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THE DEVELOPMENT OF A THEOLOGY OF THE
EPISCOPACY FROM THE DECRETUM OF
GRATIAN TO THE WRITINGS OF SAINT THOMAS
AQUINAS. [Studies in Sacred Theology (Second
Series) No. 149].

The Catholic University of America, S.T.D., 1963
Religion
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1963

THE CATHOLIC UNIVERSITY OF AMERICA

STUDIES IN SACRED THEOLOGY

(Second Series)

No. 149

THE DEVELOPMENT OF A THEOLOGY OF THE EPISCOPACY

FROM THE DECRETUM OF GRATIAN TO THE

WRITINGS OF SAINT THOMAS AQUINAS

A DISSERTATION

Submitted to the Faculty of the School of Sacred Theology of
The Catholic University of America in Partial Fulfillment
of the Requirements for the Degree of
Doctor of Sacred Theology

by the

REVEREND ROBERT PIUS STENGER,

O.P., Ph.L., S.T.L.

Washington, D.C.

1963

This dissertation was approved by the Very Reverend
Walter J. Schmitz, S.S., M.A., S.T.D., Associate
Professor of Sacred Theology, as director, and by
the Very Reverend John A. Abbo, S.T.L., J.C.D., and
Professor Stephan G. Kuttner, J.U.D., S.J.D., J.C.D.,
LL.D., as readers.

Revisores Ordinis: Rev. James J. Cunningham, O.P., S.T.Lr.
Rev. Thomas C. Schaub, O.P., S.T.Lr.

Imprimi Potest: Very Rev. John E. Marr, O.P., S.T.M.,
Prior Provincialis Provinciae Sancti Alberti Magni

Chicago, Illinois. May 13, 1963.

Nihil Obstat: Very Rev. Walter J. Schmitz, S.S.
Censor Deputatus

Imprimatur: + Patrick A. O'Boyle
Archbishop of Washington

May 20, 1963.

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INTRODUCTION

As one of the major institutions in the structure of the Church and because of its paramount importance in the life of the Church, the episcopacy has been the subject of study since the time of the post-apostolic writers. Succeeding generations have added precision to one aspect after another of the complex entity which is the episcopacy.

The early writers and the Fathers of the Church often considered the importance of the episcopacy with respect to ecclesiastical unity. Jerome is noteworthy for his comparison of the episcopal and presbyteral offices. With the appearance of Gratian's Decretum and the beginning of a scientific elaboration of Canon Law, the canonists began to formulate a notion of the episcopacy from the common law of the Church. The writers of Scholastic Theology, to whom the development of sacramental theology owes so much, studied the episcopacy in relation to the sacrament of Order. During the past century writers have turned their attention to the role of the bishop as pastor of his flock and participant in the magisterium of the Church.

The present study is not an attempt to formulate a comprehensive analysis of the episcopacy. Neither all the facets of the bishop's office will be treated, nor all the writers who have considered this subject. The present consideration is an attempt to trace the development of the theology of the episcopacy in the writings of the great canonists and theologians from Gratian in 1140 to Saint Thomas Aquinas, who died in 1274.

The importance of the period from the mid-twelfth to the mid-thirteenth century is unquestionable. Both Canon Law and Theology developed during this period from the stage of collections of data handed down from the past to the stage of reflective, scientific analysis. Both canonists and theologians attempted to embrace everything of value which had been handed down from the earliest days of the Church within a consistent synthesis.

The subject of the episcopacy reveals in a striking manner the mutual dependence of Canon Law and Theology and the influence which the writers in one field exercised upon their contemporaries in the other. As an existing ecclesiastical institution the episcopacy was a proper subject of study for the jurists as they attempted to harmonize and synthesize the common law of the Church. As the holder of unique powers regarding the dispensation of all the sacraments, the bishop became a subject of study for the theologians as they formulated a theology of the sacraments.

The First Part of this dissertation is a consideration of the episcopacy in the writings of the canonists. The treatment begins with the work of Gratian and proceeds to the commentators on the Decretum of the Bolognese and French Schools. The section concludes with the writings of Huguccio, whose opinions became the common opinions of the canonists. The second chapter of Part One continues the study of the canonists with a consideration of the collections of papal decretal letters, which became increasingly important from the last decade of the twelfth century and culminated in the official collection promulgated by Pope Gregory IX.

In the writings of the commentators upon the decretal collections one traces the canonists' growing understanding of ecclesiastical jurisdiction.

Part Two of the dissertation is devoted to the writings of the theologians, first the writers from Peter Lombard to Albert the Great, and then a more detailed study of the episcopacy in the writings of Saint Thomas Aquinas. Receiving the legacy of a century of theological speculation about the episcopacy, Thomas worked out a synthesis which embraced the many and varied elements which are combined in the episcopacy.

In the Conclusion the synthesis of Thomas Aquinas is related to the positions of the canonists and theologians who had written during the century preceding his own career.

The author wishes to express his gratitude to the Very Reverend John E. Marr, O.P., S.T.M., Provincial of the Province of Saint Albert the Great, for permitting him to undertake graduate study in Sacred Theology at the Catholic University of America; to the Very Reverend Walter J. Schmitz, S.S., M.A., S.T.D., Dean of the School of Sacred Theology, for his assistance as major professor for this dissertation; and to the Very Reverend John A. Abbo, S.T.L., J.C.D., for consenting to act as reader. An acknowledgement of gratitude is also due to the Very Reverend Edmond D. Benard, M.A., Ph.D., S.T.D., late Dean of the School of Sacred Theology, for his encouragement and advice concerning the thesis subject when it was first presented three years ago.

The author is especially indebted to Professor Stephan G. Kuttner, J.U.D., S.J.D., J.C.D., LL.D., Professor of the History of Canon Law in the School of Canon Law, Catholic University of America, for his continuing

interest in the thesis and for consenting to act as reader. Without his direction and the facilities of the Institute of Research and Study in Medieval Canon Law, which he made available, no study of the medieval canonists would have been possible.

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PART ONE

THE EPISCOPACY IN THE WRITINGS OF THE CANONISTS

CHAPTER I

THE EPISCOPACY IN THE WRITINGS OF GRATIAN AND THE DECRETISTS

A study of the episcopacy in the writings of the canonists properly begins with the monumental Concordia discordantium canonum. This work has won for its compiler, the monk Gratian, the title "Father of the Science of Canon Law."¹ Little is known about Gratian himself. Born about the end of the eleventh century in central Italy, he was a professor of that portion of Theology which later became the separate science of Canon Law at the Camaldulense monastery of Saints Felix and Nabor at Bologna. He produced his work about 1140 and died sometime before 1160.²

As the title of his work announced, Gratian was no mere collector of auctoritates. He was the heir of the methodological advances begun by the canonists Bernold of Constance, Ivo of Chartres and Alger of Liege, and perfected by the theologian, Peter Abelard,

¹Stephan Kuttner, "The Father of the Science of Canon Law," The Jurist I, (1941), 1-19.

²Ibid., 2-4; cf. Alphonsus Stickler, S.B.D., Historia Juris Canonici Latini (Augustae Taurinorum: Apud Custodiam Librariam Pontif. Athenaei Salesiani: 1950), 202-204; Alphonsus Van Hove, Prolegomena ad Codicem Juris Canonici, Editio altera auctior et emendatior (Rome: H. Dessain, 1945), Commentarium Lovaniense in Codicem Juris Canonici, Volumen I, Tomus I, p. 339.

in his Sic et Non.³ As he treated one question after another, Gratian brought together various and often conflicting texts. He harmonized them in his solutions by means of distinctions which sometimes touch upon fundamental juridical concepts.⁴

While earlier canonists, for instance, Burchard of Worms, had included specifically theological questions in their canonical collections,⁵ Gratian limited himself to canonical matters. Yet there remained with Gratian, as there remains even today, a close connection between Canon Law and Theology in such questions as sacramental theology and ecclesiology. It is interesting to note how the methodology of the canonists differed from that of the theologians in their respective treatment of the episcopacy.

Gratian set down the principle which he used to separate Canon Law from Theology in his dictum introducing Distinctio XX. He

³Paul Fournier and Gabriel LeBras, Histoire des Collections Canoniques en Occident, 2 Vols., (Paris: Recueil Sirey, 1931), II, 334-350: "Progrès théoriques et pratiques des méthodes d'interprétation"; cf. Van Hove, op. cit., 420-421; Kuttner, art. cit., 4-11.

⁴Kuttner, art. cit., 15-16; Van Hove, op. cit., 341. Compilers of canonical collections before the time of Gratian merely gathered together similar texts into one place. Gratian changed the methodology of Canon Law by introducing his own statements (called dicta), in which he brought up questions and proposed solutions; the auctoritates (cited in individual capitula, or, as they are usually called today, canones) were used to confirm or explain what Gratian had alleged in his dictum.

⁵cf. Van Hove, op. cit., 320, 422. Burchard of Worm's "Letter to Brunicho," which he uses to introduce his Libri Viginti Decretorum, reveals how canonists before Gratian refrained from personal opinions in their works: "Porro legentibus etiam id persuasum esse cupimus, nihil de meo in hoc opere additum esse." (J.P. Migne, Patrologiae Cursus Completus, Series Latina, Paris, 1844-1864, 140:537). [Hereafter cited PL.]

distinguished expositions of Sacred Scripture, which require knowledge in an author, from decisions which require not only knowledge but also authority (potestas).⁶ While the Fathers of the Church perhaps excelled the Popes in knowledge, the Popes held a position (apicem dignitatis) from which they could hand down definitive solutions to questions proposed to them.

The writings of the Fathers were not neglected by the canonists, however. The three major sources for the capitula found in Gratian are papal decretals, conciliar canons, and statements from the Fathers.⁷ While the theologians found many of their arguments in the scriptural commentaries of the Fathers, the canonists found in their vast epistolary output many items of practical and disciplinary importance.

The writings of the canonists hold particular value because of the close contact these men had with the daily reality of ecclesiastical life. They wrote about existing ecclesiastical institutions, as these were framed and reflected in the common law of the Church. Gratian's Decretum, as his work came to be called,⁸ was not only a textbook in the schools; it was also a handbook in papal and episcopal chanceries. Although it was never officially promulgated, it did become the first

⁶Corpus Iuris Canonici, editio Lipsiensis secunda post Aemili Ludovici Richter curas instruxit Aemilius Friedberg (Lepizig: Tauchnitz, 1879-1881), Pars Prior, Decretum Gratiani, dict. ante cap. 1. Dist. 20.

⁷Stickler, op. cit., 207-208.

⁸Kuttner, art. cit., 15; Van Hove, op. cit., 340; Stickler, op. cit., 204. In the twelfth and thirteenth centuries it was usually referred to in the plural, Decreta, by the Decretists.

part of the Corpus Iuris Canonici. In this way much of it served as the law of the Church until the promulgation of the present Codex Iuris Canonici in 1917.⁹

The Decretum of Gratian not only replaced previous canonical collections in the schools and chanceries, but it was itself a subject of study soon after its appearance. The young studium at Bologna soon became a center for the study of Canon Law, as it was already the center for the revival of Roman Law. In the short space of four decades, over a dozen commentaries on Gratian had laid the foundations for a tradition of canonical thought and a truly scientific methodology.¹⁰

It is to these writings of Gratian and his early commentators that one turns for the teaching of the early medieval canonists on the episcopacy. No one of these authors was formulating a speculative treatise "de episcopatu" or "de sacramento ordinis." A complete and adequate picture of an author's notion of the episcopacy appears only after one reads several sections of his works. Gratian himself, for example, spoke many times of the episcopacy in the last eighty-one

⁹J. de Ghellinck, S.J., Le Mouvement Théologique du xii^e Siècle, Deuxième Édition, (Paris: Desclée de Brouwer, 1948), 205; Van Hove, op. cit., 345-346; Stickler, op. cit., 210-212.

¹⁰Cf. Stephan Kuttner, Repertorium der Kanonistik (1140-1234): Prodromus Corporis Glossarum, I (Studi e testi 71, Città del Vaticano, 1937); ibid., "Bernardus Compostellanus Antiquus: A Study in the Glossators of the Canon Law," Traditio, I (1943), 279-282. The commentators upon the Decretum of Gratian were called Decretistae (i.e. Decretists); the commentators upon the collections of papal letters were called Decretalistae (i.e. Decretalists).

distinctions of the first part of the Decretum.¹¹ Nowhere does he try to say everything in one place or to formulate a comprehensive definition of the episcopacy.

The early commentators upon Gratian followed the order of the Decretum. They listed parallel passages and proposed solutions to the conflicts which arose when different places in the Decretum were found to cite apparently contradictory texts. One commentator influenced another and later commentators introduced more refined questions than those considered by the earliest commentators. The independence and originality of the different commentators led to developments of canonical theories and concepts and to discussions in which many points of view found expression.

¹¹The Decretum of Gratian was divided by the author into three parts: (a) the first part was subdivided, probably by Gratian's pupil Paucapalea, into 101 distinctiones: the first twenty of these treat the notion, division and sources of law; distinctiones XXI to LXXX treat clerics and their ordination; distinctiones LXXXI to CI treat the qualities of bishops and some questions remaining after an initial treatment in distinctiones XXI to LXXX. [cited Dist. .c. .]. (b) The second part was divided by Gratian into 36 Causae and each Causa into quaestiones. A later author subdivided Causa 33, quaestio 3, into 7 distinctiones; this section is called tractatum de poenitentia. The second part of the Decretum is, in general, concerned with "negotia ecclesiastica." [Cited C. .q. .c. ., except for C.33.q.3.: De poen. Dist. .c. .]. (c) The third part was divided, probably by Paucapalea, into 5 distinctiones; it is called de consecratione, as it treats certain sacraments and sacramentals. [cited De cons. .Dist. .c. .]. Each section of the Decretum is prefaced by a summarius or dictum introductorium, which is a "status quaestionis"; then follow the auctoritates or decreta (called capitula [or capita] by the Decretists); each auctoritas is prefaced by an inscriptio, in which Gratian gives the material font for the text (these are often erroneous according to present-day knowledge of the sources), and a rubrica, in which he summarizes the content of the text and manifests the particular point which he wishes to draw from it. Cf. Stickler, op. cit., 205-210.

In this chapter the notion of the episcopacy which was developed by Gratian and the Decretists will be sought. It should be noted at the outset that the medieval canonists saw in the episcopacy and the presbyterate two distinct offices. The precise reason for the difference between them was not so evident. The difficulty in explaining the distinction was due in large part to the lack of precise terminology. Fr. Martinien de Roulers, O.M.Cap., in his study of jurisdiction in the writings of the canonists from 1140 to 1250, has found that no clear meaning was given to the concept of jurisdiction until the time of the first Decretalists (1215-1250).¹² During the period from Gratian until Huguccio, who wrote in 1188, the term "iurisdictio" is seldom used. Many synonyms were in use to express administrative power in general, e.g. "administrationis potestas," "auctoritas," "dignitatis potestas," "potestas dispensationis," "executio officii," "gubernatio," "ius episcopale," "ius dioecesana," "ordinatio," "potestas regiminis," "potestas regendi."¹³ Huguccio introduced the distinction between "lex dioecesana" and "lex iurisdictionis" and defined the latter as spiritual administrative power.¹⁴ At this time the objects of what would later be called "potestas ordinis" and "potestas iurisdictionis" were not clearly distinguished.¹⁵ Because of the close connection in

¹²P. Martinien de Roulers (Van de Kerckhove), O.M.Cap., La Notion de Jurisdiction dans la doctrine des Décrétistes et des premiers Décrétalistes de Gratien (1140) à Bernard de Botone (1250), (Assisi: Collegio San Lorenzo da Brindisi, 1937), 35.

¹³Ibid., 4-5.

¹⁴Ibid., 35.

¹⁵Ibid.

the Middle Ages between the office of bishop and his benefice, temporal administrative power was also attached to the other episcopal powers.¹⁶ Only gradually were the various aspects of the bishop's office and his powers separated from one another and clearly defined.

It is possible, however, to trace in the writings of Gratian and his commentators a developing understanding of those aspects of the bishop's office which would today be assigned to his potestas ordinis rather than to his potestas iurisdictionis.¹⁷ Such will be the method employed here. Emphasis will not be placed upon purely jurisdictional and procedural questions connected with the episcopacy. The subjects to be treated are the institution of the episcopacy, the powers which the bishop has with respect to the administration of the sacraments, and the sanctification of the faithful committed to his care, and the subject of episcopal consecration.

¹⁶Donald Edward Heintschel, The Mediaeval Concept of an Ecclesiastical Office, (Washington, D.C.: The Catholic University of America Press, 1956), 5.

¹⁷The use of the distinction between potestas ordinis and potestas iurisdictionis in this place is not meant as a prejudgment of the question: "utrum episcopatus est ordo?" which will be considered throughout the whole work. The term "ordo" [and "potestas ordinis"] can be understood, as it is here, in a less strict sense, in which it means a position of ecclesiastical superiority whose occupant can exercise certain ministerial functions, especially with respect to the administration of the sacraments, whether or not these functions flow directly from the ordo he has received in his (sacramental) ordination. This is what one author calls the "pura ratio ordinis, abstrahendo pro nunc ab eius sacramentalitate, quae involvit ulteriorem conceptum impressionis characteris et collationis gratiae." (Emmanuel Doronzo, O.M.I., Tractatus Dogmaticus De Ordine, 3 Vols., Milwaukee: Bruce, 1957-1962, Vol. II, p. 2).

I. Institution of the Episcopacy

Father Ladislaus Orsy, S.J., has studied the difference between the orders of episcopate and presbyterate in the Decretum by analysing the dicta and rubricae of Gratian.¹⁸ He has discovered that Gratian speaks of the office, episcopatus, in many ways: "ordo,"¹⁹ "ordo sacer,"²⁰ "officium,"²¹ "officium sacrum,"²² "officium ecclesiastice dignitatis,"²³ "gradus pontificalis,"²⁴ and "gradus."²⁵ He speaks of the person of the bishop, episcopus, as "summus pontifex,"²⁶ "summus sacerdos,"²⁷ "pontifex,"²⁸ "sacerdos apicem pontificatus habens,"²⁹ "sacerdos maior,"³⁰ "prelatus,"³¹ "antistes,"³² and "presul."³³ The exact meaning to be attached to these various synonyms must be determined from the context of the dictum and the meaning of the capitulum it is meant to explain. Even this brief survey of the work

¹⁸Ladislaus Orsy, S.J., The Difference Between the Order of Episcopate and Presbyterate in Gratian's Decree (Rome: Typis Pontificiae Universitatis Gregorianae, 1962).

¹⁹Dictum post c.1.Dist.23. ²⁰Dictum ante c.1.Dist.64.

²¹Dictum ante c.1.Dist.23. ²²Dictum ante c.1.Dist.56.

²³Dictum post c.33.C.2.q.7. ²⁴Dictum post c.3.Dist.25.

²⁵Dictum ante c.1.Dist.23. ²⁶Dictum ante c.1.Dist.21.

²⁷Dictum post c.1.Dist.56. ²⁸Dictum ante c.1.Dist.21.

²⁹Dictum ante c.1.Dist.20. ³⁰Dictum ante c.1.Dist.21.

³¹Dictum ante c.1.Dist.39. ³²Dictum ante c.1.C.1.q.1.

³³Dictum post c.25.Dist.63. These references are taken from Orsy, op. cit., Chapter One, Part One: Meaning of the Term Episcopus.

of Gratian shows that one cannot conclude without further study to the fact that Gratian held or did not hold that the episcopacy is a sacramental ordo.³⁴ One must proceed to examine the Decretum in detail.

Gratian introduces distinctio XX with the following words:

"Ministri vero sacrorum canonum et decretorum Pontificum sunt Summi Pontifices et infra presules atque reliqui sacerdotes, quorum institutio in veteri testamento est inchoata et in novo plenius consummata."³⁵

Within the context of an explanation of the "ministers of the canons," Gratian takes the opportunity presented by the naming of these officials to discuss the origin of ecclesiastical offices.³⁶

The Old Testament priesthood was introduced by divine intervention: "Summi enim pontifices et minores sacerdotes a Deo sunt instituti per Moysen, qui ex precepto Domini Aaron in Summum Pontificem, filios vero eius unxit in minores sacerdotes."³⁷ As the ministry expanded, David introduced "ianitores" and "cantores"; Solomon added "exorcistae." These offices remained in the Church as those of porter, lector and exorcist.

With respect to the priesthood, Gratian wrote:

Pro filiis vero Aaron, omnes infra summum pontificem sacerdotium administrantes sunt consecrati. Inter eos quedam discretio servata

³⁴Orsy, op. cit., vii. ³⁵Dictum ante c.1.Dist.21.

³⁶This is pointed out by the Summa Parisiensis: "et inde sumpta occasione, ostendit unde initium habuerunt ordines ecclesiastici." (The Summa Parisiensis on the Decretum Gratiani, ed. Terence P. McLaughlin, C.S.B., [Toronto: Pontifical Institute of Mediaeval Studies, 1952], Dist. 21, "Decretis," in prin., p. 20.) [Hereafter cited Summa Parisiensis]

³⁷Dictum ante c.1.Dist.21.; cf. Exodus, 28:1ff.

est, ut alii appellentur simpliciter "sacerdotes," alii "archi-presbyteri," alii "corepiscopi," alii "episcopi," alii "archiepiscopi," seu "metropolitae," alii "primates," alii "patriarchae," alii "summi pontifices." Horum discretio a gentilibus maxime introducta est, qui suos flamines, alios simpliciter flamines, alios archiflamines, alios protoflamines appellabant. Simpliciter vero maiorum et minorum sacerdotum discretio in novo testamento ab ipso Christo sumpsit exordium, qui XII apostolos tamquam maiores sacerdotes et LXXII discipulos quasi minores sacerdotes instituit.³⁸

Gratian gives three reasons for the distinction between "sacerdotes maiores et minores": (i) the institution by Moses; (ii) the example of the pagan Romans who had a hierarchy among their priests ("flamines"); (iii) the institution by Christ Himself. This final reason is the basic one ("simpliciter") why the New Testament priesthood is divided into two grades, although it was foreshadowed in the Old Testament. For Gratian, the existence of two grades in the New Testament priesthood is of immediate divine origin.

Gratian also stressed the divine institution of Peter's primacy among the Twelve: "Petrum vero quasi in summum sacerdotem elegit; dum ei pre omnibus et pro omnibus claves regni celorum tribuit."³⁹ The Apostles followed Christ's examples in establishing their successors: "Hanc eandem formam Apostoli secuti, in singulis civitatibus episcopos et presbyteros ordinaverunt."⁴⁰ The Apostles themselves instituted deacons ("levitae") and, as time went on, the Church instituted subdeacons and acolytes.⁴¹

³⁸Ibid., paragraph 1, in fine, and paragraphs 2, 3.

³⁹Ibid., paragraph 3. ⁴⁰Ibid., in fine.

⁴¹Ibid.

Such is Gratian's conception of the institution of the various grades of ecclesiastical personnel. Christ instituted only the primacy of Peter and the distinction between major and minor priests Himself. Gratian gave no example from the life of Christ for the exercise of each one, as Peter Lombard would do, following Ivo of Chartres.⁴²

Gratian quotes from Isidore of Seville's Etymologiorum libri to support his position. After deriving the meaning of "clericus" from "sors" [cf. Acts 1:15-26, the selection of Matthias], Isidore goes on to speak of clerics and their grades:

Generaliter autem clerici nuncupantur omnes, qui in ecclesia Christi deserviunt, quorum gradus et nomina sunt hec: Hostiarius, psalmista, lector, exorcista, acolitus, subdiaconus, diaconus, presbiter, episcopus. Ordo episcoporum quadripartitus est, id est, in patriarchis, archiepiscopis, metropolitanis atque episcopis. [He then gives the etymology and office of the Patriarch, Archbishop, and Metropolitan.]...Omnes autem superius designati ordines uno eodemque vocabulo episcopi nominantur; set ideo privato nomine quidam utuntur, propter distinctionem potestatum, quam singulariter acceperunt....Episcopatus autem vocabulum inde dictum est, quod ille qui episcopus efficitur, superintendebat, curam scilicet subditorum gerens....Pontifex princeps sacerdotum est, quasi via sequentium. Ipse et summus sacerdos, ipse et pontifex maximus nuncupatur. Ipse enim sacerdotes et levitas efficit; ipse omnes ordines ecclesiasticos disponit; ipse, quid unusquisque facere debeat, ostendit....Antistes sacerdos dictus est ab eo quod antestat: Primus est enim in ordine ecclesiae, ut supra se nullum habeat....sacerdos a sacrificando dictus est: consecrat enim et sacrificat....Presbyter grece, latine senior interpretatur; non modo pro etate vel decrepita senectute, sed propter honorem et dignitatem, quam acceperunt, presbiteri nominantur: ideo autem et presbiteri sacerdotes vocantur, quia sacrum dant, sicut episcopi; qui licet sint sacerdotes, tamen

⁴²Peter Lombard, Libri Sententiarum, (Omnia Opera S. Bonaventurae, Ad Claras Aquas [Quaracchi]: Ex typographia Collegii S. Bonaventurae, 1889), Tom. IV, Distinctio XXIV, Pars II, cap. v-cap. xi, pp. 603-606. Cf. J. de Ghellinck, S.J., "Le traité de Pierre Lombard sur les sept ordres ecclésiastiques: ses sources, ses copistes," Revue d'Histoire Ecclésiastique, X (1909), note (3), pp. 296-301, for the history of the example of Christ for each order as found in Normandy and England and then in Ivo of Chartres.

pontificatus apicem non habent: quia nec crismate frontem signant, nec paraclitum spiritum dant, quod solis deberi episcopis lectio Actuum Apostolorum demonstrat. Unde et apud veteres idem episcopi et presbyteri fuerunt: quia illud nomen dignitatis est et non etatis.⁴³

It is important to note at once that Isidore is here discussing clerics, whom he defines as "all those who serve in the Church of God." He speaks of the grades among clerics as "ordines." He associates the duties attached to each ordo with the etymology of the name of the ordo. It is evident that several of the names he discusses can refer to the same person. Thus, for example, one who holds an apostolic see [Alexandria, Antioch, etc.] is called "patriarcha"; he may also be styled by the general title "episcopus"; his primacy earns him the name "antistes"; because he consecrates and sacrifices, he is a "sacerdos"; and because of his honor and dignity, he is a "presbyter." Isidore seems to associate the ruling of the priesthood to the "pontifex."⁴⁴ The limitation of Confirmation to the "episcopus" is expressed in the words of Pope Innocent I.⁴⁵ It would seem that in this place Isidore was more concerned with presenting the etymology of names than in determining the number and duties of the ecclesiastical ordines with precision.

