

LIMITS OF PAPAL PRIMACY

In an address to the Secretariate of Unity on the 22th. April, 1967, Pope Paul VI stated: "We fully realize that the papacy is the greatest obstacle on the road to Ecumenism." (1) This must surely have been the first time that a pope expressed the fact so openly. In its present-day concrete form the Primacy is actually the chief impediment on the path to reunion.

Non-Catholic Christians frequently consider the pope to be an absolute monarch in relation to whom, for better or for worse, the Church is simply in servitude. There is no higher authority to whom one could appeal against a possibly arbitrarily acting pope. To him is even ascribed the competence to determine the extent of his own competence (in German: die Kompetenz der Kompetenz): in other words, he may himself define the limits of his power, outline the extent of his infallibility, determine the doctrines which he can demand all Catholics to believe unconditionally, etc. For non-Catholics, this is an arbitrariness without limits which they could never accept.

Even in Catholic circles also there prevails a real opposition to the modern exercise of papal teaching authority. This appeared in recent times above all on the occasion of the encyclical "Humanae Vitae". Probably never before in history has an expression of papal teaching given rise to such opposition as has this document. Certainly here the problem of the limits of the Primacy and of the teaching authority forces itself upon us. Its investigation is, to my mind, one of the most urgent tasks to be undertaken by modern theology. We must answer the following questions: what are the essentials of that Primacy which Christ willed to be the guarantee of the unity of faith and communion in his Church, and what elements have been introduced through specific historical circumstances: what, therefore, is not of divine but of merely human right and may thus be changed tomorrow.

The problem can only be solved by exhaustive historical studies. We make no progress on the point with an analysis of concepts such as "Vicarius Christi", "the foundation of the Church", "the power of the keys", etc. What has one not already been able to draw from these ideas! The Primacy is an historical factor which in its modern form did not fall from heaven. The historical dimension must be investigated. Obviously in this brief paper I can only give some indications that may perhaps be helpful towards the solution of the problem.

The historical development of the Primacy is not a simple straightforward process, as though its present form had grown through the mere unfolding of original germinal elements. The limits of the papacy become clear once we are able to establish

that restraints originally acknowledged by the papacy itself were removed in the course of time; moreover that claims made by popes were later abandoned. I would like just to single out some cases of this kind. Naturally, it is impossible in a short compass to set out the development of the papacy in full.

There is the further question to what extent claims put forward by the papacy were accepted in the West and in the East or in what measure they were disapproved through opposition. Certainly it is insufficient as a proof of the divine right that a pope does make a certain claim. In the course of history, there have undoubtedly been claims advanced by popes which were exaggerated and time-conditioned. Acceptance by the whole Church is here decisive. Furthermore we have to establish the exact meaning of the definition of Vatican 1 with regard to Primacy and Infallibility, in so far as it is possible in the short time available. This definition has, in fact, been grossly misunderstood and still meets with misunderstanding.

First, then, the historical development. We will select some instances where limits to the primacy, originally accepted were later overstepped. The popes of the first centuries without a doubt considered themselves to be bound by the conciliar canons. Leo the Great (440-461), for example, recognized the inviolability of the canons of Nicea as having been established by the Holy Spirit (2). Martin 1 (649-655) declares expressly in one of his letters: "We cannot transgress the ecclesiastical canons; on the contrary, we are their defender and protector, not their violator" (3). At their consecration, the popes promised to safeguard the canons and the traditions of the universal Church. A relevant formula from the middle of the 7th. century may be cited: The Pope promises to preserve unchanged all the decrees of his predecessors, whether these be synodal or personal promulgations, to abrogate nothing of the tradition of his predecessors and to introduce no innovations (4). Even according to the author of the Pseudo-Isidorian Decretals (mid-9th. century), the Pope is obliged to stick to the canons (5).

On the other hand the Pope is today considered the supreme, fully independent legislator, placed above all canons and every tradition and with the ability to revise these - insofar as they are not based on divine law - should he consider it good to do so. The fact that even today this occasionally meets with opposition, even in very conservative circles, was recently attested when Cardinal Ottaviani reproved the Pope for brushing aside the tradition of centuries in removing from cardinals over eighty the right to participate in papal elections. In the judgment of Ottaviani, therefor, the Pope ought not to have done this.

A further instance of limits to their supreme power formerly acknowledged by the popes and later set aside is the synodal form of decision-making, originally standard practice even in Rome: it was afterwards abandoned. Still at the fourth Council of Constantinople (869-870), in order to refute the charge that Rome acted arbitrarily against Photius, the legates of Pope Hadrian II made the point that Pope Nicholas I had condemned Photius in a synod (6). Hadrian himself, in his letter to Patriarch Ignatius of 10.VI.869, stated that he adhered to the decision of his predecessor which was made "formally and in synod" (7). One gets the impression that even in the Roman conception, an important decision is formal or 'regular' only if it has been made synodically.

In fact, from the first centuries it was the custom even in Rome to act synodically in important matters and indeed, as in synods elsewhere, a *votum deliberativum* implied a synodical deliberation. For example, the Roman Synod of 313 under Pope Miltiades was convinced that it was the opinion of all and not merely his own, that had been decisive for the judgment against Donatus (8). The Synod of 531, under Boniface II, declared invalid his nomination of a successor and forced him to withdraw it. (9). Leo the Great synodically condemned the "Robber-synod" of Ephesus (449) (10). The Lateran Synod of 649 under Martin I claimed a real deliberative power to destroy heresy and to preserve the Catholic Church from error (11). The expression used on this occasion served as models for Vatican II: "Martin, servant of the servants of God and through His grace bishop of the holy Catholic and apostolic Church of the city of Rome, together with (*una cum*) our holy Council of most worthy priests." Those things are made known "*quae synodaliter gesta sunt*" (12). Stephen III in 769 synodically condemned the iconoclastic synod of Hieria (754). The Pope called upon the synod to pronounce a decision (*decernere*) on the relevant question. The bishops declared: "*decernimus*" (13). Even according to the Pseudo-Isidorian Decretals, the Pope normally exercises his legislative authority synodically (14).

The Roman synods were later (from the 12th. century onwards) replaced by the Consistory of Cardinals, which likewise originally possessed the power of decision. Later, however, the "*Quid vobis videtur*" became an empty formula. Even the presently revised synods of bishops in Rome act only in an advisory capacity.

Thus, limits to the fulness of the power of the Pope, which were acknowledged in earlier centuries, have **been** laid aside through the development of history. We ask ourselves then if it would not be possible to set them up again today without thereby harming the essence of the Primacy.

Finally in this context the development of the phrase "Prima Sedes a nemine judicatur" is significant. As we know this phrase has been incorporated in the Codex Iuris Canonici (can. 1556) (15). The principle rises from an original falsification at the time of Pope Symmachus (498-514) which reads: "No one shall judge the first See" (16). In spite of this tenet, however, popes were actually condemned and, what is more, deposed. The canonical tradition of the Middle Ages appended the limitation: "Nisi deprehendatur a fide devia". This also admitted the condemnation and even the deposition of popes. Today these limitations to the papal power have disappeared.

The most familiar case of the condemnation of the Pope as a heretic is that of Honorius through the third Council of Constantinople (680-1). For our purpose, it is alone significant that both the papal legates and Pope Leo **II** accepted the condemnation without opposition. It occurred during the 13th. Session of the Council in the presence of the legates who raised no objection (17). In his letter to the Emperor, Leo **II** fully acknowledged the sentence. He anathematized all heretics "and also Honorius, who did not allow this Apostolic Church to be enlightened by the apostolic tradition, but rather attempted to destroy the purity of the faith by an abominable betrayal" (18). Obviously he did not succeed. In a later letter Leo did indeed endeavour to reduce the fault of Honorius to simple negligence in the combat against error (19).

