Papal executors appointed for the purpose. This caused loud discontent in national Churches; protests were made even at the First Council of Lyon in 1245. Meanwhile the Popes had another gate open for attaining rights of patronage. A great number of bishops and prelates were drawn to Rome and detained there by processes spun out interminably. They died off by shoals in that unhealthy city, the home of fevers, as Peter Damiani calls it, and now suddenly a new Papal right was devised, of giving away all benefices vacated by the death or resignation of their occupants at Rome. Clement IV. announced it to the world in 1266 while at the same time broadly affirming the right of the Pope to give away all Church offices without distinction.¹¹

Then came the reservations of the French Popes at Avignon. They reserved to themselves a certain number of bishoprics, which, however, in France they often had to bestow according to the pleasure of the king. At the same time commendams were introduced, whereby they sometimes gave abbacies to secular priests, and other Church dignities to laymen.

The oath of obedience or vassalage the bishops had now to take to the Pope was understood as binding them to unconditional subjection in political as well as ecclesiastical matters, whence Innocent III. declared the German bishops perjured who acknowledged any other emperor than Otho whom he had chosen.¹² It was by means of this oath that the Popes carried the exclusion of the Hohenstaufen from the throne.¹³ According to Pius II., a bishop broke his oath who uttered any truth inconvenient for the Pope, and he required the Archbishop of Mayence by virtue of it to convoke no imperial parliament without the Pope's consent.¹⁴

Thus the Roman Court became the universal heir of all former authorities and institutions in the Church. It had appropriated the rights of metropolitans, synods, bishops, national Churches, and besides that, the powers formerly exercised by the emperors and Frankish kings, in ecclesiastical matters. The inevitable consequence was to cripple the pastoral, whether parochial or diocesan administration throughout

the Church, and introduce a general state of religious disease and decay, bishops and parish priests withdrawing more and more from their pastoral charges. This gave an immense lift to monasticism, with its strongly organized centralization, and the great religious communities became the centers of all active Church life. The exemptions and other privileges, only to be obtained at Rome, bound them closely to the Papacy, whose great support they were well known to be against the bishops. Leo X. assembled a commission, composed of members of the Religious Orders in Rome, to consult on the means for forwarding papal interests and their own against their common enemies, the bishops.¹⁵ "For," says Pallavicini, "every monarchical Government must have a select body of subalterns in every province of the kingdom not subject to the immediate local authorities; hence exemptions."¹⁶ The monks were the willing and devoted servants and agents of the Roman Court against the bishops,¹⁷ who were looked upon and treated as its born enemies.

At no time or place has the contradiction been so glaring between theory and practice, principles and proceedings, as during those centuries at Rome and Avignon. The Popes condemned all taking of interest, but the most elaborate banking business was carried on under their very eyes, and in close connection with the *Curia*, who would have lost the breath of life, if the Florentine and Siennese capitalists and brokers had not advanced the required sums at usurious interest to the prelates, place-hunters, and numberless litigants. The Papal bankers were a protected and privileged class, while everywhere else their fellows were under the ban, and collected their debts and interest without mercy under shelter of Papal censures.¹⁸ As early as the twelfth century the *Curia* had made the discovery, which they were already reaping the fruits of in the thirteenth, that it was greatly for their interest to have a number of bishops, dioceses, and beneficiaries in their debt all over Europe, who were all the more pliant the more easily they could be held to payment by excommunication, and by putting on the screw of interest, at a time when ready money could generally be procured with difficulty only, and at an enormous