⁴³Dist. 21. c.1. "Cleros et clericos," from Libri XX Etymologiarum Sancti Isidori Hispalensis Episcopi, Lib. VII, Caput XII; De clericis, PL 82:290-293.

⁴⁴This seems evident from his statement: "Antea autem pontifices et reges erant: nam maiorum haec erat consuetudo, ut rex esset etiam sacerdos et pontifex. Unde et Romani imperatores pontifices dicebantur." (*ibid.*) Cf. also Isidore's De ecclesiasticis officiis, Lib. II, cap. 5, PL 83:780-786.

⁴⁵Ex epistola Innocentii I ad Decentium, cap. 3 (Epistola 25, PL 20:554).

In a later capitulum⁴⁶ Gratian again quotes Isidore for a description of the functions proper to the various offices mentioned in distinctio XXI, cap. 1. In his introduction to Isidore's statement, Gratian wrote: "Quid autem ad episcopum, quid ad unumquemque inferiorem pertineat, Ysidorus Ispalensis...scribit."⁴⁷ In the rubrica Gratian speaks of the functions as the officium: "Quod episcopi et ceterorum sit offitium in ecclesia."⁴⁸ He does not speak of these officia as "ordines." Isidore, however, will speak of them as "ecclesiastica officia," "ecclesiae gradus," "ordines," and "ministeria clericorum":

...qualiterque ecclesiastica offitia ordinentur...et de omnibus ecclesiae gradibus, quid ad quemque pertineat, eloquar....Ad presbyterum pertinet sacramentum corporis et sanguinis Domini in altario conficere, orationes dicere, et benedicere dona Dei. Ad episcopum pertinet basilicarum consecratio, unctio altaris, et confectio crismatis. Ipse predicta offitia distribuit et ordines ecclesiasticos; ipse sacras virgines benedicit; et dum precessit in singulis unusquisque, iste tamen est preordinator in cunctis. Hi sunt ordines et ministeria clericorum.⁴⁹

⁴⁶Dist. 25.c.1., "Perlectis." Gratian introduces this text: "Isidorus Hispalensis episcopus in epistola ad Ludifredum scribit." The authenticity of this letter is generally denied today by Isidorian scholars; the absence of any mention of corepiscopi, while Isidore's very similar De ecclesiasticis officiis [PL 83:786-787] has a chapter devoted to them, indicates a Pseudo-Isidorian origin for this letter. Cf. Heintschl, op. cit., "Addenda: A Critical Analysis of D. XXV, 1," 26-32; Clavis Patrum Latinorum, ed. Eligius Dekkers (Steenbrugis: In abbatia Sancti Petri, 1951), page 211, number 1223: "Potius ad tempora Isidori Mercatoris pertinere videtur."

⁴⁷Dictum ante c.1. Dist.25. ⁴⁸Dist.25.c.1., Rubrica.

⁴⁹Dist.25.c.1., "Perlectis sanctitatis tuae litteris." From Gratian's words and from his use of this text, it seems evident that he considered an ecclesiastical office to be synonymous with the exercise of those actions and powers which were inherent in sacred ordination. (Heintschl, op. cit., 17.)

Gratian's introductory treatment of ecclesiastical offices was quite general. Several of the Decretists pointed out that Gratian was here listing those who were "ministers of the sacred canons."⁵⁰ Certain Decretists, however, took this opportunity to establish more precisely the number of ordines ecclesiastici.

Rufinus, whose Summa Decretorum was written between 1157 and 1159, was the first of the Bolognese masters to write an extensive commentary on the Decretum. His work was to serve as a companion to the Decretum and as a model for the Decretists of the next generation.⁵¹ In commenting upon Dist.21.c.1, he writes:

Hic magister docet qui sint ministri sacrorum canonum, scilicet, sacerdotes. Ubi demonstrat quot sint ordines ecclesiastici et unde originem et institutionem habuerint, interpretationem quoque nominum et officia eorum ex Ysidori auctoritate aperit....Est autem ordo signaculum, i.e. quoddam secretum, quo spiritualis potestas et officium ei traditur qui ordinatur.⁵²

Although he claims that Gratian demonstrates how many ordines there are, Rufinus does not himself develop the point here. He does add a definition

⁵⁰Die Summa Decretorum des Magister Rufinus, ed. Heinrich Singer, (Paderborn: Ferdinand Schöningh, 1902), Dist. 21, "Decretis," in prin., 44; [Hereafter cited Rufinus, Summa.] Huguccio, Summa Decretorum, (Admont, Stiftsbibl. 7), Dist. 21, in prin., f. 24v; Summa "Omnis qui iuste," (Leipzig: Universitätsbibl., Ms. 986), Dist. 21, "Decretis," f. 14r.

⁵¹Cf. Kuttner, op. cit., 132; Van Hove, op. cit., 434; Robert Benson, "Rufin," Dictionnaire de Droit Canonique (Paris: Librairie Letouzey et Ané, 1961), Fascicule XL, cols. 779-784; this author points out that Rufinus was widely educated in Theology, Roman Law, Liturgy, and Canon Law, and that he was influenced by Hugh of Saint Victor. Rufinus, in turn, influenced Stephan of Tournai and the authors of the French School and its daughters, the Rhine School and the Anglo-Norman School.

⁵²Rufinus, Summa, Dist. 21, "Decretis," Singer 44; Sicardus of Cremona quotes the same definition: "Ordo karacter quo spiritualis potestas et officium traditur ei qui ordinatur." (Summa, Vatican, Bibl. Apost. Pal. Lat. 653, f. 76^{ra}.)

of ordo, which he takes from Peter Lombard's Libri Sententiarum.⁵³

Where Lombard had written: "signaculum quoddam esse, id est sacrum quoddam,"⁵⁴ Rufinus substitutes: "quoddam secretum." This is apparently based upon Isidore of Seville, who had derived the meaning of "sacramentum" from "mysterium."⁵⁵ Rufinus makes no attempt to apply the definition of ordo to the individual ordines.

Sicardus of Cremona, who wrote about twenty years after the Summa of Rufinus,⁵⁶ does determine the exact number of ordines:

Instituit ergo Moyses summos pontifices et minores sacerdotes; David ianitores et cantores, quos appellantur hostiarios et lectores; Salemon [sic] exorcistas; apostoli dyacones; Ecclesia acolitos et subdiaconos. Sunt igitur vii ordines sicut vii dona Spiritus Sancti.⁵⁷

⁵³Peter Lombard, op. cit., Lib. IV, Dist. XXIV, cap. xviii: "Si autem quaeritur, quid sit quod hic vocatur ordo: sane dici potest, signaculum quoddam esse, id est sacrum quoddam, quo spiritualis potestas traditur ordinato et officium. Character igitur spiritualis, ubi fit promotio potestatis, ordo vel gradus vocatur." (p. 606). It is important to note that the Libri Sententiarum, composed by Peter Lombard about 1150 (cf. de Gehllinck, op. cit., 222), appeared a decade later than the Decretum of Gratian (cf. Stickler, op. cit., 204).

⁵⁴Ibid.

⁵⁵Isidore of Seville, Libri Etymologiarum, Liber VI, cap. xix (PL 82:255); cf. Emmanuel Doronzo, O.M.I., Tractatus Dogmaticus De Sacramentis in Genere, (Milwaukee: Bruce, 1946), 5.

⁵⁶Kuttner, op. cit., 151; Van Hove, op. cit., 435. In his "Réflexions sur les Brocards des Glossateurs," (Mélanges Joseph de Ghellinck, S.J., Gembloux: Éditions J. Duculot, S.A., 1951, Vol. II, 767-792), Stephan Kuttner shows from the style, structure and method of Sicardus' Summa and from the fact that it is not quoted at Bologna that Sicardus belongs to the French rather than to the Bolognese school. His work reveals the French emphasis on system and their combination of various literary forms (summa, quaestio, distinctio). Cf. also Ch. Lefebvre, "Sicard de Crémone," Dictionnaire de Droit Canonique, Fascicule XL, cols. 1008-1011.

⁵⁷Sicardus, Summa, Vat. Ms. Pal. Lat. 653, f. 67vb.

Sicardus does not determine the number of ordines from the definition of ordo, but from the seven-fold gifts of the Holy Spirit. This had been the principle which Hugh of Saint Victor⁵⁸ and Peter Lombard⁵⁹ had used to arrive at the number seven.

The Summa Parisiensis, by an anonymous author of the French School probably about 1160,⁶⁰ also mentions seven as the number of ordines:

Septem sunt ordines clericorum. Episcopus enim potius dignitatis quam ordinis nomen est. Eiusdem enim episcopi et omnes supra sunt ordinis cuius et sacerdotes, sed Isidorus de omnibus his inducit quia potius intendit vocabula exponere quam ordines assignare.⁶¹

The author of this Summa, then, refuses to see in the citation from Isidore a scientific attempt to enumerate the precise number of orders. He finds (and correctly so) an explanation of the meaning of various names. Here the influence of the theologians is evident again in the writings of the French canonists. Peter Lombard had also maintained that episcopatus was a dignitas and not an ordo: "Sunt et alia quaedam

⁵⁸Hugonis de S. Victore, De Sacramentis Christianae Fidei, Lib. II, Pars Tertia, Cap. V: De septem Gradibus Sacris: "Septem ergo spiritualium officiorum gradus proinde in sancta ecclesia secundum septiformem gratiam distributi sunt." (PL 176:423).

⁵⁹Peter Lombard, op. cit., Liber IV, Dist. XXIV, Cap. II: Quare septem sint: "Septem autem sunt propter septiformem gratiam Sancti Spiritus, cujus qui non sunt participes ad gradus ecclesiasticos indigne accedunt; illi vero, in quorum mentibus diffusa est septiformis gratia Spiritus Sancti, cum ad ecclesiasticos ordines accedunt, in ipsa spiritualis gradus promotione ampliorem gratiam percipere creduntur." (p. 602).

⁶⁰Kuttner, op. cit., 177-178; McLaughlin, op. cit., Introductio, for the author's identity, pp. xvii ff; for the date of composition, pp. xxxi ff; Van Hove, op. cit., 437.

⁶¹Summa Parisiensis, Dist.21.c.1., McLaughlin, p. 21.

non ordinum sed dignitatum vel officiorum nomina. Dignitatis simul et officii nomen est Episcopus."⁶²

Huguccio, whose Summa Decretorum appeared about 1188, was the last and greatest of the Bolognese commentators on Gratian.⁶³ He emphatically rejects the seven-fold division of ordo: "Set dicit quis, si prima tonsura est ordo, ergo plures sunt ordines quam vii. Resp.: non est dubium, sunt enim viiii, ut hic aperte computantur."⁶⁴ Huguccio lists the seven traditional ordines plus tonsure and the episcopacy, for a total of nine. He gives no theological reason for assigning nine as the total; he bases his conclusion on the fact that Isidore mentions nine grades as "ordines" in the Decretum, Dist. 21.c.1.

The glossa ordinaria to the Decretum, which was written by Joannes Teutonicus after the IV Lateran Council in 1215 and revised by Bartholomaeus Brixiensis about 1245, gives the doctrine prevailing in the schools at the time it was written.⁶⁵ With regard to the number of ordines, the glossa reveals that the question was by no means settled among the canonists even well into the thirteenth century:

⁶²Peter Lombard, op. cit., Liber IV, Dist. XXIV, cap. xiv: De nominibus dignitatis et officii, 606.

⁶³Cf. Kuttner, op. cit., 157-158; Van Hove, op. cit., 435-436: Huguccio, a native of Pisa, was a teacher at Bologna before becoming bishop of Ferrara (1190=1210).

⁶⁴Huguccio, Summa Decretorum, (Admont, Stiftsbibl. 7), Dist. 21., f. 25^r.

⁶⁵Cf. Van Hove, op. cit., 430-432; Kuttner, op. cit., 93-95.

Psalmista. Hic patet quod psalmista et ostiarius et lector sunt clerici....Et per primam tonsuram fit aliquis Psalmista, vel clericus; et illa tonsura est sacramentale signum, ut 12.q.1, duo [C.12.q.1.c.7, "Duo sunt genera"]. Sed si hoc dicatur, tunc erunt novem ordines. Veruntamen videtur quod non sit ordo, quia ubi tractatur quod clericus alii obedientiam praestabit, nihil agitur de istis ordinibus, ut 93 dist. a subdiacono [Dist.93.c.5, "A subdiacono"]; similiter alibi, ut 77 dist., illud [Dist.77.c.1, "Illud"]. Sed dic quod tantum septem sunt ordines qui conferuntur cum solemnitate, sed tamen novem sunt. Io. [=Joannes Teutonicus]. Sed certe omnes conferuntur cum solemnitate hodie praeter Psalmistatum, qui a solo sacerdote confertur, ut 23 dist., psalmista [Dist.23.c.20, "Psalmista"]. Bar. [=Bartholomaeus Brixienensis].⁶⁶

Thus, some thought that the tonsure (or psalmista, which was often identified with tonsure) was an ordo as well as the episcopacy, thereby creating a total of nine. Bartholomaeus Brixienensis rejects the notion of Joannes Teutonicus that perhaps seven orders were conferred with solemnity, since this could apply only to the tonsure (psalmista), and the difficulty over the episcopacy would remain. The glossa reflected Huguccio in finding in the statement of Isidore sufficient warrant for calling the episcopacy an ordo: "Episcopus--arg. quod episcopatus est ordo."⁶⁷

The nature of the bishop's position was discussed by the Decretists in connection with the office granted to Peter by Christ [Matthew 16:17-19] and the establishment of James as bishop of Jerusalem [cf. Acts 12:17, 15:13, 21:18]. Gratian quotes a letter of "Pope

⁶⁶Decretum Gratiani emendatum et notationibus illustratum, una cum glossis (Venice: 1591), Dist.21.c.1. s.v. Psalmista. Cf. infra, Chapter Three: Hugh of Saint Cher is an example of a theologian who was inclined to include the tonsure among the number of ordines.

⁶⁷Ibid., s.v. Episcopus.

Anacletus⁶⁸ to establish the primacy of Peter:

In novo testamento post Christum Dominum a Petro sacerdotalis cepit ordo: quia ipsi primo Pontificatus in ecclesia Christi datus est.... Ceteri vero apostoli cum eodem pari consortio honorem et potestatem acceperunt; ipsumque principem eorum esse voluerunt....Ipsis quoque decedentibus in locum eorum surrexerunt episcopi.⁶⁹

In commenting upon this capitulum Rufinus provides a profound analysis of the criteria for superiority in the Church and shows in exactly what manner Peter exercised a primacy over the other Apostles.

pari consort. hon. et pot.--Ab hoc dissentit illud, quod est in dist. 80, c.2 [Dist.80.c.2, "In Illis."]: ibi enim dicitur quod inter ipsos apostolos non par fuit institutio sed unus prefuit omnibus, scilicet Petrus. Sed prelatura in clericis provenit aliquando ex dignitate consecrationis, aliquando ex dignitate ordinis, aliquando ex dignitate dispensationis vel amministrationis; hec autem amministratio aliquando est spiritualium, aliquando secularium rerum. Et quidem ex dignitate consecrationis prelatura illa est, qua episcopus ceteris sacerdotibus preminet; ex dignitate ordinis prefertur subdiacono diaconus; ex dignitate amministrationis rerum secularium prestat archidiaconus, non tantum aliis, sed etiam ipsi archipresbytero, ut infra, dist. 25, invenitur, cap. 1 [Dist.25.c.1, "Perlectis."]. Amministrationis rerum secularium ideo diximus quia in spiritualium rerum amministratione non archidiaconus archipresbytero, potius e contrario archipresbyter archidiacono preficitur. Petrus igitur ex prerogativa consecrationis apostolorum primorum neminem excellebat, quia omnes in pontificatus apicem consecrati sunt. Itidem propter dignitatem minoris ordinis non submittebantur ei: omnes enim sacerdotes erant, extra quem ordinem nullus superior

⁶⁸Dist.21.c.2, "In novo testamento." Gratian's inscriptio is: "Item Anacletus ad episcopos Italiae, epist. 2." In reality, this text is not from a letter of Pope Anacletus; rather it belongs to the ninth century Pseudo-Isidorian forgeries. Cf. Paulus Hinschius, Decretales Pseudo-Isidorianae et Capitula Angilramni, (Lepizig: Bernhard Tauchnitz, 1863), Ep. Pseudoisid. Ep. II Anacleti, c. 24, p. 79. In his note to this text Friedberg points out that it is modelled upon Isidore's De ecclesiasticis officiis, lib. 2, cap. 5 [PL 83:780-786]. For the history and influence of the Pseudo-Isidorian forgeries, cf. Stickler, op. cit., Tit. I., Cap. V, Art. III: De Collectionibus Reformationis Carolinae Spuria (Pseudo-Isidori), 117-142.

⁶⁹Ibid.

reperitur; episcopatus enim et huiusmodi non proprie sunt ordines sed dignitates. Ex dispensationis autem dignitate apostolos ceteros anteibat, quia ipse aliis predicandi officium et alia huiusmodi dispensabat; in duobus itaque prioribus ceteri apostoli cum eo pari consortio honorem et potestatem acceperunt, sed in hoc ultimo ei impares fuerunt.⁷⁰

Rufinus had previously quoted Peter Lombard's definition of ordo; ⁷¹ here he reflects Lombard's statement that the episcopacy is a dignitas and not an ordo.⁷² Rufinus' analysis is valuable for he shows that with respect to the priesthood, all priests are equal in ordo. The bishop's superiority over the simple priest arises from consecration; it is not a superiority in ordo. Peter's primacy is neither one of order nor of consecration, but it is a primacy of administration (or dispensatio). It is Peter who gives the other apostles their office of preaching. Thus, while Peter Lombard merely stated that the episcopacy is a dignitas, Rufinus further specified that the episcopal dignitas arose from the consecration of the bishop and not from his ordo (i.e. his priesthood).

Stephan of Tournai followed the solution of Rufinus:

Ex dignitate consecrationis praeest episcopus cuilibet clerico, etiam presbytero; ex dignitate ordinis praeest archipresbyter archidiacono. Sed e converso ex dignitate administrationis

⁷⁰Rufinus, Summa, Dist. 21.c.2, "In novo," Singer, 45. This same division of prelatura can also be found, ibid., Dist. 25.c.1, "Perlectis" s.v. Archipresbyter subesse subdiacono, 58-59, and in Sicardus, Summa, Dist. 93, s.v. ad devotionem (Vat. Pal. Lat. 653), f. 74va

⁷¹Ibid., Dist. 21.c.1, "Cleros," Singer, 44. Peter Lombard, op. cit., Lib. IV, Dist. XXIV, cap. xiii.

⁷²Peter Lombard, op. cit., Lib. IV, Dist. XXIV, cap. xiv, 606.

archidiaconus praeest archipresbytero. Sic et Petrus aliis praefuit apostolis administratione, non consecratione vel ordine.⁷³

The glossa ordinaria also presented every bishop as the equal of the apostles in consecration and order: "Arg. quod omnis episcopus fit par apostolico quantum ad ordinem et consecrationem....Petrus tamen maior fuit aliis in administratione."⁷⁴

Gratian quoted from the same letter of "Pope Anacletus," which he had cited to show the primacy of Peter, to prove that bishops should be consecrated by no less than three consecrators:

Porro et Ierosolimitarum primus archiepiscopus beatus Iacobus, qui iustus dicebatur et secundum carnem Domini frater nuncupatus est, a Petro, Iacobo et Iohanne apostolis ordinatus est, successoribus videlicet dantibus formam eorum, ut minus, quam a tribus episcopis, reliquisque omnibus assensum prebentibus, nullatenus episcopus ordinetur.⁷⁵

This text raised a problem for the Decretists. If all the apostles were made bishops by Christ, what precisely did James receive in this ordinatio by Peter, James and John?

Simon of Bisignano, whose Summa was completed between 1127 and 1179, had been a pupil of Gratian.⁷⁶ He proposed three possible answers:

est ordinatus: Cum omnes apostoli essent episcopi, ut supra, dist. xxi, in novo [Dist.21.c.2, "In novo"], quid est quod hic dicitur, quod Iacobus est ordinatus episcopus ab illis tribus? Quidam dicunt quod fuit ordinatus, i.e. in sedem locatus; vel ordinatus non in

⁷³Die Summa des Stephanus Tornacensis über das Decretum Gratiani, ed. Joh. Friedrich von Schulte, (Giessen: Emil Roth, 1891), Dist.21.c.2, "In novo," 31. [Hereafter cited Stephan of Tournai, Summa.] Though he was French by birth and became bishop of Tournai, Stephan belonged to the Bolognese school; he closely followed Rufinus in his work, which appeared during the 1150's. Cf. Kuttner, op. cit., 133-136; Van Hove, op. cit., 434.

⁷⁴Dist.21.c.2, "In novo," glossa ordinaria s.v. pari.

⁷⁵Dist.66.c.2, "Porro." Cf. Hinschius, op. cit., c. 18, p. 75.

⁷⁶Kuttner, op. cit., 149; Van Hove, op. cit., 435.

episcopum set in archiepiscopum per pallii dationem; vel ab illis fuit ordinatus, i.e. consecratus visibili unctione, quam non habebat, licet esset episcopus quoad officia exercenda et intrinsecam gratiam.⁷⁷

For Simon, who assumes that all the apostles were bishops, the "ordination" of James could only mean that he received a definite see, or the pallium (making him an archbishop), or a visible anointing. Such an anointing, however, would not have conferred upon him the powers or the grace of the episcopacy, which he already possessed.

Sicardus of Cremona, writing shortly after Simon, considers the opinion of some who held that the apostles had not been bishops, but only priests:

Queritur quid sit collatum Iacobo in sua ordinatione. Respondent quidam quod apostoli erant simplices sacerdotes, non episcopi, ratione consecrationis. Tunc episcopi dici possunt propter amministrationem et officium, quia ea faciebant quae nunc soli episcopi. Postea vero ad tollenda schismata quae erant, causa parilitatis eorum, institutum est ut unus ceteris preferetur, et maior a minoribus consecratur; et hoc habent in d. xxi, clerici [Dist.21.c.1, "Clerici"], in novo [Dist.21.c.2, "In novo"] et xcv, olim [Dist.95.c.5, "Olim"]. Alii dicunt quod omnes fuisse presbyteros et episcopos, non consecratione olei materialis sed spiritualis....Ergo secundum primos dignitas episcopalis est Iacobo collata; secundum secundos est ei tantum amministratio limitata. Nam cum essent constituti principes super omnem terram, indifferenter omnes omnibus ministrabant ecclesiis. Sed Iacobo assignata est Hierosolima, ut eius curam pre ceteris gereret et nullus, eo inscio vel invito, aliquid ibi presumeret.⁷⁸

The second opinion given by Sicardus is the same as the first given by Simon, namely, that James "ordination" was only his assuming

⁷⁷Simon de Bisignano, Summa, (Augsburg, Kreis- und Stadtbibl. I), Dist.66.c.2, f. 8.