Instances of the deposition of popes are known to be numerous, particularly in the Age of the Carolingians and the Ottos. As Zimmermann points out, to proceed against a Pope, according to the mind of those times, it was sufficient that one considered his life to be irreconcilable with Christian principles (20). The phrase "nisi a fide sit devius" is even found in the writings of the celebrated papalist Humbert of Silva Candida (21). It was from him that Gratian copied it into his 'Decretum' in 1140 (22)

In spite of the general tendency to exalt ever further the papal power, even in the 13th. century the possibility of a heretical Pope was envisaged together with the phrase "nisi a fide sit devius" (23). The Council of Constance (1414-1418) deposed John XXIII, whom it considered to be the legitimate Pope, and Martin V, elected at the same council, accepted this deposition while recognizing John as his legitimate predecessor (24). The legitimacy of the deposition was indeed the precondition for the validity of Martin's own election. It is a moot point whether, in the case of the personal heresy of a Pope, the sentence of the Church against him was intended to be an authentic declaration that the man had ceased to be Pope or

implied an actual deposition. Francis Suarez is of the opinion that an heretical Pope only ceases to be Pope through the sentence of the Church (25). At any rate the sentence of the Church is necessary to ensure clarity. At Vatican 1, the question of the possibility of an heretical pope, an extremely important one for the structure of the Church, was left aside. The Codex Iuris Canonici dropped the earlier traditional phrase regarding heresy. Thus we have here the tendency at least to pass over in silence an earlier generally admitted limitation of the papal power.

In the case of many key concepts of the Primacy, the development takes yet another turn. Originally understood in their moderate meaning, they later took on a manifestly exaggerated sense.

We take first the notion of the "sollicitudo omnium ecclesiarum" which appertains to the pope and which he shares with others who, in contrast to him, are only called "in partem sollicitudinis". Already Damasus (366-384) links the pauline expression of the "sollicitudo omnium ecclesiarum" (2 Cor. 11, 23) with the legacy of Peter which falls to him (26). Siricius (374-399) makes use of this same formula to express his desire to direct the whole Church (27). He assigns to the Bishop of Thessalonika the right to consecrate all the bishops of Illyrium (28). Already here we have the idea of the commission to another of a part of the supreme power of administration. Innocent 1 (401-417) with the same pauline formula expresses his claim, as heir of Peter, to have the care of the whole Church (29). Celestine 1 (422-432) defends his intervention in the case of Nestorius by appealing to the "care for all the churches" which belongs to him (30).

Leo the Great (440-461) coins another classical expression for the papal authority: the "plenitudo potestatis" belonging to him as the heir of Peter (31). Of this key concept, which is also adopted by the Constitution "Pastor Aeternus" of Vatican 1, we shall say more later. The fulness of power of the bishop of Rome stands in contrast to the participation of other functionaries in this fulness. Leo writes in a letter to his vicar in Thessalonika that he (the vicar) is called "only to a portion of the shepherd's care, not to the fulness of power" (32). It would be misleading to deduce from this - as Walter Ullmann does - that the episcopal power in the eyes of Leo is merely a part of the papal, and that consequently bishops are mere functionaries of the Pope. Certainly Leo's vicar in Thessalonika, as representative of the pope, did participate in his power. But this cannot be applied to all bishops. Leo does, on the contrary, recognize their personal rights; thus in a letter to the bishops of Gaul, he writes: "Our pastoral care does not here seek its own advantage.....it does not withdraw their God-given dignity either from the churches or from the priests (this refers to

bishops) of the churches" (33). The idea that all bishops are called only "in partem sollicitudinis" and consequently are mere participants in the fulness of papal power, thus being mere functionaries of the Pope, is first found in the Pseudo-Isidorian Decretals which originated in France in the mid-9th century and in a (false) decretal of Vigilius (537-555) where we read: "Ipsa namque ecclesia (Romana), quae prima est, ita reliquis ecclesiis vices suas credidit largiendas, ut in parte sint vocatae sollicitudinis, non in plenitudine potestatis" (34).

That which Leo intended in regard to his representative in Thessalonika, therefore, becomes generalized here. Many texts of Gregory VII (1073-1085) bring us close to the conception of the Church as a single enormous diocese, in which the pope appoints his vicars who participate in his power (35). Other churches only exist because Rome has called them "in partem sollicitudinis". The influence of the Pseudo-Isidorian Decretals is manifest here (36). The formula is used by the Curia of Clement III (1187-1191) (37). Similar ideas are found in the writings of Innocent III (1198-1216). The successors of St. Peter have received from the Lord the complete power; on the other hand other functionaries, for example the Patriarchs, only possess a part of the sollicitudo which in its fulness appertains to the head. (38). In the *Professio fidei Michaelis Palaeologi* at the second Council of Lyons (1274) the attempt was made to enforce this conception on the Greeks as the official doctrine of the Church: they could not have been able to understand it in the least. There we read: "Ad hanc autem (Ecclesiam Romanam) sic potestatis plenitudo consistit, quod ecclesias ceteras ad sollicitudinis partem admittit" (39). If that is so, then the bishops are mere functionaries of the pope. This conception has fallen by the wayside today. It was rejected as false in the collective Declaration of the German bishops in 1875, which was expressly approved by Pius IX (40). Leo XIII, in his encyclical "Satis Cognitum", said with regard to the bishops that they were not to be considered as vicars of the Pope, but rather that they receive a power of their own (41).

With the question whether the power of the bishops is a mere share in the fulness of the power of the pope or must rather be considered as their own, there is closely linked a further problem, namely, whether episcopal jurisdiction is given by the Pope or directly by Christ. In this question also a development may be detected. If the power of the bishops is only a participation in the plenitudo potestatis of the Pope, then it follows logically that this power of the bishops must be communicated by the Pope. If, on the contrary, the authority

of the bishops is, in accordance with modern generally accepted doctrine, their own and goes back to divine institution, then it is still always possible that the Pope might give jurisdiction to the bishops without their being participants in his own fulness of power. But it would then be more consistent to suppose that the modern general appointment of bishops by the pope merely signifies the assignment of a definite territory and definite subjects; the bishops receive their power from Christ himself through their consecration.

The idea that bishops receive their jurisdiction from the Pope was foreshadowed in the juridical significance which Nicholas I (858-867) and John VIII (872-882) gave to the pallium which was conferred on metropolitans. Hitherto, these possessed their power without Roman intervention. But from the 9th. century onwards, the idea was enforced that a positive act of the Pope was necessary to put them in possession of their metropolitan rights. The symbol of participation in the papal power was the pallium. At the time of the gregorian reform of the second half of the 11th. century, the conclusion was drawn from this that even those bishops appointed by the Metropolitan received their power indirectly from the Pope through the metropolitan. (42)

The explicit distinction between the power conferred at the consecration and jurisdiction was only formulated by the canonists of the Middle Ages from the 12th. century (43). Our precise question was contested at that time. According to the teaching of St. Thomas, the Pope merely assigns subjects to the bishop, over whom he shall exercise an already existing power (44). As against this, Hervé Nedellec O.P. (+1323) considers that the Pope confers on the bishops their "potestas ius dicendi" (45). Pierre de la Palu O.P. (+1342) holds the view, however, that the Pope merely assigns to the bishops a certain territory (48). According to John of Torquemada O.P. (+1468) all hierarchical jurisdiction comes from the Pope (47). This is also the view of Robert Bellarmine (48). The Council of Trent left the question undecided. On the occasion of the discussion regarding the obligation of bishops to reside in their own dioceses in the 23rd. Session (1562), the problem was raised. The Spanish and French council fathers defended the view that Christ is the immediate source of episcopal jurisdiction, while the very influential council-theologian Laynez and the Italians maintained the mediacy of the Pope (49). Vatican 1 intentionally left the question open (50). On the other hand, in his encyclical "Mystici Corporis" (1943) for instance, Pius XI clearly advocated the thesis that, for this precise reason,

bishops with neither appointment nor confirmation by the Holy See have no jurisdiction (51).