interest. Thus Cardinal Nicolas Tudeschi, the first canonist of his day, observes that the Church dignities were so loaded with excessive imposts and extortions that they were always subject to debts, and nothing of their revenues was available for religious purposes.¹⁹ Cardinal Zabarella saw clearly enough that the root of the ecclesiastical corruption was the doctrine of legal sycophants about the papal omnipotence, whereby they had persuaded the Popes that they could do whatever they liked. "So completely has the Pope destroyed all rights of all lesser Churches that their bishops are as good as non-existent."²⁰ Chancellor Gerson says, still more emphatically, "In consequence of clerical avarice, simony, and the greed and lust of power of the Popes, the authority of bishops and inferior Church officers is completely done away with, so that they look like mere pictures in the Church, and are almost superfluous."²¹ The Bishop of Lisieux observes later how the whole constitution of the Church is in a state of dissolution, and everything has long been full of quarrels and divisions through the conduct of the Popes.²² And the Church, torn to pieces with discontents and dissensions, made the impression on thinking men like Gerson, Pelayo, d'Ailly, Zabarella, and others, of having become "brutal," a hard prison-house, where only dungeon air could be breathed, and therefore full of hypocrisy and pretence. The Venetian Sanuto, in 1327, reckoned that half the Christian world was under excommunication, including the most devoted servants of the Popes, so lavish had they been in the use of ban and interdict since 1071.²³ Episcopal officials, archdeacons, and all who could then excommunicate, followed the papal example in this respect. They considered the Roman Church their model, and inferred that they should not be niggardly in the use of such weapons. And if, as often happened, bishops themselves were suspended or excommunicated, simply for being unwilling or unable to pay the legates their journey money, why should laymen fare better? Thus it came to pass, as Dubois said in 1300, that at every sitting of the episcopal officials in France more than 10,000 souls were thrust out of the way of salvation into the hands of Satan;²⁴ and in every parish, thirty, forty, or

even seventy persons were excommunicated on the slenderest pretexts. Absolution from censures could indeed be purchased, but an exorbitant price was often demanded.²⁵

§ IX. NOTES

¹ Cf. e.g., Johann. Sarisb. *Opp.* (ed. Giles), iii. 331. *Polycrat.* 5, 16: "Ita debacchantur ac si ad Ecclesiam flagellandam egressus sit Satan a facie Domini."—*Petri Blesensis epist. ap. Baron*, a. 1193, 2 ff.

² *Polycrat.* 6, 24. *Opp.* (ed. Giles), iv. 61. "Qui a doctrinâ vestrâ dissentit, aut hæreticus aut schismaticus est."

³ *Bonif. Epist.* (ed. Serarius); Ep. 141, 142, pp. 211, 212.

⁴ The "Regulæ Patrum," which the metropolitan previously swore to observe, was changed into "Regalia S. Petri."

⁵ In the fifteenth century, German archbishops had to pay 20,000 florins [£ 1600], equivalent to ten times that sum now, for the pallium.

⁶ *Innoc. III. Ep. i.* 350; *Decret. Greg.* 3. 8.

⁷ *D. de Translat. c.* 2 (i, 7).

⁸ They are quoted in *Die Geschichte der Appl. von Geistl. Gerichtshof.* Frankfort, 1788, p. 127 sqq.

⁹ *Chron.* p. 321.

¹⁰ *D. De Elect.* c. II, 20, 28 (I, 6).

¹¹ *Sext. Decr.* 3, 4. 2.

¹² *Registr. de Neg. Imp.* Ep. 68.

¹³ *Raynald. Annal.* a. 1206, 13; *Leibnit. Prodr. Cod. Jur. Gent.* i. 11, 12.

¹⁴ *Gobellin, Comm. Pii II.*, 65, 143.

¹⁵ *Bzovius, Annal. Eccl.* xix. a. 1516.

¹⁶ *Storia del Concil. di Trento*, 12, 13. 8.

¹⁷ Bossuet says, "la cour de Rome regardant les évêques comme ses ennemis, n'a plus mis sa confiance et ses espérances que dans cette multitude d'exempts."—*Cœuvres*, xxi. 461. Ed. de Liège, 1768.

¹⁸ Cf. *Biblioth. de l'Ecole de Chartres 19e année* (Paris, 1858), p. 118, and Peter Dubois' account, about 1306 ("De Recup. Terræ Sanctæ," *Bongars, Gesta Dei per Francos*, ii. 315), of how one had to borrow many thousands "sub gravibus usuris ab illis qui publicè Papæ mercatores vocantur" to spend

on the Pope and Cardinals.

¹⁹ *Tract., de Concil. Basil*, in *Pragmatica Sanctio* (ed. Paris, 1666), p. 913.

²⁰ *De Schismatibus* (ed. Schardius), pp. 560, 561.

²¹ *Opp.* (ed. Dupin), ii. p. 1, 174.

²² In a letter to Louis XI. See Durand de Maillane, *Libertés de l'Eglise Gallicane*, iii. 6, 61, *sqq.*

²³ *Epist. ap. Bongars. Gesta Dei per Francos*, ii. 310.

²⁴ *Memoires de l'Acad. des Inscript.* (1855), xviii. 458.

²⁵ See the episcopal memorial drawn up for the General Council of 1311, Bzovius, *Annal. Eccl.* ann. 1311, p. 163 (ed. Colon.).