⁷⁸Sicardus of Cremona, Summa, (Vat. Pal. Lat. 653), Dist.66.c.2, f. 75va.

the amministratio of a particular church, Jerusalem, rather than the universal ministry then exercised by the other apostles. The first opinion given by Sicardus, however, would maintain an original equality between priests and bishops. Only later, and for disciplinary reasons, would a change have come about whereby the bishop was superior to the priest by his very consecration. Sicardus specifically makes the application of the relation between the apostles and the disciples to the relation between priests and bishops:

Et attende quod episcopi dicuntur tenere locum apostolorum, presbyteri lxxii discipulorum, quia sicut apostoli preerant discipulis in amministrazione, sic episcopi sacerdotibus in amministrazione et officiorum executione. Olim namque in amministrazione disparet, in officiis erant pares, quia quodcumque sacramentum dabat Petrus, quilibet sacerdos conferre poterat. Hodie vero disparet sunt in utroque cum solis episcopis liceat confirmare et similia.⁷⁹

The officium in question here has to do with the conferral of the sacraments, as the clause "quia quodcumque sacramentum..." shows. Thus, from the original situation in which apostles and disciples held the same officium with respect to all the sacraments, there arose a new arrangement in which the bishops held not merely an administrative superiority over priests, but also a superiority in officium. This opinion seems to reflect the famous statement of Jerome: "Olim idem presbiter, qui et episcopus."⁸⁰

⁷⁹Ibid.

⁸⁰Jerome, Comm. in Tit. 1:5, PL 26:596. The history and influence of this opinion will be discussed infra, p. 29, in connection with Dist. 93.c.24 "Legimus," and Dist.95.c.5, "Olim," for it is in connection with these two capitula taken into the Decretum from Jerome that most of the Decretists discussed the question.

Huguccio mentions that some would maintain that the apostles were only priests, but he rejects this notion and maintains all were bishops:

ordinatus est archiepiscopus--Sed numquid non erat episcopus ipse et omnes alii apostoli? Sic videtur, quia Petro primus datus est pontificatus et postea quilibet aliorum pari honore et potestate cum Petro peditus est, ut di. xxi, in novo [Dist. 21.c.2, "In novo"]. Fuit ergo Iacobus episcopus. Item, ut in eodem cap. dicitur, episcopi successerunt in locum apostolorum. Unde videtur quod apostoli fuerunt episcopi. Item de Iuda dicitur: et episcopatum eius accipiat alter [Psalm 108:8; Acts 1:20]. Item isti tres consecraverunt Iacobum. Unde videtur quod essent consecrati, nam insacratu sacrare non potest. Hiis omnibus videtur quod apostoli fuerunt episcopi--sic et Iacobus. Qualiter ergo ordinatus est in episcopum? Numquid ex certa scientia reordinatus est, quod non licet, ut di. lxviii, c. 1 [Dist. 68.c.1, "Sicut semel"] et de con., di. iiii, non licet [De cons. Dist. 4.c.107, "Non licet"]? Si vero dicatur quod apostoli essent simplices sacerdotes, quomodo potuerunt <episcopum ordinare? Quidam dicunt quod omnes apostoli erant simplices sacerdotes, potuerunt⁸¹ tamen episcopum consecrare divina inspiratione. Nam, ut dicunt, Moyses simplex sacerdos erat et tamen ex precepto Domini Aaron in summum sacerdotem consecravit, ut di. xxi, ~~P~~¹ [Dist. 21.dic- tum ante c.1, "Decretis"]. Preterea, ut dicunt, tunc temporis omnes presbyteri poterant conferre omnia sacramenta. Sed utrum hoc sit verum vel non, infra, d. xciii, legimus [Dist. 93.c.24, "Legimus"], determinabitur. Sed nec credo Moysen simplicem sacerdotem fuisse, immo summum; ar. di. xxii, c. ii [Dist. 22.c.2, "Sacrosancta"]. Dico ergo quod omnes apostoli erant episcopi, et ipse Iacobus similiter, et fuerunt facti episcopi a Christo. Sed qualiter, ignoratur. Qualiter ergo Iacobus est ordinatus in episcopum? Respondent quidam: ordinatus est non in episcopum set in archiepiscopum per pallii dationem, vel ordinatus, i.e., administrationi certi loci deputatus. Omnes enim apostoli constituti erant principes super omnem terram et promiscue et indifferenter omnes ubique administrabant. Sed tunc Iacobus illi ecclesie specialiter addictus est ut eius pre aliis ecclesiis curam gereret. Nec alii apostoli quicquam, eo invito vel inconsulto, ibi presumerent.⁸²

Huguccio would conclude that the "ordination" of James was only held to serve as a model for future rites of episcopal consecration:

⁸¹Huguccio, Summa Decretorum, (Munich, Staatsbibl. 10247), Dist. 66.c.2, f. 74^{rb}. [There is a homoioteleuton at this point in the Admont ms.].

⁸²Ibid., (Admont, Stiftsbibl. 7), Dist. 66.c.2, f. 95^{rb}.

Cum inunxerunt ad hoc tantum ut formam pastoris darent neminem a paucioribus quam a tribus episcopis debere ordinari episcopum; et tunc in veritate iam episcopus erat et interius invisibiliter inunctus a spiritu sancto, et ipsi et omnes alii apostoli erant episcopi, quia omnes habebant sacramentum illius ordinis. Signum ergo accepti sacramenti ei contulerunt ut darent exemplum aliis in futurum.⁸³

Huguccio, then, like Simon of Bisignano, taught that all the apostles were created bishops by Christ. Huguccio not only calls them bishops but affirms that they received the "sacramentum illius ordinis." He promises to discuss in another place the opinion of those who held that originally all priests could confer all the sacraments.⁸⁴ Huguccio also denies that Moses was a simple priest; he believes that Moses was a high priest and could, therefore, consecrate Aaron high priest.

Huguccio posits divine intervention as a necessary factor in the very first ordinations of a bishop or priest in the Church. This is introduced into a discussion of the possibility of ordination to the episcopacy or priesthood by a layman or cleric [below the order of priesthood]:

Quid si nullus esset episcopus, nullus presbyter, posset ecclesia statuere ut clericus vel laicus ordinaret episcopum vel presbyterum? Responded: tunc necessaria esset divina inspiratio qualiter hoc deberet fieri et qualiter presbyter vel episcopus debet tunc ordinari, sicut factum credo quando primus episcopus vel primus sacerdos fuit ordinatus.⁸⁵

⁸³Ibid., f. 95^{rb}-95^{va}.

⁸⁴Dist. 93.c.24, "Legimus," cf. infra, pp. 35-38.

⁸⁵Huguccio, Summa Decretorum, (Admont, Stiftsbibl. 7), Dist. 66. c.2, f. 95^{rb}.

This response of Huguccio is obviously based upon the fact that the evidence of the New Testament concerning the constitution of the ecclesiastical hierarchy is neither extensive nor unambiguous.⁸⁶ Huguccio finds in divine inspiration the factor which guided the Church in her transition from apostolic to post-apostolic times.

Huguccio's affirmation of the episcopal status of all the apostles is echoed by the glossa ordinaria:

ordinatus--i.e. ad certi loci administrationem electus; vel ordinatus simpliciter. Sed nonne omnes apostoli erant episcopi? Videtur quod sic: quia Petro primo fuit datus pontificatus, et omnes alii fuerunt pari potestate pediti, ut 21 dist., in novo [Dist.21.c.2, "In novo"]. Item episcopi successerunt in locum apostolorum, ut 68 dist., quorum [Dist.68.c.6, "Quorum vices"]. Ergo apostoli fuerunt episcopi. Item legitur de Iuda quod episcopatum eius accipiat alter [Ps. 108:8; Acts 1:20]. Ad hoc dicunt quidam quod omnes apostoli erant simplices sacerdotes, et tamen consecrare poterant. Nam Moyses simplex sacerdos erat et tamen consecraverit Aaron, ut 32 dist.,⁸⁷ Nec tunc differentia erat inter episcopum et sacerdotem, ut 95 dist., olim [Dist.95.c.5, "Olim"]. Vel dic quod tantum visibili unctione hi tres consecraverunt eum; sed prius erat invisibiliter unctus a Domino. Vel dic quod non ordinarunt eum, sed tantum formam ordinandi aliis ostenderunt. Vel dic quod non in episcopum sed in archiepiscopum eum ordinarunt. Vel dic ordinarunt, id est, inthronizarunt eum ad administrationem certi loci; prius enim erat episcopus sine titulo.⁸⁷

The statements of Sacred Scripture concerning Peter and James were not the only biblical sources available to the canonists. Certain statements of Saint Paul had long been the subjects of discussion and

⁸⁶Cf. Fernand Prat, S.J., The Theology of Saint Paul, 2 Vols., (Westminster, Md.: The Newman Bookshop, 1958), Vol. I, Book V, Chapter II, 341-349; Pierre Benoit, O.P., Exégèse et Théologie, 2 Vols., (Paris: Les éditions du Cerf, 1961), Tom. II, "Les origines de l'épiscopat dans le Nouveau Testament," 232-246.

⁸⁷Dist.66.c.2, glossa ordinaria, s.v. ordinatus.

controversy regarding the relationship between bishops and priests.

In two places Paul referred to bishops and deacons without mentioning the intermediate order of priests. In the first verse of his epistle to the Philippians, he had written: "Paul and Timothy, servants of Jesus Christ, to all the saints in Christ Jesus that are at Philippi, with the bishops and deacons" [Phil. 1:1]. In writing to Timothy Paul spoke of the qualities required in a bishop and in a deacon [I Tim. 3:1-7]. Paul here used the terms: "episkopoi" and "diakonoi."

Two other passages which occasioned commentary were those in which Paul used the terms "episkopoi" and "presbyteroi" as synonyms. In Acts 20:17 it is recounted that Paul sent to Ephesus "for the presbyters of the Church"; in his address to the assembled group, Paul calls them "bishops": "Take heed to yourselves and to the whole flock in which the Holy Spirit has placed you as bishops, to rule the Church of God" [Acts 20:28]. So also in Titus 1:5 Paul instructs Titus to appoint "presbyters in every city" who should be "blameless" [Tit. 1:6]; then he continues: "For a bishop must be blameless as being the servant of God" [Tit. 1:7].

In commenting upon such a passage, Saint Jerome had written: "Idem est presbyter qui et episcopus."⁸⁸ This statement gave rise to a whole tradition of theological and canonical discussion on the nature of the equality posited between bishops and priests. The entire history of

⁸⁸Jerome, Comm. in Tit. 1:5, PL 26:596.

this tradition is far too complex to be summarized here. It has been studied recently by the late Bishop Landgraf,⁸⁹ Fr. Lécuyer, C.S.Sp.,⁹⁰ and Fr. Doronzo, O.M.I.⁹¹

What is important for the present inquiry is the fact that this tradition entered the medieval canonical literature through two citations from Jerome which Gratian placed in the Decretum. In Dist.93.c.24, he quoted Jerome's letter to Evangelus⁹² and in Dist.95.c.5, he quoted his commentary on the Epistle to Titus.⁹³

Gratian introduced these texts to establish practical, disciplinary measures; he indicated no desire to prove one or another theory on the nature of the episcopate from them. Distinctio 93 is concerned with obedience. The dictum of Gratian introducing this distinctio begins: "Obedientiam autem inferiores ex ordine superioribus debent."⁹⁴ The

⁸⁹Arthur Michael Landgraf, Dogmengeschichte der Frdhscholastik, (Regensburg: Friedrich Pustet, 1955), Dritter Teil, Band II, IX "Die Lehre vom Episkopat als Ordo," 280-283. The learned author notes that the influence of the Pauline theology which was interpreted through the commentaries of Jerome and his successors cannot be stressed too much with respect to the early Scholastics (ibid., 283).

⁹⁰J. Lécuyer, C.S.Sp., "Aux origines de la théologie thomiste de l'épiscopat," Gregorianum, XXXV, (1954), 56-89.

⁹¹Doronzo, De Ordine, Vol. II, 49-92. The author subjects the texts of Jerome concerning the episcopacy to detailed analysis; he then traces the history of these texts in later authors who commented upon them. He concludes with an explanation of the meaning which is truly warranted from the texts taken in the whole context of Jerome's writings.

⁹²Dist.93.c.24, "Legimus."

⁹³Dist.95.c.5, "Olim."

⁹⁴Dictum ante c.1.Dist.93.

immediate context of Jerome's statements, as Gratian made use of them, is to be found in the dictum immediately preceding them: "Sed quia (ut supra dictum est) diaconi insolescentes etiam presbiteris se preferendos arbitrati sunt, contra illorum supercilium scribit Ieronymus ad Evangelum presbiterum."⁹⁵ The quotation from Jerome is taken from a letter in which he extolls the presbyter in order to show that the deacons owed him respect.

...Nam cum Apostolus perspicue doceat eosdem esse episcopos, quos presbiteros; quid patitur mensarum et viduarum minister, ut supra eos se tumidus efferat, ad quorum preces Christi corpus sanguinisque conficitur? Queris auctoritatem? [He then cites Philipp. 1:1, Acts 20:28, Titus 1:5-7, I Tim. 4:14, I Peter 5:1-2, II John 1:1, III John 1:1]...Quod autem postea unus electus est, qui ceteris preponeretur, in scismatis remedium factum est; ne unusquisque ad se trahens Christi ecclesiam rumperet. Nam et Alexandriae a Marco Evangelista usque ad Eraclam et Dionisium episcopos, presbiteri ex se semper unum eligebant et in excelsiori gradu collocabant, quem episcopum nominabant: quomodo si exercitus imperatorem faciat. Diaconi autem eligant de se, quem industrem noverint, et archidiaconum nuncupent. Quid enim facit, excepta ordinatione, episcopus, quod non facit presbiter?... Presbiter et episcopus, aliud etatis, aliud dignitatis est nomen. Unde et ad Titum et Timotheum de ordinatione episcopi et diaconi dicitur; de presbiteris omnino reticetur: quia in episcopo et presbiter continetur.⁹⁶

A few pages beyond this citation, Gratian again uses Jerome as an authority, this time with regard to the proper relationship between bishops and the presbyters subject to them. Even in the presence of the bishop, the presbyters have certain rights and powers; the bishop should respect these rights and powers and not reserve all power to himself. As Gratian wrote in introducing the Distinctio:

⁹⁵Dictum ante c.24.Dist.93.

⁹⁶Dist.93.c.24; Jerome, Ep. 146, ad Evangelum, PL 22:1192-1195.

Quod autem sacerdotes supra iubentur episcopis tamquam subditi obedire, non ita intelligendum est, quasi non liceat eis, presentibus episcopis, sacra ministeria celebrare (sicut episcopali supercilio quidam ab his volebant presbiteros prohibere), sed quia presbiteri pontificibus tamquam filii parentibus debent obedire.⁹⁷

The citation from Jerome's commentary on Titus is important for he bases much of his argument on the institution of the superiority which bishops do have over priests:

Olim idem presbiter, qui et episcopus, et antequam diaboli instinctu studia in religione fierent, et diceretur in populis: "Ego sum Pauli, ego sum Apollo, ego sum Cephae" [I Cor. 1:12], communi presbiterorum consilio ecclesiae gubernabantur. Postquam autem unusquisque eos, quos baptizaverat, suos esse putabat, non Christi, in toto orbe decretum est, ut unus de presbiteris superponeretur ceteris, ad quem omnis ecclesiae cura pertineret, et scismatum semina tollerentur. et paulo post. Sicut ergo presbiteri sciunt se ex ecclesiae consuetudine ei, qui sibi prepositus fuerit, esse subiectos: ita episcopi noverint se magis consuetudine quam dispensationis Dominicae veritate presbiteris esse maiores, et in communi debere ecclesiam regere.⁹⁸

These texts implied some ecclesiastical intervention in the establishment of the episcopacy as it existed at the time of Jerome. The only thing which Jerome excepted from the influence of custom was "ordinatio," with regard to which he admitted the bishop's superiority.⁹⁹ The Decretists were faced with the problem of explaining these texts of Jerome and of reconciling them with other passages in the Decretum. The Decretists had to determine the extent of ecclesiastical intervention in the constitution of the episcopal office.

Rufinus admitted an original equality between bishops and priests even in name: "...quia adeo magni sunt presbiteri quod secundum primam

⁹⁷Dictum ante c.1.Dist.95.

⁹⁸Dist.95.c.5; Jerome, Comm. in Tit. 1:5, PL 26:596-598.

⁹⁹Dist.93.c.24: "Quid facit, excepta ordinatione..."

institutionem presbyteri in nullo ab episcopis--nec etiam in nomine--differebant: vocabantur enim et ipsi, episcopi."¹⁰⁰ He did not specify the other reasons for identity which existed together with identity of appellation.

Stephan of Tournai also mentioned an original identity of name: "Legimus--sacerdotes e contrario extollit contra superbiam diaconorum; primo, quia ab episcopis nec etiam in nomine differunt, et hoc secundum primitive ecclesie institutionem."¹⁰¹ He found justification for this in the fact that all bishops are also priests: "Nam in primitiva ecclesia episcopi vocabantur presbyteri, sed et omnes episcopi presbyteri sunt."¹⁰²

Stephan also pointed out, however, the areas in which there was no equality between bishops and priests; bishops could perform certain functions which were beyond the priest's power.

Immo si bene attendisset Hieronymus, multa sunt quae episcopus et non alius presbyter facere potest: ordinatio clericorum, consecratio virginum, dedicatio ecclesiarum, confectio crismatis, confirmatoria manus impositio, quae tamen omnia large ordinationis nomine continentur.¹⁰³

Stephan would, then, interpret Jerome's use of "excepta ordinatione" to include all those functions which a bishop alone could exercise. The bishops were priests who could also exercise these special activities. Among these functions were to be included both sacramental and non-

¹⁰⁰Rufinus, Summa, Dist.93.c.24, Singer, 188.

¹⁰¹Stephan of Tournai, Summa, Dist.93.c.24, Schulte, 115.

¹⁰²Ibid. ¹⁰³Ibid.

sacramental actions.¹⁰⁴

Sicardus of Cremona taught that Christ Himself had distinguished major and minor priests, but only later was a distinction of names introduced into the Church after the example of the pagans:

Discrevit Dominus inter sacerdotes cum XII apostolos quasi maiores et LXXII discipulos quasi minores instituit sacerdotes, Petrum autem in Summum Pontificem. Set hec discretio simplex fuit, i.e. sine forma nominum appropriatorum; simpliciter enim dicebantur maiores vel minores sacerdotes. Procedente vero tempore ab ecclesia sunt appropriata vocabula exemplo gentilium. Sicut enim ipsi dixerunt flamines, archiflamines, prothoflamines, ita dicit ecclesia presbyteros, archipresbyteros, episcopos, archiepiscopos.¹⁰⁵

The Summa "Omnis qui iuste" reveals another interpretation of Jerome. This Summa, by an anonymous author of the Anglo-Norman School, was written about 1186, probably at Paris. It is a voluminous work and shows the influence of the Bolognese masters, especially Joannes Faventinus and Simon of Bisignano.¹⁰⁶

In his first reference to the text of Jerome, the author of this Summa admits that the subjection of priests to bishops came about by custom; the distinction between them, however, is from Christ.

¹⁰⁴It is important to remember in this regard that an understanding of the definition of a sacrament and the determination of the number seven were arrived at during the twelfth century; Sacramental Theology was only perfected in the thirteenth century when the theologians elaborated the relationship between sign and cause. Cf. A. Michel, "sacrement," Dictionnaire de Théologie Catholique, Tom. XIV, Part. I, cols. 545-548; Emmanuel Doronzo, De Sacramentis in Genere, 42-47, 513-517.

¹⁰⁵Sicardus of Cremona, Summa, Dist. 21. c. 1. s.v. de discretione, (Vat. Pal. Lat. 653), f. 67vb.

¹⁰⁶Kuttner, op. cit., 197-198; Stephan Kuttner and Eleanor Rathbone, "Anglo-Norman Canonists of the Twelfth Century," Traditio, VII, (1949-1951), 284-290. This work is also called Summa Lipsiensis, for the first manuscript was found in the University Library at Leipzig.

quasi minores--in xcv, olim, [Dist.95.c.5, "Olim"] contra: ibi dicitur quod ex ecclesie consuetudine quidam sunt prepositi aliis. Solutio: Christus instituit XII apostolos quasi maiores, LXX discipulos quasi minores, non tamen ut illi XII subessent, nisi forte ipsi Petro, qui omnibus prefuit. Ex consuetudine, autem, postea, quidam aliis subditi sunt, ut ibi dicitur.¹⁰⁷

Thus, when Christ distinguished major and minor priests, the only subjection which he determined was subjection to Peter; later, ecclesiastical custom introduced the subjection of priests to bishops.

The type of subjection introduced by custom must be understood in relation to the entire relationship between priests and bishops. On this difficult point, the author of the Summa writes:

Olim idem presbyter qui et episcopus--non videtur verum quod hic dicitur, cum ante adventum Christi distincte erant dignitates, ut lxxx, urbes [Dist.80.c.1, "Urbes et loca"];¹⁰⁸ etiam gradus erant distincti, et sunt [Dist.79.c.4, "Nullus unquam"]. Ad hec nec post adventum erant ita equales, quia erant XII quasi maiores et LXXII quasi minores, ut lxviii di., corepiscopi [Dist.68.c.5, "Corepiscopi"]. Potest dici quod olim idem erat presbyter qui et episcopus quoad invisibilem unctionem et quoad sedes et quoad ordines, secundum quosdam--quod tamen ab aliis negatur, quia in primitiva ecclesia non erat solempnitas ordinationis que hodie est. Postea facta est sedium mutatio, ut lxvi, porro [Dist.66.c.2, "Porro"].¹⁰⁹

The author here distinguishes between "interior anointing" and "orders"; by "orders" he means the external rite ("solempnitas ordinum"), which perhaps did not exist in the early Church. There might have been an

¹⁰⁷Summa "Omnis qui iuste," Dist.21, "Decretis," in prin. s.v. quasi minores, (Leipzig, Universitätsbibl. 986), f. 14ra.

¹⁰⁸Dist.80.c.1, "Urbes et loca," is from a letter of Pope Lucius, who wrote that long before the time of Christ the major cities, where the apostles established patriarchs and primates, existed as centers of administration for the pagans.

¹⁰⁹Summa "Omnis qui iuste," Dist.95.c.5, "Olim," s.v. olim idem, (Rouen, Stadtbibl. 743), f. 43rb.

identity between bishops and priests in "interior anointing" and "sedes." Later, the identity with respect to "sedes" changed; this change refers to the time when James assumed possession of the church at Jerusalem (his "sedes"), rather than exercising the universal ministry, as did the other apostles.¹¹⁰

From the beginning, however, the XII existed as maiores with respect to the LXXII minores; this distinction continued in the Church in the distinction of bishops and priests:

dispensatione veritatis dominice--i.e. institutione domini viventis in carne, quia post electionem electi erant. Set mirum videtur quod hic dixit ieron. [Hieronymus] quod sola consuetudine sunt maiores episcopi presbyteris, cum auctoritate Domini instituti sunt episcopi, qui locum tenent apostolorum, et maiores fuerunt XII, quorum vicem gerunt episcopi, LXX, quorum locum hodie obtinent presbyteri, ut xx di., Decretis [dictum ante Dist.21.c.1, "Decretis"], et cap. In novo [Dist.21.c.2, "In novo"], et d. lxviii, corepiscopi [Dist.68.c.5, "Corepiscopi"].¹¹¹

If this text is taken in conjunction with the same author's commentary on the "quasi minores" of Gratian's dictum before Dist.21.c.1,¹¹² one can conclude that the distinction between "sacerdotes maiores et minores" was instituted immediately by Christ. The distinction endures in the distinction between bishops and priests. The element contributed by custom was the subjection of priests to bishops. Christ had instituted the apostles (and their successors, the bishops) as priests of a higher rank than the disciples (and their successors, the presbyters).

¹¹⁰Cf. supra, pp. 21-26, the "ordinatio" of James.

¹¹¹Summa "Omnis qui iuste," Dist.95.c.5, "Olim," s.v. dispensatione veritatis Dominice, (Rouen, Stadtbibl. 743), f. 43rb.

¹¹²Quoted supra, p. 33.

Like Stephan of Tournai before him,¹¹³ the author of the Summa

"Omnis qui iuste," listed some of the functions proper to bishops:

quid enim excepta ordinatione--immo si bene attendisset ieron. [Hieronymus] multa sunt quae episcopus et alius non potest facere--non tantum V., ut in Summa Io. dicitur,¹¹⁴ set multo plura. IX enim sunt, ut signavimus lxviii di., quamvis [Dist.68.c.4, "Quamvis"], que solis episcopis licent, et alia sunt quedam...que tamen omnia large ordinationis nomine continentur, ut quidam dicunt; vel ista interrogatio non infert negationem.¹¹⁵

This last clause is an innovation of the author of this Summa. He suggested that Jerome's question ("Quid facit, excepta ordinatione, episcopus, quod presbyter non faciat?")¹¹⁶ might require a positive response. Thus, the question would not imply that "ordinatio" was the only properly episcopal function. In context, however, it does not seem that Jerome intended his question to receive a positive answer, for he is speaking of the equality of bishops and priests.

When Huguccio came to comment upon the words of Jerome, he refused completely to admit any original identity between bishops and priests except in name. In a lengthy commentary, he gives a thorough exposition of the opinion which he rejects and his own opinion.