The doctrine of Vatican II states that with episcopal consecration, the office of teaching and administration is also given. This office can, however, only be exercised within the hierarchical communion with the head and the members of the college of bishops (52). The "Nota praevia explicativa" adds the precision that for a potestas ad actum expedita, a 'iuridica determinatio' through the hierarchical authority is necessary. These statements are certainly not in tune with the hitherto generally widespread teaching of the concession of jurisdiction through the Pope. We must again therefore admit that claims raised over a long period by the Popes have later been abandoned.

The separate questions we have dealt with are closely connected with the more general problem of the actual meaning of the "plenitudo potestatis". Here we find a development that led to manifest exaggerations above all in the Middle Ages: exaggerations which, however, were later given up. Originally the plenitudo potestatis signified nothing more than the whole in contrast with the part, without any presisions being made with regard to the actual extent of the fulness of power concerned. It is thus that Leo the Great uses the concept in his letter to his vicar in Thessalonika "who has only been called to a part of the pastoral care, not to the plenitudo potestatis" (53). Later the fulness of power is extended ever more widely so that it is scarcely possible to see what its limits can be. Already Nicholas I assigns to himself the right to depose bishops without the possibility of appeal. It is for the Roman Church to direct the life of all the individual churches. (54). No general council may be held without the authorization of the pope. The concept of a general council becomes so widely understood by Nicholas that practically it even includes that of a mere provincial synod (55). In the time of Nicholas I, appeal begins to be made at Rome to the Pseudo-Isidorian Decretals. These false Decretals, according to Congar, strengthened the Roman tendency to deal with all other churches as though they belonged to the roman metropolitanate. (56). This led to an even further extension of the plenitudo potestatis. The ideas of the gregorian reform were a powerful stimulus to the trend. In accordance with the "Dictatus Papae" of Gregory VII, only the Pope can depose or absolve bishops (No.111) and he may do this without a synodal decision (No.XXV); he alone can translate bishops from one diocese to another (No.X111). No synod, without

his approval, can be considered a general one, etc. (57). Bernard of Clairvaux contributed to the extension of the expression "plenitudo potestatis". Certainly according to him the Pope is not always allowed to do everything that lies within his power (58). The formula "plenitudo potestatis" is found in general use in the vocabulary of the Roman Curia in the time of Clement III (1187-1191). (59). Innocent III (1198-1216) considers the fulness of papal power to include the right to take on himself, at will all the actions of subordinate authorities. Helene Tillmann comments: "Innocent sees himself to be empowered in all imaginable cases, to exercise the rights of bishops, archbishops, primates and patriarchs. When he takes over that which in the ordinary course of events falls within the competence of another ecclesiastical official, 'he does no injustice, for a person who exercises his rights can do no injustice thereby' " (60).

In the ecclesiology of the Scholastics in the period after Innocent III, the monarchical sense of the papal fulness of power predominates (61). In the 13th. century, the principle theoretician of papal monarchy is Bonaventure. In his view, the Holy See received from Christ a threefold plenitudo potestatis: The Pope possesses for himself alone the complete fulness of that authority which Christ gave to his Church, he has this everywhere and he alone communicates it to all subordinate officials (62). The Pope is, therefore, the source of all power in the Church. Canonists and curialists - so Congar - expanded the papal fulness of power to what is almost a divine competence (63). This development reached its high point at the end of the 13th. and the beginning of the 14th. centuries. Boniface VIII (1294-1303) went so far as to assert that Rome itself establish this statement a priori from the classical text of Mt.16,18. (65). The same Pope demanded from the Catholikos of the Armenians the belief that the pope as the vicar of Christ possesses the same complete jurisdiction which Christ himself possessed in his human life (66). Giles of Rome (+1316), a pupil of St. Thomas, put forward the thesis that the Pope might be considered to be the Church (67)) He also maintained that the Pope is the lord of all earthly goods (68).

Manifest exaggerations of the papal power appeared in the Middle Ages in the teaching on the relation between the spiritual and the temporal power. In this context the concept "Vicarius Christi" played a roll alongside that of the plenitudo potestatis. As we know, Pope Gelasius I (492-496) was the first to develop a theory, certainly a very moderate one, regarding the interrelation of sacerdotium and regnum. Princes are subject to priests, where there is question of salvation. This, however,

did not mean that the imperial power is subject to that of the priest. Both powers are rooted in God (69). Gregory VII (1073-1085) in his "Dictatus Papae" assigns to himself the power to depose the emperor (70). At the same time Gregory did not intend to dominate the temporal sphere as such (71). Innocent III certainly did not confuse the spiritual with the temporal power, although he considered himself to be the chief Head not merely of the Church, but also of the Christian people, the "Christianitas". He does assign to himself an authority in temporal affairs and deduces this both from the general power to bind and loose and from his own position as the Vicarius Christi. As such he is like Christ: priest and king together (72). According to Innocent IV (1243-1254) the pope is the supreme head of the Christian community which he no longer distinguishes from the Church. Spiritual and temporal power, however, are not identical (73).

The papal claim to world sovereignty reached its high point under Boniface VIII. According to the Bull "Unam Sanctam" of 18th. September 1302, there are two powers: the spiritual and the temporal. But these two must be brought to unity. Both swords, the spiritual and the temporal, are in the hand of the Church. The spiritual power establishes the temporal and directs it when it deviates from the right path (74). In another place Boniface VIII states that the temporal power is related to the spiritual as the light of the moon to that of the sun (75). Somewhat later Agostino Trionfo (+1328) takes the view that the Pope is not indeed the supreme head of earthly kingdoms. The earthly must, however, serve a supernatural goal and in this respect the Pope is the supreme head in this sphere. He alone is the Vicarius Christi; all power derives from him even that of the princes and hence these must rule in a Christian way. (76).

These ideas, which were also put forward by Popes, obviously go too far. Later Popes admitted this. Pius IX, for example, declared in an allucution of 20.VII.1871 that the authority over temporal princes which his predecessors claimed in the Middle Ages should be interpreted in accordance with the laws of the period and the general consensus of the Christian people. It can, therefore, be no longer sustained (77). It should be noted here that "the general consensus of the Christian people" with regard to papal encroachments on the temporal sphere is very problematic. There has always been opposition to it; one has only to think of the consistent attitude of the emperors to the Popes. This is a point to which we shall return. Pius XII, in an address to the Historical Congress in Rome on the 7.IX.1955, stated that the Middle Ages concept of the Primacy had been time conditioned (78).

Paul VI, speaking at Anagni, the city of Boniface VIII, on the 1. IX. 1966, declared that Boniface' view of the relationship between the spiritual and the temporal power had been clarified by later popes (79). This clarification - to be more explicit - amounts to the fact that the untenable teaching of their predecessor was allowed to disappear.

Therefore, there have been claims made by Popes which later proved to be unjustified. This point is of great significance for our thesis. It is well-known that the competence to determine the extent of his own competence has been ascribed to the Pope: in other words that he himself may authentically define the limits of his own administration. Such definitions, however, have more than once in the course of history, been proved erroneous.

