

Note on Professor Alberigo's paper

Professor Gordon Dunstan, who is of course Anglican observer at the meetings of the group of canonists engaged in drafting the "Lex Ecclesiae Fundamentalis", offers the following comment:

" In paragraph 3 on page 7 Alberigo writes "The Pope himself remains the subject of jurisdiction over the universal Church, conditional only upon election by the cardinals and his acceptance of the election." This may be the present state of the law: I do not know. However it is important for ARCIC to know, if they discuss this point, that at the last meeting of the coetus drafting the Lex Ecclesiae Fundamentalis, the last session was given to a full length discussion of the point, whether the Pope obtains his jurisdiction merely by election and acceptance of the election or with these together with consecration as a bishop. After a very vigorous argument the coetus accepted a draft of a new Canon XXX for the LEF which made it abundantly clear that without episcopal consecration the Supreme Pontiff does not enjoy full and supreme power over the Roman Church. This was of course a significant withdrawal from the analogy of the election of a secular emperor or prince and a substantial re-assertion of the theological position advocated, if I read it correctly, in the last sentence on page 7 of Alberigo's paper.

It would no doubt be improper for me to give you the text of the Canon but you could obtain it, with the fuller argument, from the Canon Law Commission if you wanted it. My purpose is simply to do what I think my duty as an oecumenical observer obliges me to do, namely to draw your attention to this significant move away from the position attacked in Alberigo's paper in a direction of which I think he would approve. I hope this will be of some help to you."

---- The text of the proposed canon Professor Dunstan refers to is as follows:

Can. 30, §1:

Plenam et supremam in Ecclesia potestatem Romanus Pontifex iure divino obtinet electione ab ipso acceptata una cum episcopali consecratione. Quare, eandem potestatem obtinet a momento acceptationis electus ad Summum Pontificatum qui episcopali caractere insignitus est, a momento vero consecrationis episcopalis qui electus et acceptans eodem caractere non gaudet.

I venture to supply the following translation:

The Roman Pontiff obtains, by divine right, full and supreme power in the Church through election, accepted by him, together with episcopal consecration. Hence one who is already a bishop obtains this same power from the moment he accepts election as Supreme Pontiff, but one who is elected and accepts while not yet a bishop obtains the power only from the moment of his episcopal consecration.

(August, 1975)

W.P.