Tribus modis probat presbyteros esse maiores diaconis, sc. ratione appellationis, ratione constitutionis, ratione promotionis. Ratione

¹¹³Cf. supra, p. 31.

¹¹⁴Summa Io., i.e. Summa Joannes Faventinus.

¹¹⁵Summa "Omnis qui iuste," Dist.93.c.24, "Olim," s.v. quid enim excepta ordinatione, (Rouen, Stadtbibl. 743), f. 42vb. The "quidam" mentioned would refer, e.g., to Stephan of Tournai.

¹¹⁶Dist.93.c.24; Jerome, Ep. 146 ad Evangelum, PL 22:1192-1195.

appellationis quia olim indifferenter quilibet presbyter appellabatur presbyter et episcopus, et episcopus similiter presbyter et episcopus, et quod nomine presbyteri appellantur episcopi et e converso.... Resp. [Responsio] est ad tacitam obiectionem, sc. quare hoc fuit immutatum, et nota quod non negat quin etiam hodie omnis episcopus sit presbyter, set loquitur secundum antiqua tempora quando communiter et indifferenter presbyteri et episcopi appellebantur episcopi et presbyteri, quod postea immutatum est et non est hodie. Verum est quidem quod omnis episcopus est presbyter, et non e contrario. Set neuter appellatur nomine alterius qui ceteris preponeretur. Non potest dici quod in administratione vel prelacione, cum ab initio unus aliis pre- fuit et maiorem administrationem habuit. In quo ergo intelligitur esse facta hec prepositio. Et dicunt quidam in celebratione quorundam sacramentorum, que hodie simplicibus presbyteris prohibentur, ut di. lxviii, quamvis [Dist.68.c.4, "Quamvis"], et de con.di.v. manus [De cons.Dist.5.c.4, "Manus"]. Hic autem, ut dicunt, presbyteri et episcopi indifferenter omnia sacramenta celebrabant et ministrabant et confitebant. Unde secundum eos idem erat presbyter qui et episcopus, non solum in appellatione set etiam in sacramentorum celebratione, ut di. xcv, olim [Dist.95.c.5, "Olim"]. Set huic opinioni, sc. quod quantum ad sacramenta conferenda vel confitenda olim non fuisset differentia inter **episcopos et simplices presbyteros**, multum videtur repugnare, quod habetur de con.d.v.de hiis, manus [De cons. Dist.5.c.3, "De his," c.4, "Manus"]: ibi enim dicitur quod a tempore apostolorum obtinuit quod chrisma non posset conferri vel confici nisi ab apostolis et ab illis qui loco eorum successerunt; hi sunt episcopi. Ad hoc ipsi dicunt quod omnes presbyteri tunc succedebant loco apostolorum ad omnia ea que et episcopi, et ita in celebratione sacramentorum; tunc nulla erat differentia inter episcopos et presbyteros. Set postea, ad tollendum **<schisma>**¹¹⁷ que ex parilitate officiorum exortum erat, facta est, scil., ut talia sacramenta non possent confici vel conferri nisi ab episcopis; et sic non solum in administratione vel prelacione, set etiam in officiorum executione et in sacramentorum celebratione episcopi et presbyteri different. Respondent et aliter: utrumque obtinuit tempore apostolorum, sc. communitas sacramentorum et differentia. Primo enim omnes omnia sacramenta confitebant, set hoc modicum duravit. Postea, similiter tempore apostolorum, facta est inter eos diversitas, sc. ut quedam sacramenta solis episcopis concederentur, ut di. lxviii, quamvis [Dist.68.c.4, "Quamvis"], et ita hoc obtinuit a tempore apostolorum, ut de con.di.v.manus [De cons.Dist.5.c.4, "Manus"]. Si autem obitiatur istis quantum ad primam solutionem quod episcopi locum apostolorum et minores presbyteri locum LXXII discipulorum tenent, ut xxi di., in novo [Dist.21.c.2, "In novo"], et di. lxviii, quamvis [Dist.68.c.4, "Quamvis"], dicunt sic esse intelligendum, quia sicut apostoli

¹¹⁷Ms. "crisma."

preerant aliis discipulis in administratione, sic episcopi presunt aliis presbyteris. Ego autem credo quod ab initio **differentia** fuit inter episcopos et simplices presbyteros, sicut et modo est, et in administratione, et in prelatione, et in officio et in sacramentis. Set quoad **appellationem non erat**¹¹⁸ differentia, quia indifferenter et communiter et hii et illi dicebantur presbyteri et episcopi. Set quia schismata ceperunt esse in ecclesia Dei ex ipsa parilitate appellationis, differentia facta est etiam in ipsa appellatione, sc. ut simplices sacerdotes non dicerentur episcopi set simpliciter presbyteri, et episcopi tantum episcopi, ut di. lxxx, in illis [Dist.80. c.2, "In illis"]....tempore apostolorum fuit hec communitas nominum, set parum duravit, sc. usque ad Marcum, sc. quem Petrus in Alexandria episcopum constituit, qui Clementis fuit contemporaneus, et ita tempore apostolorum et hoc et illud obtinuit. Set primum communitas nominum, usque ad tempus Marci, deinde diversitas, ut hic dicitur. Est ergo quod ceteris preponeretur in appellatione nominis in schismatis remedium; arg. di. xlv, licet [Dist.45.c.4, "Licet"], et di. lxxxviii, ad hoc [Dist.89.c.7, "Ad hoc"], et di. xcv, olim [Dist.95. c.5, "Olim"], quia cum omnes dicerentur episcopi ex ipsa parilitate appellationis poterat oriri dissensio, ut presbyter sub occasione talis appellationis poterat velle sibi usurpare episcopalia.... nominabant--ex hoc collige quod illa prepositio facta est tantum quoad nominationem, quia prius erat quantum ad prelationem et sacramentorum celebrationem....

quid enim, excepta ordinatione--immo et multa alia sunt que facit episcopus et non presbyter, sc. virginum, altarium, ecclesiarum consecratio, crismatis confectio, puerorum in fronte consignatio, et similia, ut di. lxviii, quamvis [Dist.68.c.4, "Quamvis"], et xxvi. q.vi.c.i [C.26.q.6.c.1, "Si iubet"], et de con.di.v.manus [De cons. Dist.5.c.4, "Manus"]. Ad hoc dicunt quidam quod nomine ordinationis intelliguntur omnia ea que solis episcopis licita sunt; alii dicunt quod insufficienter excepit. Ego autem dico quod **sufficienter et caute excepit**. Non enim nomine ordinationis intelligitur ordinatio clericorum, set potius ordo episcopalis: per que intelliguntur omnia ea que ex illo ordine perveniunt, etc.; excepta ordine episcopali, i.e. ordine episcopali, i.e. exceptis eis que competit episcopo ratione ordinis episcopalis, nec altera.¹¹⁹

Huguccio denies, then, the introduction of any difference between

¹¹⁸Huguccio, Summa Decretorum, Dist.93.c.24; this correction is taken from Munich, Staatsbibl. 10247, f. 93v.

¹¹⁹Ibid., Admont, Stiftsbibl. 7, ff. 118v-119r. This ms. reads for the words corrected from the Munich ms.: "prelationem non esset" while the context obviously demands "appellationem."

bishops and priests except a clarification in their names. The reason for the change was purely disciplinary--to prevent the schisms which could be caused from different offices being designated by the same terms. Jerome had originally attributed the change in the identity between bishops and priests to the prevention of schism.¹²⁰ Huguccio's conclusion is emphatic: "Ego autem credo quod ab initio **differentia** fuit inter episcopos et presbyteros, sicut et modo est, et in administratione, et in prelatione, et in officio et in sacramentis."¹²¹ The only change could come about, as it did, in the names; this change occurred at the time of Mark, whom Peter named to the see of Alexandria.

The most significant element in Huguccio's discussion of the relationship between bishop and priest is found in his explanation of Jerome's phrase "excepta ordinatione." Previous commentators had taken this phrase to mean "ordinatio clericorum"; this interpretation led them to include in this term the other functions which only bishops could perform.¹²² Huguccio, however, takes Jerome's words to mean "ordo episcopalis." He would rephrase Jerome's question: "Quid facit, exceptis eis que competunt episcopo ratione ordinis episcopalis, episcopus, quod presbyter non facit?" The bishop's superiority over the simple priest

¹²⁰Jerome, Ep. 146 ad Evangelum, PL 22:1192-1195; Dist. 93.c.24. Sicardus of Cremona (cf. supra, p. 32) had taught that Christ distinguished bishops from priests, but the Church added the distinction of names after the example of the pagans, who used various names for their "flamines."

¹²¹Huguccio, loc. cit.

¹²²Stephan of Tournai, cf. supra, p. 31; Summa "Omnis qui iuste," cf. supra, p. 35.

lies not only in administratio and prelatio; he has also a superiority in ordo.

The position of Huguccio becomes clearer when it is compared with the conclusions of two authors who maintained the opposite opinion: Sicardus of Cremona and the author of the Summa "Imperatorie maiestati."

Sicardus, writing about 1180 at Bologna, had expressed the relationship between bishops and priests thus:

Attende quod episcopi dicuntur tenere locum Apostolorum, presbyteri LXXII discipulorum, quia sicut apostoli preerant discipulis in amministrazione, sic episcopi sacerdotibus in amministrazione et officiorum executione. Olim namque in amministrazione dispare, in officiis erant pares, quia quodcumque sacramentum dabat Petrus, quilibet sacerdos conferre poterat; hodie vero dispare sunt in utroque, cum solis episcopis liceat confirmare et similia.¹²³

Two things should be noted in the statements of Sicardus: his use of the term "officia" and his affirmation that originally priests and bishops were equal "in officiis." He identifies "officia" with "executio officiorum"; after first noting that bishops are superior to priests in the "executio officiorum," he concludes that they are superior simply "in officiis." He uses the term "officia" in the plural to refer to the conferring of the sacraments, as the two explanatory clauses "quia quodcumque..." and "cum solis episcopis..." show. Because every priest could originally confer whatever sacraments Peter could, he affirms that originally priests and bishops were equal "in officiis." Later disparity arose, when the conferring of certain sacraments was limited to bishops.

Sicardus had obviously read and been influenced by the Summa

¹²³Sicardus, Summa, Dist.66.c.2, (Vat. Pal. Lat. 653), f. 73va.

"Imperatorie maiestati." The anonymous author of this Summa, who was a member of the French school of canonists, wrote between 1175 and 1178.¹²⁴ His conclusions regarding the relation between bishops and priests are expressed in this way:

Dicendum ergo quod, cum hodie in ecclesia Christi inter episcopos et minores presbiteros duplex sit differentia, videlicet in amministrazione, quantum alii aliis presunt iudicii potestate, et institutionis, et precepti; item et in officii executione--multa enim faciunt episcopi que ceteris presbiteris illicita sunt, ut d. lxviii, quamvis [Dist.68.c.4, "Quamvis"]. Olim non in officio, sed in amministrazione sola differebant. Quodcumque enim sacramentum conferre poterat Petrus, poterat et minimus sacerdos, sicut hodie videmus in episcopis....Quod autem dicuntur episcopi locum apostolorum et minores presbiteri locum LXXIIorum discipulorum tenere, ita intelligendum est, nam sicut apostoli preerant discipulis aliis in amministrazione, sic episcopi presunt aliis presbiteris. Postea vero ad tollendum scisma, quod propter officiorum parilitatem exortum erat, institutum est, ut de cetero non solum in amministrazione, verum etiam in officii executione different.¹²⁵

The author of this Summa also uses "officium" and "executio officiorum" interchangeably: "Item et in officii executione...Olim non in officio...verum etiam in officii executione." In contrast to his successor, Sicardus, however, he always uses "officium" in the singular. This author also held an original equality between priests and bishops "in officio" together with an inequality "in amministrazione."

Both Sicardus and the author of the Summa "Imperatorie maiestati" spoke of "officium-officia" in terms of conferring the sacraments.¹²⁶ Both refer to an original situation in which any priest could confer the same sacraments which Peter could confer. The "officium" which became

¹²⁴Kuttner, op. cit., 179-180; Van Hove, op. cit., 437.

¹²⁵Summa "Imperatorie maiestati," Dist.66.c.2, (Munich, Staatsbibl. 16084), ff. 9v, 11r [f. 10rv is an interpolated text].

¹²⁶Sicardus, Summa, loc. cit.

proper to the bishop was defined in terms of a change in this situation.

The author of the Summa "Imperatorie maiestati" also uses the term "ordo": "episcopatus ordinem ceteris ordinibus superiorem."¹²⁷ The expression occurs in the question concerning the possibility of any change in the relationship of bishops and priests, since the distinction between major and minor priests existed from the beginning. The author replies with the distinction between "administratio" and "officium."

Huguccio would also use the term "ordo" and he would use it in a more precise manner than the author of the Summa "Imperatorie maiestati." Huguccio first denied that any change came about in "administratio" or "prelatio": "non potest dici quod in administratione vel prelatione, cum ab initio unus aliis prefuit et maiorem administrationem habuit."¹²⁸ He likewise rejected the opinion of those who found a change with respect to the sacraments. Such a change was supposedly introduced to avoid the schisms which could arise "ex parilitate officiorum eorum."¹²⁹

For his part, Huguccio maintained a difference between priests and bishops: "ab initio differentia fuit inter episcopos et presbyteros sicut et modo est et in administratione et in prelatione et in officio et in sacramentis."¹³⁰

This terminology should be noted. Huguccio considers together "administratio" and "prelatio"; then he discusses "officium" ("executio

¹²⁷Summa "Imperatorie maiestati," loc. cit.; note that this author uses as synonyms the terms: "episcopatus ordinem," "officium" (in officio...~~differe~~"), and "executio officii" ("in officii executione ~~different~~"), and each of them is defined in relation to the sacraments.

¹²⁸Huguccio, Summa Decretorum, Dist.93.c.24, (Admont, Stiftsbibl. 7), f. 119ra.

¹²⁹Ibid.

¹³⁰Ibid.

officii") and "celebratio sacramentorum." He uses these last two expressions interchangeably only when he considers the opinion of those who maintained a change in the original situation. Then he concludes that because of the danger of schism "ex parilitate officiorum" certain sacraments were limited to bishops. He concludes by attaching to the "ordo episcopalis" those functions which pertain to the bishop "ratione ordinis episcopalis," that is: "omnia ea que solis episcopis licita sunt"; he gives some examples: "virginum, altarium, ecclesiarum consecratio, crismatis confectio, puerorum in fronte consignatio, et similia."¹³¹

Now the two terms of the Summa "Imperatorie maiestati" ("officium et administratio") are parallel to the four terms of Huguccio ("officium--celebratio sacramentorum" and "administratio--prelatio"). What is revealed here is the growing awareness among the canonists of the various elements involved in the episcopacy. The two-fold division which these authors present is the beginning of the distinction between "potestas ordinis" and "potestas iurisdictionis." "Officium" was losing its purely liturgical character; the "officium" was no longer identified only with the exercise of the functions of sacred orders. "Administratio" yet embraced temporal and spiritual power; but these aspects of the episcopacy were beginning to be understood as separate from the bishop's power over the sacraments. "Officium" still maintained some relationship to the sacraments.¹³² Only the Decretalists would completely distinguish "potestas

¹³¹ Ibid.

¹³² Cf. Heintschl, op. cit., pp. 33-34, 40-48.

ordinis" from "potestas iurisdictionis."

There is considerable difference, however, in the precision with which Huguccio and the author of the Summa "Imperatorie maiestati" speak of "ordo" and "officium" and the general meaning which Isidore had given to these terms ("ecclesiastica officia," "ecclesiae gradus," "ministeria clericorum").¹³³ The term "ordo" has with Huguccio a meaning much closer to that given to it by the theologians, who attempted to give a strict definition of the Sacrament of Order and of the "ordines" in the strict sense.¹³⁴

The influence of Huguccio can be seen in the glossa ordinaria to the Decretum, but it is evident that Joannes Teutonicus prefers the opposite position.¹³⁵

postea--Hic respondet tacitae obiectioni quare hoc immutatum est: et ad hoc respondet. Sed queritur quomodo facta fuit hec prelatio? Si dicatur quod in officio, contra, de conse.dist.5, manus [De Cons.Dist. 5.c.4, "Manus"], quia exercere episcopalia non licuit, nisi his qui successerunt in locum apostolorum, 68 dist., quorum vices [Dist.68.c. 6, "Quorum vices"], 21 dist., in novo [Dist.21.c.2, "In novo"]; et ita hec prelatio ab initio facta fuit. Si autem dicatur quod in nomine, obstat 80 dist., in illis [Dist.80.c.2, "In illis"], quia ibi dicitur quod quidam prepositi sunt qui tantum episcoporum vocabulo, etc. Ad hoc dicunt quidam quod in prima primitiva ecclesia commune erat officium episcoporum et sacerdotum, et nomina erant communia, 95 dist., olim [Dist.95.c.5, "Olim"], et officium erat commune; sed in secunda primitiva [ecclesia] ceperunt distinguere et nomina et officia. H. [Huguccio] dicit quod tantum in nomine fuit facta prelatio; primo enim omnes dicebantur sacerdotes, licet quidam aliis prelati essent quantum ad officium. Et quod dicitur 80 distin., in illis [Dist.80.c.2, "In

¹³³Dist.21.c.1, "Cleros et clericos."

¹³⁴This is the basis for Doronzo's statement: "Sententia negans sacramentalitatem episcopatus fuit olim, tum numero tum auctoritate patrum, decisive praedominans apud theologos usque ad Conc. Tridentinum; hinc opinio theologorum vocabatur, in oppositione ad opinionem canonistarum, qui ei adversabatur." (De Ordine, Tom. II, p. 121; cf. also p. 184).

¹³⁵Dist.93.c.24, glossa ordinaria, s.v. postea.

illis"], qui tantum episcoporum vocabulo potirentur, expone: i.e. non archiepiscoporum nec primatum; et ita excluditur superius, non inferius. Tertii dicunt quod prelatio hec facta fuit et quoad nomen et quoad administrationem et quoad quedam ministeria que spectant tantum ad officium episcopale; et fuit hec prelatio facta a tempore Petri. Et hoc innituit hec littera, ibi: Nam et Alexandriae a Marco evangelista, usque ad Heraclam et Dionysium: quia Marcus fuit contemporaneus Petro et Clementi, arg. 25.q.1, cum beatissimus [C.24.q.1. c.16, "Cum beatissimus"]; Heracla autem et Dionysius fuerunt contemporanei ipsi Hieronymo; et ita est contra sedatum, 80 dist., in illis [Dist.80.c.2, "In illis"], et illud de con. distinct. 5, manus [De cons. Dist.5.c.4, "Manus"]. Ante prelationem ergo ista nomina: presbyter, episcopus, erant prorsus synonyma et etiam administratio communis erat; quia communi consilio sacerdotum regebantur ecclesiae, 95 dist., olim [Dist.95.c.5, ["Olim"]]. In schismatis ergo remedium (ut hic dicitur) facta est prelatio, et unus preesset et quoad nomen et quoad administrationem et quoad quedam sacramenta, que modo appropriantur episcopis.¹³⁶

The author of the glossa ordinaria favors the third opinion he cites ("et hoc innituit hec littera") rather than the opinion of Huguccio.

¹³⁶This gloss summarizes the discussion among the canonists: the question is raised: why was the original status of equality between bishops and priests changed? To answer this question, one must answer a previous question: what was changed? Three solutions to this are offered:

- ¹⁰in the early primitive Church, equality in name and office;
- in the later primitive Church, inequality in name and office.

In this opinion "officium" is "administratio," "prelatio"; this is the opinion of the Summa "Omnis qui iuste" (Leipzig, Universitätsbibl. 986, f. 14ra; cf. supra, p. 33).

- ²⁰original equality in name only; inequality in office and sacraments; later inequality in name also.

This is Huguccio's opinion (Admont, Stiftsbibl. 7, ff. 118v-119r; cf. supra, pp. 35-37).

- ³⁰original equality in name and administration and "quedam ministeria"; later inequality in name and administration and "quedam ministeria." This was introduced as a remedy for the schisms which the original equality occasioned. This is the opinion of Sicardus of Cremona (Vat. Pal. Lat. 653, f. 73va; cf. supra, p. 39) and the Summa "Imperatorie maiestati" (Munich, Staatsbibl. 16084, ff. 9v, 11r; cf. supra, p. 40). This is the opinion which the author of the glossa ordinaria finds supported by the "littera" of Dist.93.c.24. The text of Jerome cited in Dist.93.c.24 (cf. supra, p. 29), however, is not concerned with the bishop's superiority with respect to conferring the sacraments, but with his superiority in "administratio": this is the conclusion of Doronzo, De Ordine, Tom. II, pp. 49-93.

Among the Decretists, then, there was general agreement that from the beginning the bishop differed from the priests, and that this difference depended upon the institution by Christ of XII as apostles and LXXII as disciples. The commentators differed about later changes: did all the episcopal prerogatives exist from the beginning or were some introduced by the Church during the time of the apostles or perhaps later?

II. The Minister of the Sacrament of Confirmation.

Further insight into the canonists' understanding of the episcopacy is to be found in an analysis of their explanation of the bishop's power in the conferring of the sacraments. The major problem which faced the canonists in this area was that of the minister of the sacrament of Confirmation. The Decretists had to reconcile the apparently conflicting auctoritates which Gratian had cited in this matter.

In discussing the privileges of priests, Gratian quoted a letter of Pope Gregory the Great, who had given permission to confirm to priests:

Pervenit quoque ad nos, quosdam scandalizatos fuisse, quod presbiteris crismate tangere eos, qui baptizati sunt, prohibuimus. Et nos quidem secundum veterem usum nostre ecclesie fecimus. Sed si omnino hac de re aliqui contristantur, ubi episcopi desunt, ut presbiteri etiam in frontibus baptizatos crismate tangere debeant, concedimus.¹³⁷

¹³⁷Dist.95.c.1, "Pervenit." Gratian's inscriptio reads: "Gregorius scribit Ianuario episcopo Caralitano." Cf. Jaffé, Regesta Pontificum Romanorum ab condita ecclesia ad annum post Christum natum MCXCVIII [1198], editio secunda correctata et aucta auspiciis Gulielmi Wattenbach, curaverunt S. Loewenfeld, F. Kaltenbrunner, P. Ewald, 2 Vols., (Lepizig: Viet et Comp., 1885-1888), JE 1298. [Citations to Jaffé, revised edition, are given according to the editors, thus: for the years up to 590, Kaltenbrunner, cited JK; from 590 to 882, Ewald, cited JE; and from 882 to 1198, Loewenfeld, cited JL.]

Gratian treated the sacraments explicitly in the De Consecratione, the third part of the Decretum. Here he cited texts which limited the conferring of Confirmation to bishops. In Distinctio IV, while treating Baptism, he included two texts, by Innocent I and Gregory the Great, which also referred to Confirmation:

Presbiteris (seu extra episcopum, seu presente episcopo cum baptizant) crismate baptizatos ungere liceat; sed quod ab episcopo fuerit consecratum; non tamen frontem ex eodem oleo signare, quod solis debetur episcopis, cum tradunt paraclitum.¹³⁸

Presbiteri baptizatos infantes signare in frontibus sacro crismate non presumant; sed presbiteri baptizati ungant in pectore, ut episcopi postmodum confirmant in fronte.¹³⁹

The explicit treatment of Confirmation is the first subject in the V Distinctio. The first citation is from "Pope Urban," who spoke of the reception of the Holy Spirit "per manus impositiones episcoporum."¹⁴⁰ The next citation, from "Pope Melchiades," clearly restricts Confirmation to bishops: Confirmation "maioribus, id est, summis pontificibus est accomodatum, quod a minoribus perfici non potest."¹⁴¹ The text of "Pope Eusebius," however, is the most explicit of all and it is this text which was most frequently the subject of the Decretists' commentaries:

¹³⁸De. cons. Dist. 4. c. 119, "Presbyteris"; Epist. 1, c. 3, anno 416, JK 311.

¹³⁹De Cons. Dist. 4. c. 120, "Presbyteri baptizatos"; Ex registro Gregorii ad Januarium episcopum Caralitatem, lib. 3, epist. 9, JE 1079.

¹⁴⁰De Cons. Dist. 5. c. 1, "Omnes fideles"; Urbanus I omnibus Christianis, epist. 1, cap. 7, JK 87; Caput Pseudoisid. no. 10, Hinschius, op. cit., p. 146.

¹⁴¹De Cons. Dist. 5. c. 3, "De his vero"; Melchiades papa in epist. ad episcopos Hisp., c. 2; JK 171; Caput Pseudoisid. no. 6, Hinschius, op. cit., p. 245.

Manus quoque impositionis sacramentum magna veneratione tenendum est, quod ab aliis perfici non potest, nisi a summis sacerdotibus, nec tempore apostolorum ab aliis, quam ab ipsis Apostolis legitur aut scitur peractum esse; nec ab aliis quam qui eorum tenent locum, umquam perfici potest aut fieri debet. Nam si aliter presumptum fuerit, irritum habeatur et vacuum, nec inter ecclesiastica umquam reputabitur sacramenta.¹⁴²

The "antiquity" of these Pseudo-Isidorian texts contributed to their authority: Urban I was pope in the early third century [227-233] and Melchiades [311-314] and Eusebius [309-310] in the early fourth century. These forgeries, composed in the ninth century, entered canonical collections at the time of the Gregorian reform. It is important to note that their authenticity was accepted in the twelfth century and only in the fourteenth century were serious doubts raised concerning them. The Decretists were faced with the problem of explaining Gregory the Great's concession of Confirmation to priests, when his predecessors had limited it to bishops.