We take yet another example: Sixtus V (1585-1590) claimed, on the basis of his supreme teaching authority, to have the competence to establish the text of the Vulgate. The specialists were working too slow for him. So he wished himself authoritatively to publish the authentic text. Divine providence prevented him from doing so. He died before he was enabled to complete the definitive edition which would have been obligatory in the full sense (80)

A further concept from which we can perhaps see clearer than from the "plenitudo potestatis" how far the papal claims reached, is that of *Roma caput et fons*. This is already found perfectly clearly in the writings of Boniface I (418-422), who in 421 writes to the bishops of Thessaly: "From her (the Roman church) there flows as from a spring the ecclesiastical order for each of the individual churches. It is certain that she is the head of all churches scattered over the globe, which are her members." (81). Leo the Great took up this idea and gave it further precision, particularly in his five Christmas sermons (82). He put forward the remarkable thesis that the other apostles did not receive their power directly from the Lord but rather from St. Peter (83). From this it follows logically, although Leo did not expressly say so, that the successor of Peter is the source of all authority in the Church. The idea "*Roma caput omnium ecclesiarum*" was advocated by Leo's legates at Chalcedon (84). The Pseudo-Isidorian Decretals deduced from the primacy of St. Peter which the Roman church had inherited, the conclusion that all other churches derived their origin from this one. She is the source of everything in the universal Church (85).

The concept "source" is carried further by canonists and theologians at the close of the 12th. century (86). In his *Dictatus Papae*, Gregory VII ascribes to the Pope the exclusive right to lay down laws for the Church (87). Innocent III represents Rome as being the source of all authority in the

Church. He writes on the 24.IV.1207 to the cathedral-chapter of Patras that he did not wish to create a precedent by directly nominating the archbishops of that city, for otherwise "an occasion for injustice would emanate from that place from which all rights originate", namely from the Holy See (88). John of Torquemada (+1468) compares Peter, and, thereby, his successors, with the sun which receives its brilliance from God and passes it on to all the other stars: light is transmitted to them from the sun as from a source: Thus it is also with Peter and with his successor, the Pope (89). In his "Oratio synodalis de Primatu", the same Torquemada declares: the pope is "una fontalis origo totius potestatis ecclesiasticae" (90). Thomas of Vivo, named Cajetan (+ 1534) carries on the line taken by Torquemada. In his view the Pope is not a part but rather the whole Church: from him the Church obtains all that it possesses. Peter alone was the shepherd of the flock of Christ. The other apostles were but sheep under his direction: "et sic Petrus solus est pastor et reliqui apostoli oves sub eius cura" (91)

Obviously, these manifest exaggerations have been abandoned today. The ecclesiology of Vatican 11 acknowledges the personal rights of the bishops who have been appointed by God to be pastors in the Church. Before this at Vatican 1, Bishop Vincent Gasser of Brixen in his celebrated relatio on infallibility, energetically opposed the idea that infallibility was first given to the Pope and then shared by him with the Church (92). Bishop Zinelli, the spokesman of the deputation for the faith at Vatican 1, added that the Pope is not the source of all rights in the Church. The episcopal office with its rights exists independently of his will because of the institution by Christ (93).

The mere fact that claims have been made by Popes is, therefore, in accordance with the evidence of history, no proof for their justification. Ultimately, the acceptance of these claims by the universal church is decisive. At this point we must establish that there has always been opposition, both in the west and in the east, to exaggerations of the papal primacy.

Papal centralization has only slowly succeeded even in the west. Here also for a long period we find autonomous regional churches - comparable to the eastern patriarchates - such as the church of Africa, the church of the Merovingian Kingdom, the Spanish Church at the time of the Visigothic domination which became catholic in 589, together with the celtic churches in Britain, Scotland and Ireland. With regard to Africa, a synod of 418 at Carthage forbade any appeal to Rome (94). Over synods which took place at stated times in

France and Spain, Rome had no influence. Rather did these come under regal control (95).

Later various factors led to a widening of the sphere of roman influence. In France it was the politics of Pippin and later of Charlemagne which, for the sake of the unity of the kingdom, endeavoured to strengthen the standing of Rome. These rulers, however, in spite of this policy, held fast to their own supremacy over the Church. Then missionary activity led to stronger ties with the centre, of various churches which were either founded or renewed by missionaries sent from Rome. The personal attitude of St. Boniface (+754) played a great role here. In 722 he took an oath in the presence of Gregory II which was very similar to that of the suburbican bishops (96). St. Augustine, sent by Gregory the Great to England, closely bound to Rome the missionary churches founded by him among the anglo-saxons. Moreover, these missions had an influence over the celtic churches also, in the sense of an ever stronger link with Rome.

The strong centralistic policy of Nicholas I (858-867) led to opposition in the west. In this context particular mention should be made of Hincmar of Reims who, while positively acknowledging the primacy of Rome, did not, however, consider the unity of the Church to be a pontifical monarchy: rather did he insist that the Primacy be exercised in accordance with the reverence due to the divinely instituted structure of the Church. In his view, God not only placed St. Peter at the head of his Church, but also inspired the conciliar canons. Hincmar did not ascribe to papal decretals the power to create law. For him, reception by the universal church is decisive; otherwise there would be reason to fear the arbitrariness of an individual. In the last analysis, according to Hincmar, what is alone decisive for doctrine is the tradition of the universal Church. He rejects Nicaea II and acknowledges the council of Frankfurt which overruled the teaching of Nicaea, precisely because at Frankfurt the authentic tradition of the church was preserved. He considers the Church to be guided by the community of bishops under Christ as their head. Within this community, the Pope does have a leading position and Hincmar is prepared to obey him. (97)

Pre-gregorian reformers of the 10th. century, such as Rathier of Verona (890-974) and Atton of Verceil (885-961), certainly recognized the Pope as the heir or vicar of St. Peter, but not as the vicar of Christ in a juridical sense. Rome is the highest authority and may be condemned by no one. Yet the Pope is not the source of all power in the Church. His primacy

is understood in the sense of a wise and clear-sighted service within the Church, whose life is regulated by tradition and the councils (98). Gerbert of Aurillac (about 945-1003), the later Pope Sylvester 11 (999-1003) seems to have considered the Church to be a *communio* of local churches under the direction of a *Prima Sedes*. The Church is not a monarchy in which everything derives from the head. The decisions of the Popes are not *ex sese validi*. If the bishop of Rome does not keep his eye on the "aequitas" of Peter, he loses Peter's privileges. Gerbert, however, did not wish to see independent national churches (99).

The reform of Gregory VII did not proceed without opposition in the Church. The Synod of German bishops which met at Worms in January 1076 accused Gregory of "profane novelties". He wished to overthrow the ecclesiastical order which stemmed from the apostles and remove from the bishops their power to bind and loose (100). Some months later in Whitsun 1076, a further episcopal assembly was convoked at Worms by Henry IV, which set itself in opposition to the encroachments of Gregory in the temporal sphere; it emphasized on the contrary that God had established two authorities: the kingship and the priesthood (101). In the year 1084, the situation led to a schism involving thirteen cardinals and to the election of an anti-pope, Clement 11. These opposing cardinals reproached Gregory with an autocratic misuse of his authority (102).