The Summa of Stephan of Tournai offered two possible solutions:

151. speciale fuit quando pro scandalo ecclesie sedando Gregorius id ad tempus concessit; vel dicimus quod in primitiva ecclesia minores sacerdotes crismabant, quod postea abolitum est.¹⁴³

¹⁴²De cons.Dist.5c.4, "Manus"; Eusebius papa epist. 3 ad episcopos Tusciae et Campaniae; JK 165; Cap. Pseudoisid. no. 20, Hinschius, op. cit., p. 242. Thus, the letter of Pope Innocent I [De cons.Dist.4.c.119], forbidding priests to confirm, and the two letters of Pope Gregory I, the one forbidding priests to confirm [De cons.Dist.4.c.120] and the later one granting priests permission to confirm [Dist.95.c.1] are authentic. The letters of Popes Urban I, Melchiades and Eusebius are forgeries. (For these forgeries, cf. Stickler, op. cit., 139-140.) There were authentic texts which forbade confirmation by priests; thus the problem which existed was not wholly based upon forged texts.

¹⁴³Stephan of Tournai, Summa, Dist.21.c.1, "Cleros," s.v. nec chrismate, Schulte, 30-31.

Simon of Bisignano also reverted to the usage of the primitive Church:

crismate tangere--Si autem queratur an eis hoc concedere potuerit, dici potest eum concedere potuisse. Hoc enim in primitiva ecclesia poterant episcopi facere, qui nichil pre ceteris sacerdotibus unctionis habebant. Eadem ratione, forte, posset concedi quod eis ipsum crisma conficere concedere potuisset; quod, tamen, quibusdam displicet, quia ab ipsis apostolis institutum legitur ut non nisi ab episcopis posset confici crisma, ut infra, de con.d.iiii, [v], manus [De cons.Dist.5.c.⁴, "Manus"], contra quorum instituta summo pontifici venire non licet.¹⁴⁴

Simon introduced into this discussion the two points which would receive much elaboration from his successors: the possibility of delegation regarding the celebration of the sacraments ("an eis hoc concedere potuerit") and the extent to which delegation could be given ("eadem ratione, forte, posset concedi quod eis ipsum crisma conficere concedere potuisset").

Sicardus of Cremona pushed the question to the fundamental issue of the form of the sacrament and how it was instituted. For him the substantia of the sacrament was the determining factor:

Set queritur utrum sit de substantia sacramenti quod hoc sacramentum a solis episcopis celebretur? Si enim est de substantia, quomodo concessit Gregorius simplicibus sacerdotibus? Nam sacramenta extra formam celebrata, irrita sunt. Si de sollempnitate, ergo si hodie fieret a simplici sacerdote, rata esset. Responsio: quod est forma alia a Domino instituta, alia ab homine. A Domino instituta non potest mutari ab homine, ut in baptismo et eucharistia; ab homine instituta licite mutari potest ex causa, ut in confirmatione et matrimonio. Unde non liceat sacerdotibus habere uxores, nec liceat usque ad septimum gradum contrahere matrimonium. Fuit igitur tunc et nunc de forma sacramenti vel de substantia; vel, ut quibusdam placet, tunc de sollempnitate, nunc de forma.¹⁴⁵

¹⁴⁴Simon of Bisignano, Summa, Dist.95.c.1 (Augsburg, Kreis- und Stadtbibl. I), f. 11.

¹⁴⁵Sicardus of Cremona, Summa, Dist.95.c.1 (Vat.Pal.Lat.653), f.75^{ra}.

Granted the Church's power over the forma of the sacrament, Gregory could delegate a priest to confirm even if confirmation by a bishop had been the forma of Confirmation. The important distinction between "forma instituta a Domino et ab homine" would be of great assistance to later authors as they attempted to determine the Church's power over the sacraments.

In another passage Sicardus is more explicit about the forma and institution of Confirmation:

De confirmatione videamus quando fuit instituta; queritur qua forma quave reverentia debeat celebrari. Instituta fuit tempore apostolorum ab ipsis apostolis per quorum manus impositionem paraclitus conferebatur....Forma consistit in personis, verbis et rebus. In personis quia sicut a solis apostolis legitur confirmatum, sic a solis eorum successoribus, sc. episcopis, dicimus confirmandum....Queritur autem utrum forma hec in personis sit de substantia sacramenti. Videtur quod si hodie simplex sacerdos confirmaret, iterum ab episcopo confirmaretur. Contra, quia Gregorius olim sacerdotibus confirmare permisit, ut d. xcv [Dist.95.c.1, "Pervenit"]. Responsio: forte quod olim fuit de sollempnitate, nunc est de substantia.¹⁴⁶

Because of the role of the Apostles in the institution of Confirmation, the Church retains certain powers over its administration.¹⁴⁷

The author of the Summa "Omnis qui iuste" viewed the question of Confirmation by priests from a different angle than Sicardus. Rather than look to the forma of Confirmation, the author of this Summa examined the substantia sacerdotii.

¹⁴⁶Ibid, De cons.Dist.5, in prin., f. 111ra.

¹⁴⁷Sicardus' explanation of the role of the Apostles in the institution of Confirmation does not deny the institution of all the sacraments by Christ Himself (as Trent defined, Session 7, Canon 1, Denz. 844). The words of the medieval writers can be understood in the sense of mediate or generic institution of the sacraments by Christ. Cf. Doronzo, De Sacramentis in Genere, 398-399.

Dicitur quod solis episcopis licet confirmare, quod verum est. Semel, tamen, **ita propter scandalum** permisit Gregorius sacerdotibus ut eis id liceat, quod tamen hodie non **tenet**. Sed ut presbyter possit confirmare, aut fuit de substantia sacramenti aut non. Si de substantia sacramenti fuit, ergo olim omnes sacerdotes id recipiebant in ordinatione sua et nunc non recipiunt. Ergo mutata est substantia sacramenti **«quod videtur inconueniens»**¹⁴⁸ quod aliquid fuit de substantia sacramenti et non sit. Si non fuit de substantia sacramenti, qualiter potuit eis concedere Gregorius? Pari censura, videtur quod possit concedere subdiacono ut legeret evangelium et diacono ut missam cantaret. Dici potest quod non est mutata substantia sacramenti, licet confirmare olim fuit de substantia sacerdotii et hodie non sit, sed restricta est, sicut aliquando licuit consanguineis matrimonium contrahere, quod modo non licuit; nec tamen mutata est forma matrimonii, licet circa quosdam potestas sit restricta. Vel potest dici quod mutata est substantia sacramenti, nec inde aliquod malum sequitur. Sicut olim baptizabant in nomine Christi, et in rei veritate baptizati erant qui sic erant baptizati; hodie tamen non sic baptizatus, nec si essent aliqui ita baptizati, baptizatos diceremus. Sed difficilior opponitur, si concedis quod depositus consecret; sicut enim dicis quod ordinatus numquam characterem amittit, sic et aptitudinem consecrandi retinet, ut xxxii, q. vii, licite [C.32.q.7.c.2, "Licite"]. Ideoque si consecraverit de facto, erit de iure consecratum; sic videtur dicendum quod si sacerdos hodie confirmet, quod sit confirmatus et post eum non confirmabitur. Presbyter enim non habet hanc potestatem, nec in aptitudinem, sicut de priori dicimus. Sed tamen diversa sunt hec. Prius enim ordini inheret, sc. potestas consecrandi que nunquam amittitur, quia numquam ordo potest amitti. Secundum vero ordini non adheret, sc. confirmare; immo semel propter scandalum erat concessum. Unde non est mirum si conficiat, non tamen confirmet. Sed quid dicis de episcopo deposito tantum, si confirmet de facto puerum, dicitur confirmatus; et dicunt quidam quod sic; alii dicunt quod ex dignitate pervenit confirmare potius quam ex ordine--unde amissa dignitate, et potestas confirmandi amittitur. Item, qualiter potuit Gregorius eis concedere ut confirmaret, cum ab apostolis erat statutum ut solis episcopis hoc liceat, ut di. xxi, c. i [Dist.21.c.1, "Cleros"]; et dici potest quod in primitiva ecclesia potuerunt episcopi confirmare, qui nichil pre ceteris sacerdotibus unctionis habebant. Ideo potuit Gregorius eis hoc concedere--eadem ratione posset concedi eis quod ipsum chrisma conficere potuissent, quod tamen quibusdam displicet.¹⁴⁹

¹⁴⁸This correction from Rouen, Stadtbibl. 743, f.43ra; the words "...ns" to "de substantia sacramenti" are in the margin of the Leipzig ms.

¹⁴⁹Summa, "Omnis qui iuste," Dist. 95.c.1, "Pervenit"; (Leipzig, Universitätsbibl. 986), f. 81ra,

The Church, then, could restrict the substantia sacramenti without thereby changing it. The example of matrimony is clear: by her laws concerning consanguinity and affinity the Church has limited the capacity to contract marriage within set limits, but the substance of marriage is not thereby changed. The author of the Summa "Omnis qui iuste" realized that the power to consecrate the Eucharist is inseparably attached to the priestly ordo, while the power to confirm is not so attached.¹⁵⁰ He even quoted the opinion of some that the power to confirm rests in the possession of a "dignitas" rather than from an "ordo." Such a solution, however, encounters the practical difficulty that a deposed prelate could no longer validly confirm. Now the Church has recognized as valid the Confirmation conferred by a deposed prelate. One can say that the author of this Summa gave direction to his successors as they encountered the problems connected with sacramental administration.

For Huguccio, the delegation of the power to confirm presented a particular difficulty. He had most emphatically insisted upon the bishop's special prerogatives in the celebration of the sacraments; he had maintained that this superiority had existed in bishops from the beginning.¹⁵¹ He explained delegation of the power to confirm in the

¹⁵⁰The French Summa "Imperatorie maiestati" has a somewhat similar distinction; while the "Omnis qui iuste" speaks of "potestas que ordini inheret" and the "potestas que non adheret," the "Imperatorie maiestati" contains the distinction between "potestas mera" (which pertains to binding and loosing) and "potestas mixta ordini" (which pertains to consecrating the Eucharist and ordaining); Summa "Imperatorie maiestati," C.1.q.1, (Munich, Staatsbibl. 16084), f. 34v.

¹⁵¹Dist.93.c.24; cf. supra, pp. 35-38.

far-reaching papal power over the sacraments which he affirmed.

concedimus--et hoc pro scandalo. Nam ratione scandali multa permittuntur que de iure communi non licent; ar. xxiii, q. iiii, cum quisque [C.23.q.4.c.19, "Cum quisque"]. non potest--Cum ergo hoc fuit permissum pro scandalo vitando, patet quod non licebat de communi iure. Ergo ante istam permissionem non licebat presbyteris tradere sacramentum, et si presumebant, nil tradebant. Set numquid permissio papae potuit facere ut esset sacramentum quod aliter non esset sacramentum? Utique, et potuit, et potest, et fecit, et facit; sicut in matrimonio Anglorum ex permissione papae contracto in tertio gradu, quod aliter non esset matrimonium, ut xxxv, q. iii, quedam lex [C.35.q.3.c.20, "Quedam lex"]--quod scripsi similiter et in hoc sacramento, quod aliter presbyteri non possent conferre, ut de con., di. v, manus [De cons. Dist. 5. c. 4, "Manus"]. Cum ergo ex permissione papae factum est ut hoc sacramentum a presbyteris traderetur, estne sacramentum si hodie presbyter presumeret dare? non, quia illa non fuit generalis, et fuit ad tempus, sicut per omnia potest videri in matrimonio, quod matrimonium sine permissione ecclesie non contraheretur in tertio gradu, quod olim factum fuit, ecclesia permitte quibusdam et ad tempus. Set numquid papa posset hodie hoc idem **permittere**? sic. Numquid alius episcopus? credo quod non, quia hec dispensatio soli papae convenit. Set numquid papa posset similiter presbyteris **permittere** ut conficeret chrisma? credo quod sic, licet ab apostolis fuerit institutum ut a solis episcopis conficeretur, ut de con., di. v, manus [De cons. Dist. 5. c. 4, "Manus"]. In multis enim statutis apostolorum licita est dispensatio. Item posset similiter papa concedere simplicibus presbyteris ut conferrent ordines omnes? credo quod sic, preter episcopalem. Nam ordinem quem non habet, nullus potest conferre. Set quem habet, potest. Cum ergo presbyter non habet ordinem episcopalem, qualiter posset eum conferre? qualiter ergo posset ordinare episcopum, nisi velis dicere quod ultra sacerdotium non sit ordo? Similiter credo quod posset diacono concedere quod conferret diaconatum et minores ordines, et sic de aliis. Quid de consecratione ecclesiarum **vel** virginum? Dico quod ex permissione papae simplex presbyter potest consecrare eas. Set numquid posset papa idem concedere diacono vel alii inferiori clerico, vel etiam laico? credo quod sic, si talis consecratio potest fieri sine Missa, aliter non. Item papa posset concedere diacono vel subdiacono vel etiam laico ut conficeret eucharistiam? non, quia hic exigitur ordo sacerdotalis, ut i, q. i, dictum [C.1.q.1.c.96, "Dictum est"]. Tantum enim sacerdotibus hoc concessit Dominus, cum dixit apostolis: Hoc facite in meam commemorationem [Luke 22:19]. Set ab ecclesia prohibitum est presbyteris ne crismant, et si de facto crismarent, nichil facerent, et hoc propter prohibitionem ecclesie. Set pone **(quod)** ecclesia prohibet isti cantare missam, conficere corpus Domini; si de facto conficeret et cantaret, **nonne** conficeret et cantaret? utique. Que est ergo ratio diversitatis? R. [Responsio]: ecclesia non tantum illud prohiberet, set etiam statuit ut si aliter presumeretur, nichil

ageretur; set hoc simpliciter prohibuit. Set numquid potest hoc sic prohibere sicut illud? sc., ut si aliter fiat, nichil agatur? credo quod non, quia ex institutione Domini forma verborum quibus conficitur corpus fuit instituta et ei talis efficacia attributa et ordini sacerdotali deputata. Et ideo ex quo illa verba proferuntur a presbytero ut debent, propter prohibitionem humanam non debent carere effectum. Item in forma baptismi. Set in aliis que ab homine statuta sunt non ita contingit--immo prohibitio ecclesie plus in eis operatur. Item de sola permissione ecclesie presbyter crismat; set conficit potius ordinis ratione, et ideo plus ibi operatur prohibitio ecclesie quam hic. Item conficere plus est facti quam iuris in presbytero; crismare vero plus iuris quam facti. Nam in confitendo corpore potius exigitur ordo quam aliud; set in conferendo illo sacramento potius dignitas et reverentia persone. Nam propter excellentiam sacramenti et dignitatem persone attributum est solis episcopis. Et nota quosdam dicere quod Gregorius loquitur secundum primitivam ecclesiam, cum presbyteri ipso iure tale sacramentum conferebant, ar. infra, c. ecclesie. Set tunc nulla esset permissio Gregorii, et, ut supra dixi [Dist.93.c.24], non credo quod umquam hoc licuerit sacerdotibus simplicibus, nisi ex permissione ecclesie.¹⁵²

Huguccio would grant to the pope the power to commission one who was not a bishop to confirm, to ordain to the order which he himself possessed, and to perform those consecrations which did not require Mass. The strict position which he had taken regarding the original superiority of bishops over priests is tempered by the wide powers which he here concedes to the pope. The only exception he makes is the power to offer the Mass; Christ Himself so limited this power to priests alone that the Church and the pope cannot commission a non-priest to consecrate the Eucharist nor can he prohibit a priest from validly consecrating.

Huguccio's position with respect to the power to ordain would become quite important. He does not limit the power to ordain to bishops. Although there is no explicit mention of ordination to the priesthood, it does follow from the principle which Huguccio employs here (a cleric can

¹⁵²Huguccio, Summa Decretorum, Dist.95.c.1, (Admont, Stiftsbibl. 7), f. 120r-v.

be commissioned to confer the orders which he himself possesses) that a priest could be commissioned to confer the priesthood.¹⁵³

Huguccio was only reiterating his former assertion that the episcopacy is an ordo above the simple priesthood when he denies to priests the power to confer the episcopacy.¹⁵⁴ Since the episcopacy is an ordo, the one who confers it either by his own power or by delegation must possess that ordo. The only way to avoid such a conclusion would be to affirm that the episcopacy is not an ordo ("nisi velis dicere quod ultra sacerdotium non sit ordo").

Huguccio allows the pope to delegate to one who isn't a priest those episcopal functions which do not require Mass. It is not completely evident just how many of the episcopal functions Huguccio would consider subject to delegation by the pope to a non-bishop. Huguccio does not attach Confirmation to the ordo sacerdotalis or the ordo episcopalis in his treatment here; he merely says that Confirmation requires in its minister rather "dignitas et reverentia persone" than "ordo."

¹⁵³Much of the contemporary discussion of the episcopate revolves around the question: whether a non-bishop can be delegated to confer the presbyterate and the diaconate? Papal bulls apparently granting such power to priests have been discovered. As Doronzo writes: "Non parvum autem actualitatis momentum haec quaestio [de sacramentalitate episcopatus] obtinuit nec levem apud modernos auctores contentionem suscitavit, praecipue ob quaedam ecclesiastica documenta recenter lata vel cognita, scilicet ex una parte Constitutionem "Sacramentum Ordinis," latam a Pio XII a. 1947, quae videtur confirmare communiorem apud modernos sententiam de sacramentalitate episcopatus, et ex alia parte tres Bullas latas saec. 15 a Bonifatio IX ["Sacrae Religionis," 1400], Martino V "Gerentes ad vos," 1427], et Innocentio VIII ["Exposcit," 1489], quae, ob concessam simplici presbytero facultatem conferendi sacros ipsos ordines diaconatus et presbyteratus, videntur e contrario favere antiquiori theologorum negationi sacramentalis distinctionis inter episcopatum et presbyteratum" (De Ordine, Tom. II, 115-117).

¹⁵⁴Cf. supra, pp. 35-38.

The reasoning which Huguccio had used to arrive at the conclusion that the episcopacy is an ordo¹⁵⁵ must be evaluated in terms of his explanation of papal delegation of the power to confirm. He does not relate any episcopal function to the ordo episcopalis in the same way that he relates the consecration of the Eucharist to the ordo sacerdotalis. The reason for this difference is to be found in the divine institution of the Eucharist. Christ instituted this sacrament and deputed its consecration to priests; He gave such efficacy to the words of consecration, spoken by a priest, that no human power can render them invalid. The consecration of the Eucharist is a matter of fact ("conficere est plus facti quam iuris in presbytero"): if the one consecrating is a priest and he uses the prescribed forma of the Eucharist, the consecration invariably takes place. To confer the sacrament of Confirmation, however, is more a question of law ("crismare vero plus iuris quam facti"). This is due to the role which the apostles played in the institution of Confirmation, which was not instituted in detail by Christ Himself.

¹⁵⁵Ibid. It should be noted that in speaking of the functions which are proper to bishops, Huguccio frequently referred to Dist.68, in which corepiscopi are considered. In a letter of "Pope Leo" the functions which are prohibited to corepiscopi are listed: "Quamvis corepiscopis et presbyteris plurima cum episcopis ministeriorum communis sit dispensatio; quedam tamen sibi prohibita noverint: sicut est presbyterorum et diaconorum et virginum consecratio...." (Dist.68.c.4, "Quamvis," Leo I ad episcopos Germaniae et Galliae, epist. 86; JK 551; Hinschius, op. cit., p. 628). Gratian quotes "Pope Damasus" to the effect that corepiscopi were abolished by the Church, for the Lord instituted only two orders: the XII apostles and the LXXII disciples (Dist.68.c.5, "Corepiscopi," Damasus ad episcopos Africae, epist. 4; Hinschius, op. cit., p. 510). When he determined the distinction between bishops and priests, the existence of corepiscopi presented no problem for Huguccio, who compared them to archpriests: "Simplices quidem erant sacerdotes, sed aliquid honoris accrevit eis sicut nunc archipresbyteris." (Summa Decretorum, Admont, Stiftsbibl. 7, Dist.68.dictum post c.3, f. 96^r).

Since the apostles determined the forma and the minister, the Church retains this power. The "dignitas et reverentia persone" requisite in the minister of Confirmation are subject to ecclesiastical law. For a reason, e.g. because of scandal, the Church can make an exception to her universal law and permit others to exercise this function which is by common law proper to bishops. The exception is always temporary, however, and subject to revocation by the same authority which granted it. One can conclude that for the Decretists, then, the bishop is always the ordinary minister of Confirmation; a priest who confirmed by papal delegation always did so as an extraordinary minister.

III. The Subject of Episcopal Consecration.

Thus far two major points concerning the episcopacy have been found in the writings of the canonists: the institution of the episcopacy and the episcopal power over the administration of the sacraments, and especially that of Confirmation. One further point remains to be discussed, the subject of episcopal consecration.

Gratian included in his Decretum many qualifications to be sought in a man who would be consecrated bishop.¹⁵⁶ One of these is of particular importance to an understanding of the nature of the episcopacy: this is the requirement that the one to be consecrated bishop have received the inferior ordines. One reason for this requirement was disciplinary:

¹⁵⁶This section of the Decretum begins with the dictum ante c.4, Dist.25: "Qualem oporteat eum esse qui in episcopum est ordinandus, diligenter investigemus."

"Item, qui ecclesiasticis disciplinis imbuti et temporum approbatione discussi non sunt, ad summum sacerdotium non aspirent."¹⁵⁷

The second reason for the insistence upon the candidate for the episcopacy having first passed through the inferior ordines was the connection which the canonists saw between the ordines.

Gratian treated this matter in Distinctio 52, where he wrote:

"Qui vero pretermisissis aliquibus gradibus non superbia, sed negligentia, ad maiores conscenderit, tandiu a maioribus abstineat, quousque congruo tempore pretermisissos accipiat."¹⁵⁸ The single text he cited to support this statement was from a letter of Pope Alexander II. He had instructed a bishop that one who had not received the subdiaconate because of his negligence should not exercise the diaconate or presbyterate, which he had received, until he received the subdiaconate.¹⁵⁹

The Decretists took this opportunity to discuss whether one could receive an ordo if he hadn't received the inferior ordines. Rufinus limited himself to a discussion of the text cited by Gratian:

Dictum supra fuerat in proximo capitulo [Dist.51.c.5, "Qui in aliquo crimine"] quod non possunt esse sacerdotes qui per ecclesiasticos gradus non ascenderunt; ut, videlicet, primum ostiarii, postmodum lectores, deinde exorciste, deinceps acoliti, post hec subdiaconi, ad ultimum diaconi fierent. Ne autem istud indistincte verum esse putaretur, determinat in presenti distinctione illud locum tunc habere, quando ex industria gradus aliquis horum preterponitur. Porro si

¹⁵⁷Dictum ante c.1.Dist.59.

¹⁵⁸Dictum ante c.un.Dist.52.

¹⁵⁹Dist.52.c.un., "Solicitude," "Alexander II Grimaldo Constantiensi Episcopo," [=Epist. ad Rumoldum, anno 1061], JL 3441.

ignorantia vel negligentia aliquem ordinem postposuerit et ad superiores ascenderit, solummodo tamdiu a superioribus cessabit, donec omissum gradum legitimo tempore susceperit.¹⁶⁰

Other authors went farther and introduced the question whether or not the prescribed sequence of ordines was of the substantia of the sacrament of Order. They found a negative answer in the example of the apostles.

Per hoc potest haberi quod non est de substantia ordinis quod quis debeat **ordines prius accipere**. Nam apostoli nullum ordinem acceperant cum fuerant episcopi facti.¹⁶¹

Ex hoc nota quod ordinis preposteratio vel turbatio est in iure prohibita; non tamen quod fit, ordine prepostero vel turbato, irritatur....qui ante dyaconatum accepit sacerdotium in veritate est sacerdos; idem dico si exorcista sacerdos fiat. Nam hec non esse de substantia ordinis patet ex eo quod in primitiva ecclesia apostolos legimus sacerdotalem et episcopalem dignitatem ante alios ordines accepisse.¹⁶²

Simon of Bisignano clearly distinguished the disciplinary effects of this law (one should not exercise the higher order until he has received all the lower orders) from the sacramental effect (validity) of the higher order received.

Hic habes quod ordinis preposteratio quod factum est non immutat.... Item hic videtur posse colligi quod qui accipit sacerdotium, diaconatu vel subdiaconatu preposito, in veritate sacerdos est; non quoad ordinis susceptionem referre credimus si scienter vel ignoranter hoc fiat, set quoad hoc ut promotus possit vel non valeat ministrare.¹⁶³

¹⁶⁰Rufinus, Summa, Dist. 52. c. un., "Solicitude," Singer 135-136.