The most important reaction to the infringements of the papal fulness of power in the Middle Ages was that of those who represented conciliar views. As Brian Tierney, in particular, has proved, these ideas do not just go back to professed heretics such as Marsilius of Padua (+1342) and William of Occam (+1349) who do not interest us in this context, but rather have their roots in the thoroughly orthodox canonists of the 12th. and 13th. centuries (103). Gratian, who compiled his "Decretum" about 1140, rejected every restriction placed on the papal power through a council. According to later writers, however, especially according to Johannes Teutonicus (+1245), the Pope must not refuse to accept the doctrinal decisions of a council. He writes: *Videtur ergo, quod Papa tenetur requirere concilium episcoporum; quod verum est, ubi de fide agitur, et tunc synodus maior est Papa*" (104). During the western schism conciliar ideas were accepted in all parts of the Church since, on account of the total failure of the papacy, there seemed no other way out than recourse to a council. The Council of Constance (1414-1418), which put an end to the schism, based itself on conciliar opinions; it considered itself to be ecumenical, deriving its power directly from Christ. It demanded

obedience from everyone, even from the Pope. The decree "Haec sancta Synodus" (105) maintained that in matters of faith, of ecclesiastical unity and of reform, the Pope must abide by a council; it did not say, however, that he was to be merely the executive organ of a collegial government of the Church (106). The decree, if taken to cover an exceptional situation, can still be correctly understood. The experts are not agreed on the question if and in what sense it was confirmed by the Pope.

The Council of Basle (1431-1437) interpreted as a statement of faith the decree of Constance which had indeed only been drawn up to deal with an emergency, and it reduced the Pope to the rank of an executive organ of the Council (107). Certainly this cannot be accepted. Yet it still remains true that the question of the relationship between the pope and the rest of the Council - since he also belongs to it - has not even today been solved either in theory or in practice. The well-known proceedings at the close of the third Session of Vatican II made this very clear.

A contemporary of the Council of Constance, the Chancellor of the University of Paris, John Gerson (+1429), while rejecting the extreme views of Marsilius of Padua and William of Occam, still objected to the papalism of certain canonists. He would set limits to the papal power in order to guard against its misuse (108). John of Torquemada, himself an extreme papal-minded theologian of the 15th. century, puts forward the thesis: if a Pope alone holds an opinion contradictory to the council, then he must yield to its unanimous teaching (109).

We cannot here present in further detail the continued opposition to an exaggerated papalism which has always been present in the Church, even in the west. The currents of Gallicanism and of Febronianism, the teaching of Wessenberg and Döllinger, these are generally well-known. Certainly I do not wish to defend these. But as a counterbalance to the extreme papalism that blossomed even in the 19th. century, these currents have also had, perhaps, a positive significance in the Church. Even Vatican I, as we have seen, was very far from approving everything that the papalists put forward. This can even be said with regard to papal infallibility. Congar notes in its regard; "On this point, uncertainty and indeed rejections prevailed right up to the middle of the 19th. century" (110)

Now we come to the attitude of the eastern church to the primacy. The tradition of the east belongs most fundamentally to the overall tradition of the Church. In the first millenium, the high-points of the Church's life occurred in the east. The eight ecumenical councils of the period were all held in the east. The council fathers, apart from some few representatives of the west, in particular of Rome, were eastern bishops. Therefore, we cannot and ought not push the tradition of the east

to one side where there is question of a correct understanding of the primacy of the bishop of Rome. Perhaps we will be able to find there some corrective for certain exaggerations to which the tradition of the west inclines.

In the first millenium, the east did admit a certain primacy of the pope to an even wider extent than present day Orthodox will admit. Even its basis, namely successorship to St. Peter, was acknowledged in the east at least from time to time. Admittedly the Primacy of Rome is not a dogmatic truth for the Orientals but rather a question of ecclesiastical order.

An example: at the Council of Chalcedon, in his address to the council fathers during the sixth Session, the Emperor Marcian placed the Tome of Leo on a par with the doctrinal decisions of the Council of Nicaea (111). The council fathers themselves in a letter to Leo after the council recognize that Leo had been for the synod "the interpreter of the voice of St. Peter". To the bishop of Rome "the care of the vineyard of the Saviour was entrusted" (112). At the same time, the frequently cited acclamation "Peter has spoken through Leo" cannot, in the general context of the council, be taken to be an acknowledgment of a papal teaching authority that is based on the succession to Peter (113). At the third Council of Constantinople (680-681) many of the Council fathers accepted the written doctrine of Agatho on the basis of his authority. On this point the testimony of Bishop Domitios of Prusia is most explicit: he accepts the dogmatic statements of the Pope "as dictated by the Holy Spirit through the mouth of the holy and blessed prince of the apostles Peter and written by the hand of the thrice blessed Agatho" (114). The written doctrine of Pope Hadrian was also acknowledged by many fathers at the second council of Nicaea (739) on the basis of his teaching authority (115). Patriarch Ignatius of Constantinople in a letter to Pope Nicholas I cited the classical text of Mt.16,18 and expressly acknowledged that these words are also valid for all the successors of the prince of the Apostles in the See of Ancient Rome (116).

In the writings of eastern church Fathers also, we find some very definite + texts regarding the Primacy of Rome, particularly at those periods when they felt the need of the authority of Rome to defend the true faith against heretical emperors. Spphronius of Jerusalem, for instance, speaks of Rome as "the apostolic and eminent See" and appeals to it for help against the heretics (117). Maximus the Confessor acknowledges the Apostolic See on the basis of the institution of Christ as the supreme doctrinal authority with the power to bind

and to loose. At the same time, however, he stresses the significance for the faith of the ~~six~~ ecumenical councils. In other places he speaks of the authority over all the churches and the power to bind and loose which the Apostolic See received not only "from the Incarnate Word but also from all the holy synods in accordance with the holy canons and definitions" (118).

The Roman conception of a monarchical primacy is however in fundamental opposition to the oriental ecclesiology of the *communio* between individual churches. Photius rebelled against the claims of the Roman primacy as did Michael Caerularius later. A formal and explicit rejection of the Roman Primacy idea is found after the break with Rome, for example, in the indictment drawn up at Nicaea shortly after 1204 by the Greek bishops against the Latin church. Here we read: "They (the Latins) say and believe that the Pope is not the successor of Peter but rather Peter himself in person. They make him almost into a god and place him over Peter by proclaiming him to be the lord of the whole of Christendom. They say that the Roman Church itself, is the one catholic and apostolic Church which, within itself alone, comprehends all others. The Pope becomes as pontifex, the sole connecting link between all, since he alone is Peter and the whole flock of Christ must be subject to him" (119)

Also in the first millenium, especially in the ecumenical councils, the east manifested its conviction that important decisions binding the whole church in matters of both faith and discipline could be made only collegially and not by the pope alone. These councils never perfunctorily acknowledged Roman decisions as already unconditionally valid in themselves; on the contrary they analysed them before accepting them and then, with the collegiate authority of world episcopate assembled at the council in their representatives, promulgated them in their own name as binding for all. A classical example is the attitude to the Tome of Leo during the Council of Chalcedon. Leo demanded from the council the acceptance of his doctrinal decision without discussion. In a letter to the Emperor Marcian of 24.1V.451 he asked him not to permit impertinent people at the coming Council to carry on an investigation of the faith as though of something unknown (120). As far as he was concerned the question of faith had already been clarified in his *Tomus ad Flavianum*. In his view then, the Council had nothing more to do but accept it and for the rest merely to settle the problem of persons (121). The council in fact did just what the pope did not want: it went into the question as to what the orthodox faith should be,

and came to a decision on the basis of its own authority. The Tomus of Leo was put forward for discussion and examined in the light of generally accepted doctrinal authorities such as the creed of Nicaea (122).

At the third Council of Constantinople it is even clearer, if that is possible, that according to the opinion of the synod, doctrinal questions may only be decided collegially by the college of bishops assembled in council through their representatives, together with the legates of the pope. On the contrary, Pope Agatho, who had given to his legates a doctrinal document for the council, considered the problem of faith - that regarding Monothelitism - to be already decided. The legates must add nothing to the Pope's doctrinal decision nor should they subtract anything from it. The Pope calls his exposition "the pure confession of piety". The Roman teaching is the guiding principle of the true faith (124).

The Council shows through its whole method of procedure that it does not acknowledge the claim of Rome to decide doctrinal questions on its own. It set out with the assumption that the whole question of Monothelitism was completely open and was to be decided for the first time by the Council itself. The monothelite heretics, long condemned by Rome, sat in the Council as members with the same rights as the others. Makarios of Antioch, the chief champion of Monothelite ideas, did not take his place as an accused, but assisted at the discussions as a council member with equal rights and was given ample opportunity to put forward his point of view and defend it. It was only after a profound examination of the whole question that he was condemned in the eighth session because he would not submit to the conciliar decision (125). The Emperor himself expressly introduced the doctrinal document of Agatho for discussion. The Council did indeed accept the document because - and this is explicitly stated - it harmonized with the decisions of Chalcedon (126).

At Nicaea II, the situation at the beginning was otherwise. Empress Irene and Patriarch Tarasius had already rejected iconoclasm. Notwithstanding this, the Empress convoked a Council so that it would "synodice" confirm the ancient tradition of the holy Fathers and root out the weeds of false doctrine (127). In a long drawn out procedure the Council debated whether veneration of images could be reconciled with the Scriptures, the teaching of the Fathers and the statements of the previous six councils. The decisive factor for the Council Fathers was not then the letter of Pope Hadrian but rather the tradition and teaching of the whole Church. In its declaration of faith the Synod maintained that it had drawn the truth from the doctrine of the Fathers and that it had followed the long-standing legislation of the Catholic Church (128).

At the fourth Council of Constantinople (869-870) there was a disciplinary question at issue: the case of Photius. Rome had already made a decision and demanded that it be accepted by the Council without discussion. Nevertheless the Emperor's representatives insisted on a fresh treatment of the case by the synod. They uncompromisingly threatened to dissolve the Council by withholding their signature if the papal legates insisted on their refusal to listen to the Photian side of the question (129).. Thus the Council considered its judgment to be a completely independent one and not merely a confirmation of the Roman decision (130). Summing up, we can only say that the East only recognizes the collegial method of procedure and consistently rejects the Roman claim to be the sole judge.

Several other inferences which Rome drew from its Primacy have been persistently repudiated in the east such as the claim to put forward legal principles on its own authority which are *ex sese* valid. The Trullanum (691) enumerates the sources of law that were accepted in the east: the decretals of the Popes are not included (131). The east did not recognize the right of Rome to decide the validity of synods. The Council of Chalcedon, for instance, ignores the nullification of the Robber-Synod of Ephesus (449) by Leo. This synod was still considered, at the beginning of the Council of Chalcedon, to be a lawful imperial council. Those responsible for its deliberations still take their place as council fathers with equal rights. The Council reserves to itself the decision to be taken in their regard (132). Likewise at the second Council of Nicaea (787), the Synod of Hieria (754), which had rejected the veneration of images as idolatrous and which had already been condemned by Rome, was still accepted as a valid imperial council which could be revoked only by a new council. The whole sixth session at Nicaea was concerned with Hieria and definitively established that the synod could not rank as an ecumenical council (133)

Furthermore the east did not accept the claim of Rome to be the decisive centre of the ecclesiastical communio. For Rome, those hierarchs to whom the pope refused his communio, together with all who remained in union with them, were taken to be outside the Church. At the time of the Monothelite struggle, for example, the whole church of Constantinople which followed the monothelite heretics was considered by Rome to be outside the one true Church (134). On the other hand, the Emperor desired to remove by negotiation the schism existing between the two churches which, notwithstanding the Roman excommunication, he looked upon as parties with equal rights. (135). For the east, only the anathema of the whole Church was decisive for exclusion from the Church, not just the anathema of Rome in itself.

This is clear, to take one example, from the inaugural speech of Patriarch Tarasios after his election where, on this point, he states: We have been severed from all other churches. They look on us as having incurred an anathema. That is a harsh penalty, excluding us from the Kingdom of God (136).

On the whole the tradition of the east represents a severe criticism of the conception of the Primacy which was increasingly asserted in the west. The kind of co-operation between the Pope as head of the college of bishops and the rest of this college, that prevailed in the west, was otherwise envisaged in the east. Even today this question is not basically solved. Closer hindsight into the eastern tradition could contribute to a clarification of the problem. Finally we come to deal with the question of the correct understanding of the definition of the Primacy and Infallibility of the Pope as put forward in Vatican 1 and strengthened in Vatican 11. The definition has been proclaimed by an ecumenical Council of the Catholic Church and unanimously accepted by this Church. As Catholics we cannot ignore it nor push it to one side. But we must ask what precisely it means, and this can only be made clear by a close study of the Acta. The Council majority tended to exclude as much as possible every limitation of the fulness of papal power. Against the insistence of the minority that such limitations be included in the conciliar text, they maintained over and over again that these things were obvious and need not therefore be made explicit. The resulting text, therefore, is open to misunderstanding on more than a few points and has in fact been grossly misinterpreted. It is to be regretted, to my mind, that Vatican 11 lacked the resoluteness to re-formulate in a more satisfactory way many misleading expressions of Vatican 1. This applies, for instance, to the qualification added at the eleventh hour: "ex sese, non autem ex consensu ecclesiae". At the Centenary celebration for the opening of Vatican 1, in the Auditorium of Pius XII in Rome on the 8.XI.1969, in the presence of the Pope and numerous cardinals and bishops, Cardinal Parente in his commemorative address, translated this text in a completely misleading way: "per se stesso e senza il consenso della Chiesa" (137). And no one made any protest.

Vatican 1 did not indicate any limitations to the Primacy. It is easy, therefore, to get the impression that none exist. The deputation of the faith opposed the formulation of any restraints on the fulness of the papal power: Gallicanism had to be completely rooted out. And yet the Council considered that the power of the Pope was neither absolute nor arbitrary. Bishop Zinelli stated, in reply to an objection put by the Melkite Patriarch Jussef, that the power of the Pope was not that of an absolute monarch: the episcopate could not be

abolished by him (138). The same spokesman for the deputation of the faith made it clear that the papal power was a constructive and not a destroying factor: that it could not be limited, however, by any human authority which might somehow be placed over it, but rather only by the natural law and positive divine law (139). The whole of Zinelli's lengthy "relatio" rejected in the name of the deputation of the faith practically all proposals that might be made to bring about a clearer circumscription of the papal fulness of power (140).

Such a circumscription must be guided by the aim which Christ had in view in his institution of the Primacy. The Council presents this aim in the introduction to the Constitution "Pastor Aeternus", the unity of the episcopate, the unity of the faith and the communio of the whole Church (141). The practical exercise of the Primacy must find its limitations in the context of this aim. One must, therefore, ask what that unity might be, for the preservation of which Christ instituted the Primacy. It is not stated that it implies every kind of uniformity in rite, discipline, theology etc., as has often enough been maintained by Pppes. That type of uniformity has greatly injured the true unity of the Church. If the practical exercise of the Primacy, as it is today, has admittedly become the chief obstacle to the unity of all Christians, then it is clear that there is some lack of regularity involved.