¹⁶¹Simon of Bisignano, Summa, Dist. 66 (Augsburg, Kreis- und Stadtbibl. I), f. 8.

¹⁶²Summa "Et est sciendum," Dist. 52 (Stuttgart, Landesbibl. hist. fol. 419), f. 44v. This Summa is by an anonymous French author between 1181 and 1185; it is also called Glossae Stuttgardiensis, because of the manuscript's location. Cf. Kuttner, op. cit., 195-196; Van Hove, op. cit. 438.

¹⁶³Simon of Bisignano, loc. cit., Dist. 52, f. 6.

For Simon, then, not the validity but the exercise of the higher order demanded that one have received all the previous orders.

Sicardus of Cremona introduced the question of the episcopacy: could one who wasn't a priest be validly consecrated bishop?

Queritur si sit sacerdos consecratus in sacerdotem, ceteris postpositis ordinibus. Respondent quidam: ita. Queritur si esset episcopus consecratus in episcopum, cunctis postpositis ordinibus. Respondent quidam: non, quia sacerdotalis ordo et episcopalis dignitas coniuncta sunt--unde aliis postpositis excepto sacerdotio episcopus esset. Set quid si ordinaret in illis ordinibus quos pretermisset. Respondent quidam: non esse ordinatos, quia qui honorem non habet, honorem dare non potest, ut i, q. i, qui [C.1.q.1.c.17, "Qui perfectionem"], et di. xlii, c. i [Dist.42.c.1, "Si quis despicit"]; e contra, quia sepe dat aliquis quod non habet, ut cardinales apostolatum.¹⁶⁴

Sicardus taught a connection between the episcopacy and the presbyterate such that one who had not received the "sacerdotalis ordo" could not receive the "episcopalis dignitas." This would become the common opinion among the canonists. Sicardus also taught that a bishop could confer the orders he had not himself received; the majority of canonists would not concur in this opinion. They accepted the auctoritas which Sicardus cited but did not follow: "Qui honorem non habet, honorem dare non potest" [C.1.q.1.c.17, "Qui honorem"].

The author of the Summa "Omnis qui iuste" likewise admitted the validity of sacerdotal ordination, even when one or more of the lesser ordines had been omitted, and denied the validity of episcopal consecration of one who hadn't received the priesthood.

Item queritur an talis ante susceptum diaconatum conficiat, et dicunt quod nullo ordine suscepto, dum tamen ordinem sacerdotii habeat,

¹⁶⁴Sicardus, Summa, Dist. 52, c.un., (Rouen, Städtbibl. 710), f. 10va.

conficit in veritate; hoc tamen non debet facere. Si tamen fecerit, conficit. Item queritur an talis cogi possit ut suscipiat ordinem pretermissum et dici potest quod non precise potest cogi, set sub subalternatione--vel ut cessit ab ordine sacerdotali vel ordinem pretermissum suscipiat. Item ex hoc collige quod preposteratio ordinis et turbatio inhibita est,...non tamen irritat factum, ut hic arg., ad idem xxiiii, quorundam [Dist.23.c.14, "Quorundam"]. Set videtur quod talis non sit sacerdos ex quo ita promotus est pretermissa forma quam ecclesia statuit; video enim quod si aliquis non in forma ecclesie <baptizat vel ordinat vel conficiat, nichil agit. Dici potest quod in forma ecclesie> iste ordinatus erat, nec est de substantia sacerdotii ita gradatim ascendere; nam et apostoli sacerdotalem et episcopalem dignitatem ante alios ordines susceperunt. Tunc autem non in forma ecclesie diceretur <ordinatus, si alio tempore et alio modo daretur ei> in figura quam ecclesia statuit. Item quid si de laico factus esset sacerdos? utique esset sacerdos, ut i, q. vii, maximum [C.1.q.7.c.19, "Maximum"]; infra, lix, hoc ad nos [Dist.59.c.3, "Hoc ad nos"]. Item quid si prius factus esset episcopus quam sacerdos, essetne episcopus? Item quid si prius factus esset sacerdos quam baptizatus? Dici potest quod non est episcopus in primo casu, quia ordo sacerdotalis fundamentum est episcopalis consecrationis; sic et in secundo, baptismus fundamentum ordinis cuiuslibet.¹⁶⁵

The author of this Summa taught that the validity of episcopal consecration depends upon the previous reception of the presbyterate. In the same way the validity of any order depends upon the previous reception of Baptism, the foundation of every order.

Huguccio also insisted upon the previous reception of the priesthood for valid reception of the episcopacy. He also held the opinion that one must receive some minor order before a sacred order could be received.

Per hoc videtur quod esset sacerdos et quod pretermisso inferiori possit quis suscipere superiorem ordinem, quod verum est....Item sic factus episcopus potest consecrare, ordinare, set non possit illum

¹⁶⁵Summa "Omnis qui iuste," Dist.52.c.un., (Leipzig, Universitätsbibl. 986), f. 51vb-52ra. The sections in brackets appear in mutilated form in the margin of this ms. and are supplied from Summa "Omnis qui iuste," (Rouen, Stadtbibl. 743), f. 27rb.

ordinem conferre quem pretermisit et nondum recepit, ar., i, q. i, gra., ventum [C.1.q.1.c.1, "Gratia," c.18, "Ventum"], et de cons., di. iiii, quo [De cons. Dist. 4.c.41, "Quomodo exaudit"]. Set numquid pretermisiss omnibus inferioribus ordinibus, potest quis recipere sacrum ordinem? Non, set quecumque de illis habet, potest; ad hoc enim [ut] aliquis accipiat aliquem de sacris ordinibus oporteat eum prius esse clericum aut aliquo de minoribus ordinibus ordinatum; in aliquo dico qualicumque. Unde laicus, si de facto ordinetur subdiaconus vel diaconus vel sacerdos, nullum ordinem accipit, ar. xl, sicut [Dist. 40.c.8, "Sicut"], et in ex., cum instituisset....Item potest quis recipere ordinem episcopalem pretermisso sacerdotio? non credo. Nisi enim quis sit sacerdos, missam cantare non potest.... Ergo non est episcopus, cum ille ordo offitium et potestatem cantandi missam habet sibi annexam. Ex premissis, ergo, tria in summa notabis: pretermisso baptismo, nullus ordo potest recipi; pretermisiss omnibus minoribus ordinibus, sacer ordo non confertur; pretermisso sacerdotio, episcopalis ordo non datur; et sicut in primo exigitur baptismus, ita in secundo clericatus, vel collatio alicuius minoris ordinis, et in tertio sacerdotium.¹⁶⁶

Note that Huguccio did not view the presbyteral ordo as the foundation of the episcopacy in exactly the same way as his predecessors. He rather saw in the episcopacy the necessity for the exercise of functions which required the presbyterate, and especially the celebration of Mass. Because the bishop would have to offer Mass, the episcopacy had the "offitium et potestatem cantandi missam sibi annexam."

The necessity for the reception of some minor order before the reception of a sacred order was a conclusion which Huguccio drew from a text of Isidore of Seville. In discussing the necessity of a virtuous life, Isidore had used several comparisons.

Sicut viri et mulieris digna coniunctio unum facit matrimonium, et sicut duorum copulatio unum perficit corpus, ita clericatus et sacerdotium unum faciunt presbiterum, et electio et consecratio unum faciunt episcopum: que omnia unum efficiunt corpus, quod citius

¹⁶⁶Huguccio, Summa Decretorum, Dist. 52.c.un., (Admont, Stiftsbibl. 7), f. 76^r.

corrumpitur, et ad terram trahitur, nisi legaliter conservetur, nisi iuste vivendo laudetur.¹⁶⁷

From these comparisons, Huguccio argued:

clericatus--nomine clericatus hic intelligitur quilibet minor ordo, et est argumentum quod si quis in clericum non est sortitus aut aliquem de minoribus ordinibus non suscepit, sacrum ordinem recipere non potest. Si ergo laicus de facto ordinetur in sacro ordine, nil ordinis accipit....Ita enim argumentatur a simili: sicut consensus duorum facit matrimonium, ita clericatus et sacerdotium presbyterum. Set contrarium est quod consensus unius vel unus consensus non facit matrimonium. Ergo, si pro omnia est hic expressa similitudo, nec sacerdotium sine clericatu facit presbyterum, quod ego credo.... Quidam tamen tenent contrarium, asserentes quod laicus potest recipere quemlibet sacrum ordinem, etiam episcopalem, omnibus aliis pretermisissis; et respondent huic capitulo dicentes quod hic non currit similitudo pro omnia.¹⁶⁸

The conclusion which Huguccio drew from this text was also to be found in the Summa "Et est sciendum": "Canon tamen dicit quod clericatus et sacerdotium faciant presbyterum, ut di. xl, sicut viri [Dist.40.c.8, "Sicut viri"], per quod apparet non posse sacerdotium accipere qui non est clericus, cum etiam sic ecclesia instituerit."¹⁶⁹

The author of this Summa included in the "dignitas episcopalis" the four elements mentioned by Isidore: "clericatus, sacerdotium, electio

¹⁶⁷Dist.40.c.8, "Sicut"; Isidore of Seville; Friedberg, note to Dist.40.c.8: "Fragmentum omnino incertum."

¹⁶⁸Huguccio, Summa Decretorum, Dist.40.c.8, (Admont, Stiftsbibl. 7), f. 57v.

¹⁶⁹Summa "Et est sciendum," Dist.21.c.2, "In novo," (Stuttgart, Landesbibl. hist. fol. 419), f. 36va. The author reveals that he is here considering rather speculative questions, as he continues: "Set numquid omnino ydiota sacerdotium acciperet, vel puer septennis?" and he replies: "Potius enim est in talibus pie et humiliter dubitare quam precipitare sententiam."

consecratio."¹⁷⁰ This brought to the fore the question: what precisely is conferred in episcopal consecration?

Huguccio saw two elements composing the episcopacy: electio and consecratio. He was considering how a man became an ordinarius loci.

Si interveniat sola consecratio, erit episcopus set nullius loci; si sola electio, esset prelatus illius loci set non episcopus, nisi primo esset consecratus.... Electio ergo dat prelationem loci, consecratio ordinem episcopalem.¹⁷¹

This is another example of the growing awareness of the difference between jurisdiction ("administratio, prelatio") and order.

Rufinus had distinguished "amministratio" from "auctoritas":

Ad quod est sciendum quod ecclesiastica dignitas alia est amministrationis, alia auctoritatis; item amministratio alia spiritualium, alia secularium; spiritualium amministratio, ut archipresbiteri et decani, secularium ut archidiaconi. Dignitas auctoritatis est episcopi. Dignitas vero amministrandi in ipsa electione plene traditur.... Cum autem quis in episcopum eligitur, non continuo plenam potestatem adipiscitur, sed usque in consecrationem differtur.¹⁷²

He admitted that the bishop-elect received "amministratio" when his election was confirmed; this power was similar to that exercised by the chapter sede vacante. It was only after his consecration that the bishop could perform actions, e.g. depositio, which required "auctoritas."

Solet queri si in electione confirmatus ante episcopalem unctionem usque adeo plenam auctoritatem possideat, ut quemadmodum episcopus consecratus deponere clericos valeat. Sed dicimus quod plenam potestatem habeat coad amministrationem, non autem quoad dignitatis

¹⁷⁰Summa "Omnis qui iuste," Dist.40.c.8, (Rouen, Stadtbibl. 743), f.19ra; also in Rufinus, Summa, Dist.40.c.8.s.v.que omnia, Singer, 97.

¹⁷¹Huguccio, Summa Decretorum, Dist.40.c.8, (Admont, Stiftsbibl. 7), f. 57v.

¹⁷²Rufinus, Summa, Dist. 60, in prin., Singer, 152.

auctoritatem; et ideo iure pleno administrationis potest aliquos ab ~~amministratione~~ procuracionum vel ordinum suspendere--quod tamen non sine presentia capituli sui, cui capitulo episcopo mortuo licet itidem facere. Deponere, autem, i.e. exauctorare, non potest qui plenitudinem auctoritatis nondum habet, quam ex sola consecratione est certissimum evenire.¹⁷³

Gratian and the Decretists discussed ordination and consecration and the effects of these rites with special acumen when they faced the very difficult problem of simoniacal ordination. Gratian devoted a long section of the Decretum to this problem.¹⁷⁴ It is necessary to look briefly at the doctrine of the canonists on this question, for it is here that they reveal the profound analysis which they made of the priesthood. From this analysis one can understand how these canonists viewed the relationship between the priest's potestas ordinis and the potestas possessed by the one who ordained him and his local ordinary.

Gratian offered as a solution a distinction between "potestas" and "executio potestatis":

Intelligamus aliud esse potestatem distribuendi sacros ordines, aliud esse executionem illius potestatis. Qui intra unitatem catholicae ecclesie constituti sacerdotalem vel episcopalem unctionem accipiunt, officium et executionem sui officii ex consecratione adipiscuntur. Recedentes vero ab integritate fidei, potestatem acceptam sacramento tenus retinent, effectu sue potestatis penitus privantur.¹⁷⁵

The glossa ordinaria gives a clear example of the distinction with regard to the priesthood: the ordo (or potestas), "potestas sacrificandi,

¹⁷³Ibid., Dist. 23. c. 1. s. v. tamen sicut verus papa, Singer, 52. The difference between suspensio and depositio will become evident at once from the treatment of ordinatio and the powers it conferred.

¹⁷⁴Causa 1. q. 1. c. 1 to c. 130.

¹⁷⁵Dictum ante c. 98. C. 1. q. 1.

i.e. ordo sacerdotalis, in eo remanet"¹⁷⁶; and the executio, "Christi corpus tradere, i.e. digne exercere officium sacerdotis."¹⁷⁷ The priest could never lose his ordo (or potestas), although he could become unworthy to exercise it.

Even if he suffered depositio, the priest ever retained his potestas, as Rufinus wrote:

Quippe sacramentum illud amittere non possunt--alioquin, si ex dispensatione iterum in suo ordine recipientur, reordinabuntur, quod sentire dementis est! Ad quod dicimus quia, cum tales deponuntur, non quidem sacramentum absolute amittunt, sed quoad potestatem utendi illo sacramento: de cetero enim eo uti non potuerunt.¹⁷⁸

Rufinus went on to develop the notion of potestas beyond the simple distinction between potestas and executio potestatis. He made a three-fold division of the potestas itself which is received at ordination.

In officio sacerdotali duo sunt: usus et potestas. Iterum, potestas triplex est: aptitudinis, habilitatis, et regularitatis; vel potestas alia sacramentalis, secunda dignitatis, tertia regularitatis. Potestas aptitudinis est qua sacerdos ex sacramento ordinis quod accepit habet aptitudinem cantandi missam. Potestas habilitatis est qua ex dignitate officii quam adhuc habet habilis est ad cantandam missam. Potestas regularitatis est qua ex vite merito, ex integritate persone, ex sufficienti eruditione, dignus est missam cantare. Sacerdos itaque aliquando in crimen labitur, sed tamen ab officio non suspenditur; aliquando labitur et suspenditur; aliquando labitur et non tantum suspenditur sed etiam deponitur. Quando labitur et non suspenditur, non quidem usum officii amittit sed sola illa tertia potestas abiudicatur ei: non enim potest cantare missam ex merito vite. Cum vero labitur et suspenditur, usum quidem officii perdit, sed habilitatis potestatem non amittit: de levi, sc. simplici iussione

¹⁷⁶Ibid., glossa ordinaria, s.v. potestas.

¹⁷⁷C.1.q.1.c.12, glossa ordinaria, s.v. Christi corpus.

¹⁷⁸Rufinus, Summa, C.1.q.1.c.30, Singer, 210.

episcopi, usum officii recuperare potest, qui non perdit dignitatem. Si vero labitur et suspenditur et deponitur, usum utique officii cum potestate habilitatis et regularitatis amittit, sed potestate aptitudinis eatenus nunquam carere potest, quatenus illud sacramentum ei, dum vixit, deesse non potest.¹⁷⁹

No penalty could deprive a priest of the most basic power which he received in his priestly ordination; Rufinus calls this basic power by various names: "potestas aptitudinis," "sacramentum," or "ordo." He applies similar distinctions to his explanation of the invalidity or validity of ordination to the priesthood.¹⁸⁰ The only exception which Rufinus made to his general teaching that sacraments of heretical ministers were valid was with respect to the Eucharist: "Eucharistie autem sacramentum nec etiam veritatem essentie apud hereticos habet; nam cum hoc sit specialiter sacramentum unitatis, apud catholicae unitatis hostes confici non valet."¹⁸¹

Sicardus of Cremona, in analysing the potestas received at ordination, made a four-fold division which parallels Rufinus' division of executio and potestas and the three-fold subdivision of potestas.

¹⁷⁹Ibid., 210-211.

¹⁸⁰Rufinus wrote: "Ordinatio habetur irrita tribus modis: quoad sacramenti veritatem, que fit preter formam ecclesie vel a non habentibus potestatem; quantum ad officii executionem, que non fit a suo episcopo; quantum ad beneficii perceptionem, absoluta, i.e. sine titulo facta, ordinatio." He then reduced the last two to one, so that ordination might be invalid either "quoad sacramenti veritatem" or "quantum ad officii executionem." (Ibid., Dist.70, Singer, 161). The general principle that all ordinations are valid (whether by a heretical or catholic bishop) if the forma ecclesie is observed can be found in C.1.q.1.c.17, glossa ordinaria, s.v. plenitudinem.

¹⁸¹Rufinus, Summa, C.1.q.1.c.30, Singer, 211.

Est enim potestas regularitatis, habilitatis, executionis et aptitudinis: regularitatis est in meritis vite--hanc perdimus cum labimus; habilitatis in officii collatione--hanc perdimus cum deponimur; executionis in licentia prelati--hanc perdimus cum suspendimur; aptitudinis in karactere sacramenti--hanc nunquam perditur. Cum ergo queritur utrum possit quis agere hoc vel hoc, pro officio respondendum est. Est enim officium congruus actus uniuscuiusque persone. Cum itaque degredatus officium perdidit, non enim congrue convenit ei actus illud vel illud faciendi. Respondendum est quod nequeat conficere vel similia. Nota quam differentiam assignamus inter habilitatem, consecutionem et aptitudinem. Habilitatem habet qui habet in se actui sufficientia, ut lux in tenebris; executionem vero qui habet etiam exterius cooperantia, ut lux in luce; aptitudinem habet cui etiam actus convenit ex natura, ut cecus. Non tamen dicimus sacramentum esse nature, sed ideo aptitudinis quia tanquam natura nequeat absorbi.¹⁸²

Sicardus closely connects officium (potestas habilitatis) and ordo (karacter; potestas aptitudinis). The former provides what is intrinsically sufficient for action, while the latter is like nature itself. His examples are precise: the potestas habilitatis is like light with respect to darkness--light is sufficient to dispel darkness, if the light exercises its power. The potestas aptitudinis, however, is like the power of sight in the blind man--he does not have what is intrinsically sufficient to permit him to see, yet the radical power of sight pertains to him as part of the integrity of his human nature.¹⁸³

¹⁸²Sicardus of Cremona, Summa, C.1.q.1., (Vat. Pal. Lat. 653), f. 76^{rb}-76^{va}.

¹⁸³These distinctions may be applied to suspensio and depositio: suspensio took away the priest's executio ordinis (potestas executionis); depositio further removed his potestas habilitatis, i.e. he no longer had what was intrinsically sufficient for the exercise of his priestly functions, although his radical character (potestas aptitudinis) remained. Therefore, one with jurisdiction (i.e. power over the executio ordinis) could suspend a priest, but only one with power over the officium so closely connected with the ordo itself could depose a priest. The canonists taught that the bishop received such power in his consecration.

The Summa Parisiensis contained important distinctions with respect to ordination:

Distinctio itaque adhibenda est, **que in** pluribus locis huius causae [C.1, de ordinatione simoniacorum] necessaria est. In ordinatione **quatuor** considerantur: sacramentum, sc. unctio et benedictio, etc., que fiunt circa ordinandum; secundum, potestas; tertium, executio, que sc. agit ordinatus quorum potestatem accipit; quantum, sc. ipsa spiritualis gratia, sc. appositio virtutum et similium gratiarum.¹⁸⁴

This distinction was employed by the theologians as the distinction between the sacramentum tantum (i.e. the external rite), the res et sacramentum (i.e. the character), and the res tantum (i.e. sacramental grace).¹⁸⁵

These distinctions of the various realities found in the rite of ordination and of the various types of potestas conferred enabled the canonists to settle the difficult questions surrounding the reordination of those ordained by one guilty of simony or heresy. The distinction between potestas and executio was also employed to explain one of the most difficult medieval problems of internal ecclesiastical administration, namely, the relationship between the local ordinary and the churches subject to him, especially when these churches were exempt.

Huguccio taught that every church is subject to the bishop of the diocese in all things, unless it is exempt by special privilege.

...due sunt leges in quibus consistat tota potestas quam habet episcopus in ecclesiis sui episcopatus. Est enim lex iurisdictionis et est lex dioecesana. Ad legem iurisdictionis spectat cura animarum

¹⁸⁴Summa Parisiensis, C.1.q.1.c.1., McLaughlin, 80.

¹⁸⁵Cf. Doronzo, De Sacramentis in Genere, 318-324.

sive eius datio, delictorum coertio, ordinatio, ecclesiarum et altarium et virginum consecratio, crismatis et generaliter omnium sacramentorum collatio. Ad legem dioecesanam spectat institutio et investitura clericorum, vocatio ad synodum et ad sepulturas mortuorum, et cathedraticum, tertia et quarta oblationum, prestatio decimorum et **consilia**. Dico ergo quod omnia monasteria ipso iure in favorem religionis sunt exempta a lege dioecesana.¹⁸⁶

This distinction was simplified by the time of the glossa ordinaria:

Lex dioecesana consistit in recipiendo vel cathedraticum vel tertiam partem decimarum vel quartam vel hospitium; lex iurisdictionis consistit in conferendo: potest enim conferre sacramenta, **coercere** delicta, de causis cognoscere.¹⁸⁷

The exemption which monasteries received from the lex dioecesana was chiefly operative in temporal matters: the monastery was exempt from diocesan levies. The bishop always retained the entire cura animarum in his diocese, however; there was no exemption from his spiritual power. "Ad episcopum pertinet omnis cura dioecesis, tam in monasteriis quam in aliis ecclesiis."¹⁸⁸

Because the bishop controlled the cura animarum in his diocese, all priests, whether secular or regular, had to obtain from him the licentia to exercise their ordines.

Monachi autem, et si in dedicatione sui presbiteratus (sicut et ceteri sacerdotes) predicandi, baptizandi, penitentiam dandi, peccata remittendi, beneficiis ecclesiasticis perfruendi rite potestatem accipiant, ut amplius et perfectius agant ea que sacerdotalis officii

¹⁸⁶Huguccio, Summa Decretorum, C.1.q.1., (Admont, Stiftsbibl. 7), f. 215ra.

¹⁸⁷C.10.q.1, in prin., glossa ordinaria, s.v. quidem laicus.

¹⁸⁸C.18.q.2.c.16, "Abbates pro humilitate," glossa ordinaria, s.v. in episcoporum.

esse sanctorum patrum constitutionibus conprobantur, tamen executionem suae potestatis non habent nisi a populo fuerint electi et ab episcopo cum consensu abbatis ordinati.¹⁸⁹

His omnibus auctoritatibus perspicue monstratur monachos posse penitentiam dare, baptizare, et cetera sacerdotalia officia licite administrare. Quod vero populi electione, episcoporum institutione et abbatis consensu potestatem suam exequi valeant.¹⁹⁰

Problems had arisen concerning the pastoral ministry exercised by the monks. Certain texts in the Decretum, and especially some by Jerome,¹⁹¹ seemed to prohibit the exercise of the ministry in public by the monks. Gratian clearly indicated that Jerome's words were to be understood with the distinction between monk and cleric in mind:

Voluit ergo Ieronimus distinguere inter personam monachi et clerici, ostendens quid cuique ex proprio officio conveniat. Aliud enim **convenit** cuique ex eo quod monachus est: sua et aliorum peccata deflendi habet officium; aliud ex eo quod clericus: docendi et pascendi populum.¹⁹²

Gratian proved that both secular and regular priests could perform the same functions in the ministry, for both received the same rite of ordination. If both received the same ordination, then both received the same power at ordination. The only difference could come from the licentia (executio, potestas executionis) of the bishop.

¹⁸⁹Dictum post c.19. C.16.q.1.

¹⁹⁰Dictum post c.25.C.16.q.1.

¹⁹¹E.g., C.16.q.1.c.4, "Monachos non docentis sed plangentis habet officium"; c. 5, "Si cupis esse quod diceris, monachus, id est solus, quid facis in urbibus?"; c. 6, "Alia causa est monachorum, alia clericorum."

¹⁹²Dictum post c.39.C.16.q.1.