The plenitudo potestatis has its limits in divine law. Vatican I refers explicitly to at least one such limitation, namely the existence of the episcopate which depends on divine institution. In this context, the Council cites a letter of Gregory the Great to the Patriarch Eulogius of Alexandria but omits the essential and decisive passage. I will return to this later. With regard to the method of co-operation between pope and bishops the Council says nothing. Vatican II fills this gap to some extent when it attributes to the college of bishops the right to participate in the government of the universal Church (143). But even this council leaves the question completely open as to what form the relationship should take between the head of the college and the rest of the college. It emphasizes very strongly, particularly in the nota praevia, the dependence of the others on the head but there is nothing said with regard to whether or not there is a dependence of the Pope on the bishops. If the college of bishops do have the right to share in the government of the universal Church, then the Pope must respect this right even though he may at his own discretion regulate the ways and means of this participation. This obligation-to-respect already implies a restriction on the supreme power. To my way of thinking, it would be quite conceivable and desirable that this responsibility of the Pope be made ever

more precise through positive legislation. If the Pope, as is generally admitted, is able, through political concordats to limit his right in a way that binds both himself and his successors, why then could he not come to a positive juridical agreement with the college of bishops which restricts his plenitudo potestatis? It would, for example, be conceivable that the Pope should legitimately bind himself to follow the decision of a qualified majority of the synod of bishops. At the same time, he would naturally in all cases preserve the right to make the reservation: in so far as this is compatible with his conscience (144).

"Plenitudo potestatis" therefore does not mean unlimited power though it can easily be misunderstood in this sense. Likewise the phrase "ordinaria potestas" is misleading. If "ordinaria" be taken in a sense opposed to "extraordinaria" - an interpretation that suggests itself - then in accordance with the general trend of the Council it could be interpreted to mean that the intervention of the Pope in the affairs of individual dioceses is a usual everyday occurrence. However, an investigation of the Acta shows that "ordinaria potestas" should be understood as opposed to "delegata potestas". The right of the Pope to act comes with his office and is not delegated to him by anyone. It is in this sense that Bishop Zinelli, the spokesman for the deputation of the Faith interprets the expression (145). In the same context he also speaks of the "immediata potestas". This expression is only intended to exclude the fact that the Pope in his interventions must necessarily employ an intermediary, that he, therefore, can act only through the bishops. Both expressions, taken together, are not intended to mean - Zinelli is explicit on this point - that the Pope can interfere constantly in the affairs of individual dioceses without consideration of the bishops (146). That would be, as Zinelli points out, not a constructive factor but rather a destructive one and must, therefore, be unconditionally excluded. With regard to the frequency of papal intervention, nothing is stated in the Council definition. Pius XII clarified the problem further by the fact that he recognized the validity for the Church of the principle of subsidiarity (147). The higher authority should, therefore, only act when the lower fails in some way.

In the chapter and not in the canon, it is further stated of the fulness of power of the Pope that it is "vere episcopalis" (148). This has also been misunderstood as though the Pope were bishop of every single diocese. The clarification of the German bishops in 1875, to which we have already referred, expressly rejects this erroneous meaning (149), and this

clarification was acknowledged by Pius IX as a correct interpretation of the conciliar text (150). Zinelli explained "episcopalis" in the sense of "pastoralis". The Pope, like Peter, is the shepherd of the whole sheepfold of Christ while the bishops are shepherds only of a part (151). Zinelli says nothing concerning the manner in which the papal and the episcopal care should co-operate. He alludes to the letter of Gregory the Great, referred to above, and endeavours to dismiss it with the remark that it should be understood in the light of Gregory's humility and in the circumstances of the period. This eminent Pope in his letter to Patriarch Eulogius of Alexandria expressly refuses the title "universalis Papa", and does so with the argument: "Si enim universalem me Papam Vestra Sanctitas dicit, negat se hoc esse, quod me fatetur universum" (152). Gregory wants to say: If I am the "universal father", then there is no fatherhood left for you; in other words: I am not the bishop of Alexandria; otherwise this city would have two fathers and that would be absurd. In the same letter Gregory strongly denies that he had given a command to the bishop of Alexandria; rather did he only let him know what he considered to be opportune. (153). This text is not cited in "Pastor Aeternus".

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In regard to the definition of infallibility, the main point to be clarified is the "ex sese, non autem ex consensu Ecclesiae" (154). It is clear from the Acta that only an explicit consent of the Church before or after a definition, as the juridical condition of its validity, was to be excluded. The representatives of the minority continually strove to have included in the text some limitation in the sense of the necessity of the consensus Ecclesiae. The deputation of the faith opposed this because they feared that the consensus would become a juridical condition; they felt that this would be a surrender to the deadly error of conciliarism according to which the decision of a Pope could be reformed by a council (155). Bishop Gasser, in the name of the deputation of the faith, stated on 16.VII.1870: The "non autem ex consensu Ecclesiae" was only another way of saying, in the negative, what was already said by the "ex sese". Thereby an external condition of the irreformability of a papal decision would be excluded (156). Gustave Thils draws attention to an important distinction which was insufficiently attended to in Vatican 1, namely that between "acte d'assentiment" and "accord de fait dans la doctrine" (157). The positive act of assent is not juridically necessary, but factual agreement with the doctrine cannot possibly be missing. Consequently then the Pope must investigate the Catholic doctrine of the faith (158). This is, however, the doctrine of the Church: Catholic doctrine cannot be unknown to the Church. Its factual agreement with a papal definition

is, therefore, a necessity.

As regards the object of infallibility, Vatican 1 did not speak clearly. The definition states that the Pope has the same infallibility as the Church (159). It was the intention of the Council in its later deliberations to deal with a constitution on the Church in which it would have determined the object of infallibility more closely. But nothing further came of it. In his relation of the 11.VII.1870, Bishop Gasser declared that infallibility first extended to the revealed truths, then to such truths as were necessary to support the teaching of the faith (160). In his speech of the 16.VII, Gasser commented on the lack of agreement among the fathers on the question of the object of infallibility. His own view was that infallibility concerned the revealed truths; all other opinions, on the other hand, were only theologically certain (161). This argues relevantly: The fathers of Vatican 1 were above all concerned to safeguard the infallibility of the Pope with regard to revealed truths. They did not solve the question of other objects of infallibility. They referred to those theologians who did not agree on the matter. The council fathers were unanimous on the point that infallibility extended to everything that was necessarily connected with revealed truth, but this "necessarily connected" was interpreted in many different ways (162). The schema that had been prepared for the constitution on the Church and which was not dealt with any further, provided for a canon in which it is said that infallibility covered those truths which "necessario requiruntur ut revelationis depositum integrum custodiatur" (163). One can only say in conclusion: Vatican 1 exclusively defined that the Pope, if he speaks "ex cathedra", is infallible in the proclamation of revealed truths.

Vatican II also did not further clarify the problem. We read in No. 25 of the Constitution *Lumen Gentium*: "This infallibility, with which the divine Savior willed His Church to be endowed in defining a doctrine of faith and morals, extends as far as the deposit of divine revelation, which must be religiously guarded and faithfully explained." On this point, Karl Rahner, in his commentary in the "Lexicon für Theologie und Kirche", notes that there is no unanimity among theologians as to whether there are actually truths which though not revealed still are essential for the defence of revealed truth and whether there is in consequence a "fides mere ecclesiastica" (164). In any case, one must interpret the text in the strict sense: that it deals only with matters which in a narrow sense are essentially necessary in order to guard

purely and explain faithfully revealed truth. Besides, in the statement of Vatican 11, we are not dealing with a definition.

7. | So I maintain: it is only defined that infallibility deals with truths revealed by God. All other matters are more or less theological opinions.