Sicut ergo in benedictione, utrique communem nanciscuntur potestatem, ita in institutione communiter assecuntur potestatis executionem. Ceterum absque episcoporum licentia non solum monachis set etiam omnibus generaliter clericis potestatis executio interdicitur.¹⁹³

The bishop, then, not only conferred the potestas ordinis on the men whom he ordained, he also conferred upon them the executio ordinis. No one was to presume to undertake the cura animarum on the basis of ordination to the priesthood alone.

Gratian's position in this matter was immediately understood by his own disciples. His pupil and early commentator, Ronald Bandinelli,¹⁹⁴ wrote:

...talem distinctionem credimus adhibendum, quod monachorum alii sunt sacerdotes, alii non. Monachorum ordinem in primitiva ecclesia ex laicis tantum constituisse credimus.... Monachi siquidem presbyterali honore decorati sacerdotalia officia libere valent administrare.... Item notandum est quod monachorum sacerdotum quidam habent populum sibi commissum, quidam non. Nulli ergo monachorum licebit missas publicas celebrare, populis predicare, baptizare atque alia sacerdotalia populis ministrare, nisi constiterit eum populum sibi subiectum habere.¹⁹⁵

Roland understood the granting of the executio potestatis by the bishop as a granting of subjects to the priest. The cura animarum belonged by right to the bishop; the priest could exercise his sacerdotal powers in the public ministry only to the extent to which the bishop committed his own subjects to the cura of the priest. Without a flock committed to him,

¹⁹³Dictum post c.40.C16.q.1, in fine.

¹⁹⁴Cf. Kuttner, op. cit., 128; Van Hove, op. cit., 434.

¹⁹⁵Stroma Rolandi, C.16.q.1, Die Summa Magistri Rolandi, ed. Friedrich Thaner (Innsbruck: Verlag der Wagner'schen Universitäts-Buchhandlung, 1874), p. 37.

the priest could not publicly exercise his priestly powers.

Notandum est enim quod ad sacerdotalis dignitatis amministrationem duo sunt necessaria: ordo et licentia ordinis exsequendi. Licentia enim absque ordine nichil confert; quamvis enim ab episcopo concedatur aut etiam inungatur non diacono evangelica lectio, nondum sacerdoti missarum celebratio, erit tamen **eis semper illicitum**, quousque diaconii vel sacerdotii fuerint adepti officium. Item ordinatio quoque prestita absque licentia exsequendi nichil, quod ad hoc spectat, conferre videtur, cum eadem subtracta etiam post longi temporis amministrationem, sacerdotes cessare protinus ab officio videamus.¹⁹⁶

The licentia ordinis exsequendi is the complement of ordination to the priesthood, which is not given for the ordinand alone, but for others.¹⁹⁷

In their treatment of ordination and the powers it conferred the canonists stressed two points. First, the bishop conferred in the rite of ordination to the priesthood the potestas ordinis (or ordo, or caracter, or potestas aptitudinis) and the officium (potestas habilitatis) so closely connected with it. The first of these was permanent and could never be lost or taken away; the second could be taken away in its exercise, by suspensio, or in its substance, by depositio. In virtue of these two powers the priest could validly celebrate Mass privately (and, a point which the canonists had not yet developed, administer the sacraments in articulo necessitatis). Second, the bishop conferred upon all priests who exercised the ministry (cura animarum) in his diocese the executio ordinis (or licentia ordinis exsequendi, or potestas executionis) in

¹⁹⁶Ibid.; this is also treated in the Anglo-Norman Summa Questionum of Honorius (Douai ms. 640), f. 16va; for this work, cf. Kuttner and Rathbone, art. cit., pp. 304 ff.

¹⁹⁷Dictum ante c.44.C.1.q.1: "Cetera enim sacramenta unicuique propter se dantur...Istud solum non propter se solum sed propter alios datur...ad quorum [fratrum] utilitatem, non solum ut presint sed etiam ut prosint, sacerdotium datur."

virtue of which the priest could publicly exercise the functions of his priesthood. In this way the canonists not only explained the sacred powers of the bishop and the priest but also their coordination in the ministry of the Church.

Conclusions

During the fifty years which passed between the appearance of Gratian's Decretum and Huguccio's Summa Decretorum there was an ever increasing precision to be found in the canonists' treatment of the episcopacy. The principal developments in the canonical literature on the episcopacy may be summarized as conclusions to this chapter.

1) Gratian had introduced a consideration of the "ministri sacrorum canonum," i.e. "summi pontifices et infra presules." His interest in ecclesiastical personnel was limited to a consideration of their role as this was outlined in the common law of the Church. This approach was in marked contrast to that of the theologians (as will be seen in chapters three and four), who first considered the sacrament of Order and then studied the relationship of the various ecclesiastical offices and dignities to this sacrament. From the outset, though, Gratian insisted that Christ Himself had, absolutely speaking ("simpliciter"), instituted the distinction between major and minor priests and the primacy of Peter among the Twelve. Isidore of Seville, whom Gratian quoted in support of his explanation, gave the etymological definitions for the various degrees of clerics "who served in the Church of God." Isidore did insist that the priest could not confirm, for he did not have

the "pontificatus apicem."

2) The earliest commentators upon the Decretum showed the influence of Hugh of Saint Victor and Peter Lombard. Rufinus and Sicardus of Cremona quoted the Lombard's definition of ordo; the Summa Parisiensis and Sicardus give the seven-fold division of ordo based on the seven-fold grace of the Holy Spirit, a division used previously by Hugh of Saint Victor and Peter Lombard; and the Summa Parisiensis and Rufinus quote Peter Lombard's assertion that the episcopacy is not an ordo but a dignitas.

3) The early commentators on Gratian attempted to indicate more precisely than Gratian and Peter Lombard had done the nature of the superiority which the bishop held over the simple priest. Both Rufinus and Stephan of Tournai listed various criteria for superiority in the Church: the bishop is superior to the priest by the dignity of consecration, the priest is superior to the deacon by the dignity of ordination, and Peter is superior to the other apostles by the dignity of administratio. For these authors, then, the bishop's superiority over the priest was not based on the same principle as the priest's superiority over the deacon. They also taught that the bishop's superiority was not (only) one of administratio.

4) In discussing the "ordination" of James by Peter, James and John the canonists quite generally maintained that James received a definite, limited administratio at his "ordination." Simon of Bisignano and Huguccio taught that this rite was held as an example for the consecration of future bishops. Their conclusion rested on their affirmation

that as all the apostles had been made bishops by Christ, James couldn't have been consecrated bishop by his fellow apostles.

5) The statements of Jerome, quoted in the Decretum, seemed to indicate an original equality between priests and bishops. Upon this point three explanations were offered by the Decretists. (i) The Summa "Omnis qui iuste" presented the view that Christ distinguished major and minor priests, but only later did it come about that the major priests began to exercise authority over the minor priests. (ii) The author of the Summa "Imperatorie maiestati" and Sicardus of Cremona also affirmed Christ's institution of the distinction between major and minor priests. They also taught that originally both groups had been equal in administratio and in officium (i.e. the power to dispense the sacraments) for each could dispense whatever sacraments Peter **could**. Later the bishops received a superiority in administratio and in officium (whereby they could dispense sacraments which simple priests could not). (iii) Huguccio affirmed the opposite view, namely, that the bishop's superiority over the priest existed from the beginning with respect to administratio, prelatio, officium and celebratio sacramentorum. The only change which had taken place was in name, for originally all had been called "bishops" and "priests" indiscriminately, and only later had the terms been limited to their present usage. Stephan of Tournai and Simon of Bisignano seemed to lean to this position of Huguccio when they listed the various functions which were proper to bishops as a denial of Jerome's assertion of equality between bishop and priest.

6) Huguccio's assertion of the bishop's superiority led him to

see in the episcopacy an ordo from which flowed the bishop's proper functions, such as confirming, consecrating churches, etc. He also knew that Isidore had listed the psalmista and the episcopus among the grades of clerics. Hence, he held that there were not seven ordines, but nine: the seven which were traditionally listed plus the episcopacy and the tonsure (several canonists viewed tonsure and the reception of the grade psalmista as one thing by which the recipient entered into the clerical state). The affirmation of nine ordines and especially the affirmation that the episcopacy is an ordo received widespread acceptance among later canonists, as can be seen, for example, in the Summa of Raymond of Pennafort, which was written forty years after Huguccio.¹⁹⁸

7) All the Decretists admitted the power of the pope to delegate to a simple priest the power to confirm. Pope Gregory the Great had so commissioned a priest to confirm and Gratian included this concession in the Decretum. Sicardus of Cremona found the basis for this delegation in the fact that Christ had not determined the forma and minister of Confirmation, thereby leaving this power to the Church. The author of the Summa "Omnis qui iuste" looked rather to the substance of the sacra-

¹⁹⁸Raymond of Pennafort, Summa (Verona: Apud Augustinum Carattonium, 1744), Liber III, tit. 22, number 7: "Quot sunt ordines": "Item nota quod secundum quosdam sunt novem ordines: quinque minores sive non sacri et quattuor maiores sive sacri; minores sunt: Psalmistatus, Ostiariatus, Lectoratus, Exorcistatus, et Acolythatus; maiores sunt: Subdiaconatus, Diaconatus, Presbyteratus, et Episcopatus. Alii dicunt ordines esse septem tantum: negant enim Psalmistatum et Episcopatum esse ordines (arg. Dist. 77.c. illud [Dist. 77.c.1 "Illud"])...Primi probant Psalmistatum esse ordinem per iura satis expressa." page 295. Raymond is included among the Decretists for his Summa appeared before he compiled the Decretales Gregorii IX: cf. R. Naz, "Raymond de Pennafort," Dictionnaire de Droit Canonique, Fasc. 38 (Paris, 1959), cols. 461-464.

ment of Order: Christ had not so attached the power to confirm to the priestly ordo that the Church could not reserve that sacrament to bishops. Huguccio seemed to agree with this position. Even though he affirmed the notion that the episcopacy is an ordo, yet he admitted the pope's power to delegate the actions proper to bishops to simple priests. His reason was that Christ had not attached Confirmation to the episcopal ordo in the same way as He had attached the power to consecrate the Eucharist to the priestly ordo. The pope could never delegate a non-priest to consecrate the Eucharist, as he could delegate a non-bishop to confirm.

8) Sicardus of Cremona, the author of the Summa "Omnis qui iuste" and Huguccio affirmed that the validity of episcopal consecration depended upon the previous reception of the priesthood. This became the common opinion among the canonists. As Raymond of Pennafort wrote: "Ordo sacerdotalis est quasi fundamentum substantiale ordinis episcopalis."¹⁹⁹ Thus, for the Decretists, the episcopacy was a power added to the priesthood; it was not a completely separate power. No man could be a bishop who was not a priest.

9) At his consecration the bishop received his power to dispense

¹⁹⁹Ibid., p. 297: "Quid si clericus pretermisso sacerdotali ordine consecratur in episcopum? Ad hoc dicunt fere omnes doctores quod nullo modo potest esse Episcopum nisi sit sacerdos." This position had, in fact, been implicit in the writings of Paucapalea, Gratian's pupil and first commentator, who wrote between 1140 and 1148 (cf. Kuttner, op. cit., 125-127; Van Hove, op. cit., 433-434). Paucapalea had written: "...episcoporum officia, quorum potestas quantum ad sacerdotalem attinet dignitatem cum presbyteris est communis." Summa, C.26, in prin. (Die Summa des Paucapalea über das decretum Gratiani, ed. Joh. Friedrich von Schulte, Giessen: Emil Roth, 1890), p. 107.

certain sacraments and to perform certain blessings and consecrations. By means of his power he could depose priests, i.e. take away their officium, that potestas habilitatis whereby the priest could exercise his priestly ordo. By his universal cura animarum the bishop controlled the apostolate in his diocese and could grant the cura animarum to either secular or regular priests.

One finds in the writings of the canonists after Gratian a growing awareness of the uniqueness of the bishop's position. Huguccio termed this the bishop's ordo, for those functions which required a sacred power other than jurisdiction in their minister. He was followed by the glossa ordinaria to the Decretum²⁰⁰ and the later writers who commented on the various collections of papal decretal letters.

²⁰⁰Dist.95.c.1, glossa ordinaria, s.v. concedimus: "Item queritur numquid episcopus demandare potest ea que sunt ordinis episcopalis? sic, sed ea non potest demandare nisi episcopo....Ea vero que iurisdictionis sunt potest etiam demandare presbytero."

CHAPTER II

THE EPISCOPACY IN THE WRITINGS OF THE DECRETALISTS

In his Decretum Gratian had attempted to present the common law of the Church up to his own time (i.e., including the Second Lateran Council, 1139). The impetus which this collection gave to the study and teaching of Canon Law is evident in the many and profound commentaries of the Decretists.

Canon Law was further developed in the century following the appearance of the Decretum by much new legislation. The universal jurisdictional authority of the Pope and the doctrinal authority of the schools combined to produce this advance.¹ The election of Alexander III in 1159 brought to the chair of Peter the distinguished canonist, Roland Bandinelli. As problems arose throughout Christendom, local bishops wrote to him and his successors for solutions. The popes replied in epistolae decretales in which ecclesiastical legislation was developed beyond the stage which was found in the Decretum.

The canonists found it necessary to supplement Gratian with this new legislation. Collections of papal decretals were made; these letters were called "extravagantes," i.e. "extra Decretum vagantes." At first such additions were placed as appendices to the Decretum; when this method proved impractical because of the large number of decretals, separate collections were drawn up.²

¹Stickler, op. cit., 218-219. ²Ibid., 222-225, for a list of these.

As the number of these collections increased, a situation arose which was similar to that at the time Gratian had written: canonists were obliged to consult many separate collections to find all the texts which they needed. To solve this problem, Bernardus Papiensis compiled his Breviarium extravagantium. Like the work of Gratian, this work supplanted previous collections. It was completed shortly after Pope Clement III died in March, 1191.³ The work of Bernardus was important not only for its contents but especially for its method. The canonical material which Gratian had omitted or which had appeared between 1140 and 1191 was arranged in five books. The subject matter of the five books was divided according to the key words: "iudex, iudicium, clerus, connubia, crimen." This method was important, for each successive collection of decretals would adopt this division into books and the subdivision into titles on the basis of subject matter.⁴

By the pontificate of Gregory IX (1227-1241) there were five major collections of decretals (called the Compilationes Antiquae) containing the legislation from the Decretum (1140) to the decretals of Honorius III (in the Compilatio Quinta, 1226). In these collections were many repetitions, contradictions, and confusions.

Gregory IX determined that there should be one official collection of decretals. He commissioned his chaplain and penitentiary, the Dominican Raymond of Pennafort, to compile such a work. The task took four years

³Ibid., 225-226; Cf. Van Hove, op. cit., 356; Kuttner, op. cit., 322.

⁴Ibid., 228.

and the result was promulgated by the bull "Rex Pacificus" of September 5, 1234.⁵ The work had no official title; it came to be called Decretales Gregorii IX. The promulgation of this collection marked a decisive step in the history of Canon Law, for it was an exclusive collection, i.e. other collections of decretals were no longer to be used. Those decretals written after the Decretum and not included by Saint Raymond were thereby abrogated.⁶

As these various collections of decretals were compiled, the professors of Canon Law began to comment upon them. The writings of the Decretalists embrace commentaries upon the Compilationes Antiquae as well as commentaries upon the Decretales Gregorii IX.

With respect to the episcopacy, the Decretalists added precision to the doctrine proposed by Huguccio and mentioned in the glossa ordinaria to the Decretum.⁷ In the writings of the Decretalists can be found a clear distinction between the election-confirmation of a bishop and his consecration; a definite delineation between the episcopal potestas ordinis and potestas iurisdictionis. The Decretalists also reflect the doctrine of the Decretists with respect to preposteratio ordinis: only a priest could be consecrated to the episcopacy.

⁵Ibid., 241-242; Van Hove, op. cit., 358-360.

⁶Ibid., 248-249; Van Hove, op. cit., 360.

⁷For the Decretalists the episcopacy was considered to be an ordo with its own proper potestas ordinis; it was not treated as a dignitas added to the presbyteral ordo. In general it will be found that the Decretalists were far less interested than the Decretists in questions which were both theological and canonical. The Decretalists were most interested in the bishop's jurisdiction, which they explained in detail.

I. Episcopal Consecration.

With respect to the acquisition of the episcopacy, two elements are clearly distinguished in the decretals: the bishop-elect received administrative and jurisdictional powers at the confirmation of his election, and power of orders at his consecration. This distinction was already latent in a decree of the Third Council of the Lateran (1179), held under Pope Alexander III:

Cum vero electus fuerit et confirmationem electionis acceperit, et ecclesiarum bonorum administrationem habuerit, decurso tempore de consecrandis episcopis a canonibus diffinito, is, ad quem spectant beneficia, quae habebat, de illis disponendi liberam habeat facultatem.⁸

In his gloss to this text, Laurentius Hispanus wrote: "confirmationem electionis: quia iam est prelatus illius ecclesie nec sine licentia domini pape dimittere eam potest."⁹ The bishop-elect received no powers

⁸Decretales Gregorii IX in Corpus Iuris Canonici, Pars Secunda, Editio Lipsiensis Secunda, ed. Aemilius Friedberg (Leipzig: Ex officina Bernhardi Tauchnitz, 1879), 1.6.7, "Cum in cunctis." This text is also contained in Compilatio Prima, 1.4.16. (Quinque Compilationes Antiquae nec non Collectio Canonum Lipsiensis, ed. Aemilius Friedberg, Leipzig: Ex officina Bernhardi Tauchnitz, 1882). This text is canon 3 of the III Lateran Council according to Mansi's enumeration (Sacrorum Conciliorum Nova et Amplissima Collectio, ed. Joannes Dominicus Mansi, Venice: Apud Antonium Zatta, 1778, 22:218). [Citations to the Decretales Gregorii IX are made, e.g., X 1.6.7. = Extravagantes, Liber 1, titulus 6, capitulum 7.]

⁹Laurentius Hispanus in Compilatio Prima, 1.4.16. (Vat. Lat. 1377), f. 9. For Laurentius, cf. Antonio García García, O.F.M., Laurentius Hispanus: Datos biográficos y estudio crítico de sus obras, No. 6 in "Cuadernos del Instituto Jurídico Español" (Rome-Madrid: Consejo Superior de investigaciones científicas, 1956); Van Hove, op. cit., 443-444. He was a pupil of the famous legist Azo, then professor of Canon Law at Bologna, where he taught Tancred and Bartholomaeus Brixiensis. It should be mentioned that a major study on the origin and development of confirmation of elections by R. Benson will be published soon by the Princeton University Press.

from his election alone. Bernardus Parmensis de Botone, the author of the glossa ordinaria on the Decretales Gregorii IX, states: "Bene dicit confirmationem, quia ante confirmationem nihil debet attingere in administratione, alioquin repelleretur."¹⁰ Until his consecration, however, he did not possess his church pleno iure because his election could yet be appealed.¹¹

A few years after the Third Lateran Council Pope Celestine III had occasion to reply to a bishop whose clerics rejected his power to suspend them or impose an excommunication on the ground that he had not been consecrated. The pope replied:

Respondemus igitur, quod...ex quo electionis tue confirmationem accepisti, de talibus et consimilibus, preter ea que maioris inquisitionis discussionem exigunt, et ministerium consecrationis desiderant, quod iustum est et ecclesiastice convenit utilitati statuendi habeas liberam facultatem.¹²

In commenting upon this passage, Vicentius Hispanus distinguished the powers which the bishop had by confirmation of his election from those he received at his consecration.

confirmationem--confirmatus ergo excommunicare potest, non solum in episcopum electus sed etiam in abbatem....Unde patet quod excommunicare iurisdictionis, non ordinis, est. statuendi--ad iurisdictionem pertinentibus, puta iudicare, sacramenta fidelitatis a vassallis accipere, investituras et prebendas dare,

¹⁰Glossa ordinaria, X 1.6.7. s.v. confirmationem, in Decretales Gregorii IX una cum glossis (Venice, 1591). Bernardus wrote his glossa at Bologna between 1245 and his death in 1263, cf. Van Hove, op. cit., 473.

¹¹Ibid., s.v. ad quem spectant: "Ante enim consecrationem non dicitur pleno iure habere ecclesiam cum adhuc tempore consecrationis possit excipi contra ipsum."

¹²X 1.6.15, "Transmissam"; Compilatio II, 1.3.7; JL 16572.

electiones confirmare (ut supra est, nosti) [X 1.6.9, "Nosti"]. Hec ei in electione feruntur. In consecratione ea vero que sunt ordinis, ut clericos ordinare, ecclesias consecrare, et cetera similia. Sed numquid possunt causam criminalem clericorum audire--argumentum quod non, quia non potest eos deponere, quia hoc ordinis est, et iudex tantum iudicare de quo cognovit....Ex quo breviter concludo quod nec cognoscere nec delegare potest causam.¹³

Pope Innocent IV wrote a commentary on the Decretales Gregorii IX while he was pope; he was writing as a private doctor, however.¹⁴ He taught that no formalities beyond the confirmation of the election were necessary for the transfer of jurisdiction.

confirmationem--Nota quod electus quam cito est confirmatus sine alia possessione vel investitura vel installatione statim potest administrare res ecclesie sue in temporalibus et spiritualibus tam in colligendis fructibus quam in actionibus intentandis nomine ecclesie sue.¹⁵

¹³Vincentius Hispanus in X 1.6.15, (Vat. Lat. 1378), f. 17va. For Vincentius, cf. Van Hove, op. cit., 444: "canonicus regularis monasterii Sanctae Crucis in Conimbrica, decanus Ulyssiponensis a. 1213, cancellarius regis a. 1226, episcopus Aegitaniensis [Odessa] in Lusitania a. 1229, obiit Sept. 21, 1248."

The glossa ordinaria contains almost the same list as Vincentius: "De talibus--sc. pertinentibus ad iurisdictionem, puta sicut est iudicare, excommunicare, corrigere, iuramenta recipere a vasallis, confirmare, investire, beneficia conferre, et consimilia quae consistunt in iurisdictione....Hec omnia in confirmatione consequitur electus. Ea vero que sunt ordinis, sicut clericos ordinare, chrisma conficere, depositio clericorum, benedicere virgines et ecclesias, et altaria consecrare et similia conferuntur in consecratione episcopali." (Glossa ordinaria, X 1.6.15, s. v. de talibus).

¹⁴Cf. Van Hove, op. cit., 477: "Sinibaldus Fliscus (Fieschi), natus Genoe, alumnus et professor Boloniensis, canonicus Parmensis, auditor litterarum contradictarum a. 1226, cardinalis S. Laurentii a. 1227, episcopus Albiganensis (Albenga) a. 1235, papa [Innocentius IV] 1243-1254."

¹⁵Divina Innocentii III Pontificis Maximi, Doctoris Subtilissimi, in Libros Decretalium Commentaria, ed. M.D. Leonardus a lege, Juriscon., Mantuani, (Venice: 1570), p. 57.

Hostiensis, whose writings earned him the title "iuris utriusque monarcha,"¹⁶ added the qualification that the bishop-elect could delegate the powers he had, namely jurisdiction. Until his consecration he had no power of orders ("quae episcopalis ordinis sunt").¹⁷

In several of his decretal letters Pope Innocent III resumed the very old patristic conception of a marriage between the bishop and his church: "ut per mutuum consensum eligentium et electi quasi coniugale vinculum spiritualiter sit contractum."¹⁸ This bond was contracted by the confirmation of the election.¹⁹

Hostiensis worked out an explanation of this comparison in which he considered a bond between the bishop and the universal church.

quasi coniugale--sc. carnale, q.d. [quasi dicat] sicut carnale matrimonium per mutuum consensum contrahitur, sic et spirituale ad exemplum ipsius; vel sic, quasi vinculum, q.d. [quasi dicat] non est

¹⁶Cf. Van Hove, op. cit., 476-479: "Henricus de Segusio, natus Segusii (Susa) in territorio Taurinense, alumnus Boloniensis Jacobi Balduini et Jacobi de Albenga, professor Parisiensis, episcopus Sistariensis (Sisteron) a. 1244, archiepiscopus Ebrodunensis (Embrun) a. 1250, cardinalis Ostiensis [unde eius cognomen Hostiensis] a. 1261, obiit Oct.25/Nov.6, 1271."

¹⁷Henrici de Segusio, Cardinalis Hostiensis, Juris Utriusque Monarchae, Celeberrimi in Libros Decretalium Commentaria, 6 Vols., (Venice: Apud Juntas, 1581), I, p. 44.

¹⁸X 1.6.21, "Cum inter canonicos"; Compilatio III, 1.6.6.; Potthast no. 942. (Regesta Pontificum Romanorum inde ab a. post Christum natum MCXCVIII [1198] ad a. MCCCIV [1304], ed. Augustus Potthast, 2 Vols., Graz: Akademische-Druck-U. Verlagsanstalt, 1957. This work continued the Regesta of Jaffé from the beginning of the reign of Innocent III (1198) to 1304. [It will be cited Potthast.]