Finally, the word "irreformabilis" in the definition of Infallibility is misleading. Heinrich Fries comments: "With the term 'irreformabilis', the presentation is bound down to an absolute lack of compromise both in content and form of expression. But, as a matter of fact, this is not intended. Certainly the "irreformabilis" precludes from the definition an error in faith, but at the same time opens the possibility of a further more integral interpretation... which would subject to a deeper understanding, under the criterion of the Word of God, that which the formulation of the dogma intends to disclose" (165). In spite of this, Fries maintains quite justly "that the church in such a decision concerning the faith, where there is question of the truth of Jesus Christ, does not fall into error" (166).

Let us summarize: From a historical investigation of the Primacy, there emerge the following possible or necessary restrictions to the papal power; the competence to determine his own competence (Kompetenz der Kompetenz) which is attributed to the Pope is most problematic. In the course of history there have been not a few mistakes made on this subject. The competence must be proved; it is not sufficient merely to assert it. A definite commitment of the Pope to the canons and the traditional customs of the Church cannot be set aside. It is not against the divine law for a Pope to act synddically in important questions nor for the synod to be conceded a right to decide together with the Pope in a manner which may be more exactly determined. In questions of faith we have the evidence of history for the fact that the collegial form of decision is normal. This does not exclude the personal infallibility of the Pope. The consensus Ecclesiae, in the sense of the factual agreement of the Church with the Pope, must exist. In matters of faith, the ultimate criterion of truth is the tradition of the universal Church. The Pope is not the source of all rights within the Church. The jurisdiction of the bishops is not derived from him, but directly from Christ. It is not a participation in the papal power, but stands independently. The relations between the Pope as head of the college of bishops and the remainder of the college should be positively and legally determined.

These are only some indications which ought to be made more precise.

Only a Primacy, which is understood as service and whose exercise excludes every suspicion of arbitrariness, has the possibility of being accepted by other Christians and is enabled to be, instead of an impediment to unity, its actual guarantee.

Wilhelm de Vries, S.J.,

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List of abbreviations used in the following notes.

- AAS Acta Apostolicae Sedis.
- ACO Acta Conciliorum Oecumenicorum, ed E. Schwartz.
Berlin-Leipzig 1927 ff.
- ARP Acta Romanorum Pontificum a S. Clemente 1 (c.90)
ad Coelestinum 111 (+ 1193), I: Pontificia Commissio
ad redigendum codicem Iuris Canonici Orientalis,
Fontes, Series 111, Vol. 1, Vatican 1943.
- ASS Acta Sanctae Sedis
- Candal E. Candal, Ioannis de Torquemada O.P. Oratio synodal-
is de Primatu, in: Concilium Florentinum Documenta
et Scriptores. Series B, Vol. 1V, 2, Rome 1954.
- Caspar, E. Caspar, Geschichte des Papsttums, 2 Vols. Tübin-
Geschichte gen 1930, 1933.
- Caspar, E. Caspar, Das Register Gregors VII., in: Monumenta
Register Germaniae Historica, Epistolae selectae, Tomus 11,
Fasciculus 11, 2 Vols. Berlin 1920, 1923.
- COD Conciliorum Oecumenicorum Decreta, Basel 1962
- Congar, Y. Congar, L'Ecclésiologie du haut Moyen Age,
Ecclésiologie Paris 1968.
- Congar, Y. Congar, L'Eglise de saint Augustin à l'époque
Eglise moderne, Paris 1970.
- D Sch Enchiridion Symbolorum Definitionum et Declarationum
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 39. D Sch 861
 40. D Sch 3115. 3117.
 41. Enz. "Satis Cognitum": ASS 28 (1895-96) 723; cp. *Küng, Strukturen* 217.
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 44. *Contra Gentes* IV, 76: cp. Congar, *Eglise* 272.
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89. Summa de Ecclesia, 11 22.
90. Candal 26.
91. De comparatione auctoritatis Papae et Concilii cap. 9, no.137; cap. 3. No.23; cp. Congar, Eglise 350.
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94. Mansi 111, 922; cp. on what follows: M. Maccarrone, La dottrina del primato papale dal IV all' VIII secolo nelle relazioni con le Chiese occidentali, Spoleto 1960.

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99. Congar, *Ecclésiologie* 183, 184; Congar, *Eglise* 65.
100. MGH, Const. 1 106-107.
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103. Cp. B. Tierney, *Foundations of the Conciliar Theory*, Cambridge 1955.
104. Tierney 251. Even in Gratian we find in the table of contents at the beginning (*Decreti totalis materia per metra notatur sequentia*) under No.12, the astonishing sentence: "Id quod Roma tenet, discretio saepe relinquit", and in the *Distinctio* X11, can1: "Nulli agere licet sine discretione iustitiae contra disciplinam Romanae Ecclesiae". Ed. Venice 1572, p.26. "Cum discretione iustitiae" therefore, one can certainly act against the discipline of the Roman Church.
105. 6.IV.1415, COD 335.
106. de Vooght 72.73.
107. Congar, *Eglise* 327.
108. l.c., 316-319.
109. *Oratio synodalis de Primatu*, Candal 58; cp. de Vooght 73.
110. Congar, *Eglise* 385.
111. ACO 11 11 2,5; Mansi V11, 130.
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113. de Vries, *Chalcedon* 102 ff.
114. Mansi X1, 340 AB.
115. Mansi X11, 1090 ff.
116. MansiXV1, 47 DE.
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118. PG 91, 137, 140. 144; cp. on this point: J. Ortiz de Urbina, *Patres graeci de sede romana*, in: *Orientalia Chr. Periodica* 29 (1963) 148.149. In this article will be found further relevant texts.
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124. Mansi X1, 234, 235, 239, 242.
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133. Mansi X111, 208, 209.
134. ARP 535: Letter of Martin 1 and his Roman Synod to all Christian believers.
135. Mansi X1, 196 ff.
136. de Vries, Nicäa 11, 49.
137. OR 9/10-12 - 1969, s.3.
138. Mansi 52, 1114 D.
139. Mansi 52, 1108 D. 11109 A.
140. D Sch 3051.
142. S Sch 3061.
143. Lumen Gentium, No. 22.
144. The final vote of the Synod of Bishops on 27.X.1969, in which the bishops invited the Pope to accept their co-operation, was, to my mind, a backward step considering that the Council had given to the college of bishops the right to participate in the government of the universal Church. Cp. the text of the Votum in: La Documentation Catholique 66 (1969)1034.
145. Mansi 52, 1105 B.
146. Mansi 52, 1105 BCD.
147. AAS 38 (1948) 14 ff; cp. on this point: W. Bertrams, De principio subsidiaritätis in iure canonico, in: Periodica de re morali, canonica, liturgica 46 (1957) 3-65.
148. D Sch 3060.
149. D Sch 3115.
150. D Sch 3117.
151. Mansi 52, 1104.
152. ARP 501, No. 271.
153. Ebenda.
154. D Sch 3074.
155. Vgl. G. Dejaifve, "Ex sese, non autem ex consensu Ecclesiae", in: Salesianum 24 (1962) 292.
156. Mansi 52, 1317 AB.
157. G. Thils, L'Infaillibilité pontificale, source - conditions - limites, Gembloux 1969, 250.
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162. Thils, l.c., 234-242.
163. Mansi 51, 552 A, can.1X.
164. Lexikon f. Theol. u. Kirche, Das 11. Vat. Konzil Vol. 1, 238.
165. H. Fries, Das Lehramt als Dienst am Glauben, in: Catholica 23 (1969) 165. 166.
166. l.c., 165.