¹⁹Glossa ordinaria, X 1.6.21. s.v. quasi coniugale: "Sed in veritate contractum non est vinculum coniugale per consensum eligentium et electi ante confirmationem."

vere vinculum inter electum et eligentes sive administrationem ecclesiae ad quam vocatur, quamvis verum sit inter electum et ecclesiam generalem. Unde primum dissolvitur, et secundum nunquam....et de illo vinculo generalis ecclesiae potest dici quod contrahitur in confirmatione, et secundum hoc potest dici quod istud "quasi" determinat verbum sequens "contractum" et sic salvatur opinio aliorum, sed non sic intellexerunt.²⁰

Hostiensis explained that the "quasi" could be understood to mean that between the bishop and his own diocese there existed only a "quasi-vinculum" while the real bond existed between the bishop and the universal church.

This was not the interpretation which Innocent III had in mind when he used the comparison, though, as is evident from the detailed application which he made of this analogy to the cessation of the bond.

Cum ergo fortius sit spirituale vinculum quam carnale, dubitari non debet, quin omnipotens Deus spirituale coniugium, quod est inter episcopum et ecclesiam, suo tantum iudicio reservaverit dissolvendum, qui dissolutionem etiam carnalis coniugii, quod est inter virum et feminam, suo tantum iudicio reservaverit....Non enim humana, sed potius divina potestate coniugium spirituale dissolvitur cum per translationem, depositionem aut cessionem auctoritate Romani Pontificis, quem **constat** esse vicarium Iesu Christi, episcopus ab ecclesia removetur; et ideo tria haec que premisimus, non tam constitutione canonica quam institutione divina soli sunt Romano Pontifici reservata.²¹

The transfer of a bishop to another see, his deposition or his resignation would mean that the bond between him and his diocese would be broken. This could be done only by the Roman Pontiff, who as vicar of Christ had the divinely-instituted authority to cause or permit such a break.

²⁰Hostiensis, op. cit., I, 48v.

²¹X 1.7.2, "Inter corporalia et spiritualia"; Compilatio III, 1.5.2.; Potthast no. 575.

In this same letter Innocent III went on to explain that the bishop's consecration added nothing to the bond already established by the confirmation of his election.

Sicut enim episcopus consecratus sine licentia Romani Pontificis suam non debet ecclesiam derelinquere, sic et electus confirmatus: cum non debeat in dubium revocari, quin post electionem et confirmationem canonicam inter personas eligentium et electi coniugium sit spirituale contractum, cui profecto episcopalis dignitas nihil addit, cum quis episcopali peditus dignitate nullius tamen ecclesie possit esse episcopus, quemadmodum de illo contingit, qui oneri pontificali renunciat, non honori. Unde, cum non sit maius vinculum episcopi ad ecclesiam quam electi, maxime cum fuerit confirmatus, immo idem penitus, et non aliud, idem iuris obtinet in utroque.²²

Note that Innocent refers to the effect of episcopal consecration as the reception of the "episcopalis dignitas." It was possible for a bishop to have this "dignitas" or "honor" even though he had no diocese of his own. It was not the "dignitas," though, which effected the vinculum. This was the result of the confirmation of his election, and the same bond existed between the bishop-elect and the consecrated bishop to his own diocese.

The precise role which consecration took in this comparison of the episcopacy to the marriage bond appears in another decretal of this same pope.

Sicut legitimi matrimonii vinculum, quod est inter virum et uxorem, homo dissolvere nequit, Domino dicente in evangelio: "Quod Deus coniunxit, homo non separet," sic et spirituale foedus coniugii, quod est inter episcopum et ecclesiam, quod in electione initiatum, ratum in confirmatione, et in consecratione intelligitur consummatum, sine illius auctoritate solvi non potest, qui successor est Petri et vicarius Iesu Christi.²³

²²Ibid.

²³X 1.7.4, "Licet in tantum," in prin.; Compilatio III, 1.5.4.; Potthast no. 942.

Hostiensus, although he maintained that there was a real bond between the bishop and the universal Church, also taught that there was a bond between the bishop and his own diocese; this latter bond could be dissolved only by the pope, as Innocent III taught in this letter.²⁴

The three-fold comparison presented here between the episcopacy and marriage ("initiatum, ratum, consummatum") permitted the Decretalists to separate the various aspects of the episcopacy. The election of a candidate to the episcopacy was the beginning of the bond; this gave the candidate a ius, a right to the office. This was yet a tenue ius, for exceptions could still be brought against his election.²⁵ Postulation to the episcopacy did not confer even a tenue ius on the candidate, for postulation was **not** a question of right (ius) but of concession (gratia).²⁶

By the confirmation of his election, the bishop-elect immediately received full jurisdiction in his own diocese: "Nota quod electus et confirmatus est adeptus omnia illa que consistunt in iurisdictione."²⁷

²⁴Hostiensis, op. cit., I, p. 82v, in X 1.7.2: "vinculum quod est inter episcopum et ecclesiam generalem nunquam dissolvitur nisi Dei iudicio qui secundum opera sua quemlibet iudicabit...vinculum vero quod est inter episcopum et ecclesiam specialem (quod et dignius est carnali) quandoque dissolvitur, sed per papam."

²⁵Glossa ordinaria, X 1.7.2. s.v. confirmatus: "ergo ante confirmationem potest [scilicet, derelinquere ecclesiam suam sine licentia Romani Pontificis]: quod verum est; adhuc tamen habet tenue ius, cum posset repelli per exceptionem."

²⁶Ibid., X 1.6.21, s.v. resilire: "Sed aliud est in postulatione et aliud in electione per quam ius acquiritur, 8, q. 2, dilectissimi [C.8. q.2.c.2, "Dilectissimi"]; et per postulationem ius non acquiritur." Cf. ibid., X 1.5.5. in prin.: "Postulationem--Postulatio dependet a gratia."

²⁷X 1.6.15, "Transmissam," Coelestinus III; Compilatio II, 1.3.7.; JL 16572.

Innocent IV taught that the bond between the bishop-elect and his diocese was substantially established by the confirmation of the election. The three-fold division mentioned by Innocent III did not mean that the bond itself was divided into three parts, to be acquired successively:

Non tamen propter hoc intelligas matrimonium habere partes, sive principium, medium et finem, cum sit res simplex et incorporea, unde dividi non potest; sed referas hec verba ad processum facti et solemnitatem et potestatem quam consequitur per confirmationem; per consensum enim eligentium et electi et confirmantis quoad substantiam plenum **est** matrimonium sive sacramentum; substantie nihil enim adiicit consecratio.²⁸

Although consecration added nothing to the bond between the bishop-elect and his diocese, it did confer the "dignitas episcopalis," which was also called: "ea quae consecrationis ministerium desiderant," or "ea omnia quae pertinent ad episcopalem dignitatem."²⁹ These were powers in addition to his powers of jurisdiction, which the bishop-elect received fully at the confirmation of his election.

Hostiensis had seen in the vinculum a bond with the universal Church. He could thereby offer a solution to the question raised by the glossator: how can the bond between the bishop and his diocese be stronger

²⁸Innocent IV, op. cit., in X 1.7.4., p. 106; cf. also glossa ordinaria, X 1.7.4. s.v. Licet in tantum: "...quod pro tanto dicitur initiatum quia post electionem ab ea non possunt recedere electores...et postea per consensum electi perficitur et in confirmatione fit ratum, ita quod amplius posse renunciare non potest...et in consecratione consummatum intelligitur et hoc tantum quo ad illa quae ministerium consecrationis desiderant...sed quo ad vinculum coniugale consecratio nihil operatur."

²⁹Cf. X 1.6.15, "Transmissam," supra, p. 83; X 1.7.2, "Inter corporalia et spiritualia," supra, p. 87. This comparison of the episcopacy to marriage and the clear distinction between the jurisdiction which was acquired in confirmation of the election and the powers which were acquired by consecration show the progress of the Decretalists beyond the Decretists in the understanding of the difference between order and jurisdiction.

than the marriage bond, for the former can be dissolved by the pope while the latter is indissoluble even by papal power?³⁰ Hostiensis replied that the spiritual bond contracted by the bishop with the universal Church was stronger.

Dicitur enim spirituale: quia fortius imprimatur et fortius operatur, cum character imprimatur in anima per consecrationem ipsius, qui nunquam delebitur, et gratia datur et multiplicatur, quod non est in corporali.³¹

The character and grace, which Hostiensis taught were conferred by episcopal consecration, effected an even more permanent bond than the marriage bond between husband and wife. Because his bond was with the universal Church, the bishop always retained it even when he had no particular church of his own; such a one would be "episcopus ecclesie generalis non administratione sed numero et ordine et honore."³²

It is important to note that the bond which existed as a result of the confirmation of an election to the episcopacy did not exist in prelates or clerics inferior to bishops. Although such persons were not

³⁰Glossa ordinaria, X 1.7.2. s.v. fortius: "i.e. dignius, cum carnale in veritate fortius est, quia dissolvi non potest, etiam si interveniat consensus papae et ipsorum coniugum; immo maneant coniuges separatim.... Spirituale vero coniugium in multis dissolvitur casibus, translatione, renunciatione et depositione auctoritate Papae."

³¹Hostiensis, op. cit., X 1.7.2., I, p. 82. Hostiensis had taught in his commentary upon X 1.6.21, p. 48v (supra, p. 86), that the bond with the universal Church was acquired at the confirmation of the election. This must be understood in the light of the present passage. Thus, the indissolubility of the episcopal bond is the result of consecration, for only in speaking of consecration does Hostiensis discuss character and grace, which he considers as causes of the indissolubility of the bond.

³²Ibid, p. 82v. Note that Hostiensis here refers to the episcopacy by the term "ordo"; he had previously spoken of "character...gratia" of episcopal consecration. These are the elements of a sacramental ordo!

to leave their churches without their bishop's permission, they were not bound by the same type of strict bond which united the bishop to his diocese.³³

II. Delegation of Episcopal Power.

The bishop could delegate the jurisdiction which he received at the confirmation of his election; he could not, however, delegate the power of order which he received at his consecration. He could commit to another bishop the functions which required power of orders in the minister.

committere--Archiepiscopus potest committere ea que sunt iurisdictionis etiam illis qui eam non habent...sed ea que sunt ordinis vel consecrationis committere non potest his qui eam non habent, puta illis qui non sunt episcopi vel archiepiscopi vel maiores....Nec etiam talia dicuntur committi sed cum mandat archiepiscopis suffraganeis ut hoc faciant, sola auctoritas eis deest et nihil committit eis archiepiscopus nisi quia dat auctoritatem propter prelationem quam habet super illis.³⁴

In such cases it would be more correct to speak of giving permission rather than to speak of a delegation of power.

Hostiensis explained that a bishop-elect, whose election had been confirmed, could have a consecrated bishop exercise his power of orders in his diocese or on his subjects. In this case he was transferring to the consecrated bishop the "materia" upon which he could exercise his

³³Glossa ordinaria, X 1.5.6: "Quamvis omnes clerici adstricti sint ne possint dimittere ecclesias sine consensu episcoporum eorum, nihilo minus eligi possunt [et non postulari]; quia non est tanta coniunctio inter eos et eorum ecclesias sicut inter episcopum et ecclesiam cui est matrimonialiter alligatus; illud vinculum non est in aliis inferioribus prelatiis."

³⁴Ibid., X 1.31.10. s.v. committere.

power. Such permission was necessary for an ordaining bishop, for example, for one could ordain only his own subjects (over whom he had jurisdiction) or the subjects of another bishop who had given him permission to do so. The one who gave the permission need not be a consecrated bishop; it was only necessary that he have jurisdiction over his own subjects whereby he could direct them to go to a certain bishop to receive ordination.

Quandoque facit quis per alium quod per se non potest...Tu dic quod electus confirmatus iurisdictionem habet...et ideo ipsam demandare potest, et ipsum demandare consecrationi, iurisdictionis est;...ergo, ipsam transfert quamvis ipsam exercere non possit...sicut electus in episcopum, confirmatus, potest demandare ordinationem clericorum suorum, quam tamen ipse facere non potest...nam et quando episcopus consecratus mandat talia, non transfert nisi materia.³⁵

Hostiensis is very explicit in teaching that one could not receive **the power** of orders by delegation from a bishop. Rather, this power was received through the rite of ordination: "Characterem enim dignitatis non posset transferre [episcopus] nisi per manus impositionem."³⁶ "Character autem non per delegationem sed per manus impositionem imprimitur."³⁷

Innocent IV developed the distinction between transfer of sacramental power and transfer of authority or jurisdiction in his explanation of the acquisition of the power to bind and loose.

...cura animarum dicitur stricte potestas ligandi et solvendi, sc. in foro poenitentiali, et hec in nullo prelato est nisi sit sacerdos. ...; quam curam aliis dare non potest quam sacerdos vel sacerdotis **authoritate** generali vel speciali...Quamvis dici potest quod archi-

³⁵Hostiensis, Summa Aurea, (Lyons: 1568), Liber I, paragraph 20, p.30.

³⁶Ibid.

³⁷Hostiensis, Commentaria in Libros Decretalium, X 1.6.11., I, p. 43.

diaconi et electi confirmati et alii huiusmodi, quamvis non sint sacerdotes, tamen possunt dare ecclesias sacerdotibus; nec dant curam animarum, sed is, cui dant, quando fuit factus sacerdos, simul cum ordine hanc potestatem ligandi et solvendi accipit; licet non in hos subditos, quos modo dat archidiaconus vel alius prelatus, potestatem haberet antequam per ipsum institueretur in ecclesia, quae curam habet; sed officium huius potestatis, quam non habet, concedit....Large dicitur cura potestas eiiciendi et recipiendi in ecclesiam, corrigendi et puniendi excessus...; sub hac cura est excommunicare, interdicere, visitare et cetera talia, quae sunt ad correctionem morum.³⁸

Innocent IV carefully distinguished "cura" and "cura animarum." The latter involved the "potestas ligandi et solvendi," which was received with the "ordo" when a man was ordained to the priesthood. Only a priest could possess this power. The archdeacon or another prelate could give a man a church, where he could exercise his "potestas ligandi et solvendi" when he received it at ordination. Merely disciplinary actions went under the general term "cura" and could be exercised or delegated by anyone with jurisdiction.

The conferring of the sacrament of Confirmation by a simple priest remained as a problem for the Decretalists. They knew that in the Decretum Gratian had cited conflicting texts concerning the minister of Confirmation and they knew that the Decretists had treated this point.³⁹ During the pontificate of Innocent III the question was raised in Constantinople, where Latin priests confirmed and alleged custom as a justification for their actions. The pope replied that it would be safer if priests didn't confirm.

³⁸Innocent IV, op. cit., X 1.23.4, p. 140. Innocent's distinction is clear even though he uses "cura animarum" to mean "potestas ligandi et solvendi" while most canonists used it to mean the exercise of this power.

³⁹Cf. supra, Chapter One, pp.45-56.

Discretionem tue mandamus, quatenus omnibus presbyteris districte prohibeas, ne talia de cetero sua temeritate presumant, que licet non sint a fidelibus contemnenda, tutius tamen est ea sine periculo ex necessitate, que legem non habet, omittere, quam ut ab his, quibus ea conferre non licet, ex temeritate, que lege damnatur, non sine gravi periculo inaniter conferantur, cum umbra quedam ostendatur in opere, veritas autem non subeat in effectu.⁴⁰

This reply of the pope was restricted to the disciplinary question and did not answer the speculative question; could a simple priest validly confirm? The pope replied that outside of necessity, priests should not presume to confirm. He concluded that the sacrament of Confirmation, when conferred by a priest without necessity, was conferred "inaniter," i.e. as an "umbra in opere sine veritate in effectu."

The commentators took this opportunity to discuss the papal power of delegating a simple priest to confirm. Laurentius Hispanus explained that one who acted by delegation could not act after he was forbidden to do so.

Quoniam tunc effectum habuit huiusmodi crismatio vel deceptor fuisset Gregorius in sua concessione, ut xcv, pervenit [Dist. 95.c.1, "Pervenit"]. Quid igitur est quod modo etiam conferre non possunt, licet prohibiti, cum videamus quod episcopus etiam prohibitus excommunicatus ordinem conferat?... Nota quod ubi quis habet aliquid ex officio habiti ordinis, confert licet prohibitus; si enim ex demandatione et adminiculo ordinis, tunc prohibitus non confert, sicut sacerdos confirmationem in fronte. Credo etiam quod ex demandatione pape et adminiculo habiti sacramenti potest conferre quilibet quod ipse percepit.⁴¹

Laurentius contrasts two types of power over the sacraments: the minister may have power "ex officio habiti ordinis" or "ex demandatione et admini-

⁴⁰X 1.4.4, "Quanto de benignitate"; Compilatio III, 1.3.3.; Potthast no. 868.

⁴¹Laurentius Hispanus in Compilationem III, 1.3.3., Kassel Ms. Jur. 11, no foliation.

culo ordinis." The former is always used validly, even after the one who has it is forbidden to exercise it; not so the latter, for the one who freely delegated the power to him can also freely revoke the delegation.

With respect to Confirmation by priests, Laurentius wrote:

Simplex ergo sacerdos confirmando in fronte nichil agit, ut de con., d.v, manus [De Cons.Dist.5.c.4, "Manus"], nisi hoc faceret ex concessione domini pape, ut xcv d., pervenit [Dist.95.c.1, "Pervenit"]; set nec credo papam hoc delegare posse presbytero, cum ordinis episcopalis sit.⁴²

Most other writers held the opinion that the pope could delegate a simple priest to confirm, but no other bishop could delegate this power.

Vincentius Hispanus recounts Laurentius' opinion but doesn't follow it.

Sed ad illud tempus de speciali concessione pape, nisi forte sacramentum posset conferre laicus ad mandatum pape, non autem ad mandatum alterius episcopi, quia ille habet solus plenitudinem potestatis; sicut et quilibet clericus potest ad mandatum pape conferre ordinem quem habet, non autem quem non habet....Quidam tamen dicunt quod papa non habet hoc demandare presbyteris, cum non sint ordinis episcopalis, vel illud quando idem erant episcopi et presbyteri.⁴³

⁴²Ibid, Admont ms. 55, f. 105^{va}. Now it would seem that in this question Laurentius contradicted himself: compare this text with the one on the preceding page. Apparently he was divided between two principles: either the delegation was valid or Pope Gregory deceived his priests, on the one hand, and on the other hand the "ordo episcopalis" with the attendant difficulty of explaining the acquisition of the power of orders by delegation. Laurentius personally preferred to hold this second point and deny the pope's power to delegate the power of orders.

⁴³Vincentius Hispanus in X 1.4.4, Paris, Bn. Lat. 3967, f. 13^{va}; the same commentary is found in his work on Compilatio III, 1.3.3., Vat. Lat. Ms. 1378, f. 4. Note in this text the appeal to the pope's "plenitudo potestatis"; this would become a frequent subject of the Decretalists. Note also the affirmation that by delegation from the pope any cleric could confer whatever ordo he himself had: this is the view which had been expounded by Huguccio (cf. supra, pp. 52-54).

Tancred, the compiler of the glossa ordinaria to the Compilatio III, gave a more detailed account of the various opinions; he does not follow the view of Laurentius, his former teacher.

Numquid sacerdotes ipsi conferebant characterem sacramenti? Respondeo minime, sicut expresse dicit littera: cum umbra quedam ostendebatur in opere sed non subvenerat veritas in effectu...et quia pro non dato habetur quod [h]ab eo datur qui non potest dare de iure....Numquid hodie ex delegatione possent sacerdotes in fronte crismare, et videtur quod sic per illud xcv d., pervenit [Dist.95.c.1, "Pervenit"]; alias oportet dici quod Gregorius Papa decepisset illos super hoc. Tenendum est quod ex delegatione alicuius episcopi non licet nec unquam licuit hoc presbyteris, et in hoc omnes doctores consensunt. De domino papa, an non possit delegare, diverse sunt opiniones: notavit hic magister Laurentius quod papa non potest hoc officium delegare simplici sacerdoti; Sylvester scripsit hic quod ex delegatione domini pape et aminiculo habiti sacramenti quilibet, tam clericus quam laicus, potest conferre quicquid ipse habet; que non habet, minime....Set si papa primo concederet alicui presbytero quod crismaret in fronte et postea prohiberet, si contra faceret, nichil conferret; sed si prohiberet episcopo confirmare, si contra faceret, characterem conferret....Ratio diversitatis est quia episcopus potest hoc facere ex of. [officio] et ordine, presbyter ex delegatione et aminiculo sacramenti.⁴⁴

Innocent IV closely followed the teaching of Tancred. Innocent added Alanus Anglicus as one who taught that the pope could not delegate a priest to confirm: "de papali auctoritate dixit Ala. quod non potest."⁴⁵ The conclusion of Innocent was identical with that of Tancred: "episcopus potest confirmare ex officio et ordine, sacerdos alius ex delegatione et adminiculo habiti sacramenti."⁴⁶

Tancred taught that the pope could give permission to a priest

⁴⁴Tancred in Compilationem III, 1.3.3., Vat. Lat. Ms. 1377, f. 10. For Tancred, cf. Kuttner, op. cit., 358-359; Van Hove, op. cit., 444: Tancred was born at Bologna, where he also studied and taught; later he became a canon and then archdeacon at Bologna, where he died 1234-1236.

⁴⁵Innocent IV, op. cit., X, 1.4.4., p. 40.

⁴⁶Ibid.

to confirm; if he revoked that permission, the priest no longer conferred the character of Confirmation if he attempted to administer that sacrament. The pope could not, however, prohibit a bishop from confirming to the extent that he would not confer the character. Innocent IV, while holding the same position with respect to the simple priest, also explained how the pope could prohibit a bishop from confirming.

Alii dicunt quod si papa prohiberet episcopum crismare, quod postea crismando non confert characterem. Licet enim papa non possit tollere sacramentum confirmationis, potest tamen contra illud, et in forma et in personis et in diebus a quibus et in quibus conferri debeat, suas constitutiones facere...et si potest circa personas conferentes aliquid statuere, ergo certe persone vel etiam episcopo potest potestatem auferre crismandi. Idem dicunt in baptismo. Tamen si papa talia faceret sine causa magna et aliis nota, non debet sustineri tamquam faciens contra generalem statum ecclesie.⁴⁷

A bishop did not have the same power as the pope to prohibit the administration of the sacraments. The reason which Innocent gave for this difference was the privilege divinely given to the pope. Papal power was limited, though: "Ei tamen in omnibus obediendum est in spiritualibus et in his que ad animam spectant, nisi contra fidem vel hec specialiter prohibita sunt."⁴⁸ Innocent did not teach that the pope could directly

⁴⁷Ibid. The last phrase, "contra generalem statum ecclesie," was a technical term used by the Decretalists to express the limits of papal power. Cf. Stephan Kuttner, "Pope Lucius III and the Bigamous Archbishop of Palermo," Medieval Studies Presented to Aubrey Gwynn, S.J., edited by J.A. Watt, J.B. Morrall, F.X. Martin, O.S.A., (Dublin: Colm O Lochlainn, 1961), 409-453. On page 417 references can be found to the use of this expression in the Summa "Omnis qui iuste," Dist.14.c.2, and Dist.34.c.14, (Leipzig, Univ. Ms. 986, f. 10^{va} and 28^{rb}). Cf. also Brian Tierney, Foundations of the Conciliar Theory (Cambridge, University Press), 50-53.

⁴⁸Ibid.: "Hoc enim dicunt papam posse per illud privilegium ei divinitus datum: quodcumque ligaveris super terram, etc., quoc sic intelligitur: quodcumque ligaveris per constitutionem vel precepta."

invalidate a sacramental action or nullify the power of orders which a man possessed. His was an indirect power over the time, minister, etc.

In the glossa ordinaria Bernardus Parmensis de Botone presented the common teaching on the Decretalists on the delegation of power.

Sed numquid papa posset hoc delegare sacerdotibus? Videtur quod sic, per illud capitulum, pervenit [Dist.95.c.1, "Pervenit"], alias Greg. decepisset eos. Sed si papa prohiberet sacerdotem crismare, post prohibitionem suam nihil conferret, si postea crismaret. Episcopi, vero, licet ipsi possint crismare, non possunt aliis inferioribus demandare, qui hoc ex officio facere non possunt; sed alii episcopi vel archiepiscopi possunt hoc facere in dioecesi alterius episcopi de eius licentia. Episcopi enim ea que sunt iurisdictionis, ut puta iudicare, excommunicare, et similia committere possunt aliis, etiam non habentibus iurisdictionem; ea vero que sunt ordinis episcopalis et auctoritatis non possunt demandare aut etiam delegare aliis qui sunt inferioris gradus....Videtur (argumentum huius decretalis) quod papa non possit hoc delegare simplici sacerdoti: sed papa non subiicitur legibus (9, q.3, cuncta [C.9.q.3.c.17, "Cuncta per mundum"])--unde potest committere simplici sacerdoti.⁴⁹

It is worthy of note that Innocent IV found the reason for the pope's special powers over the sacraments in a divinely-given privilege. Bernard, however, presented a legal explanation: the pope as supreme lawgiver is not subject to the laws.

Hostiensis, in commenting upon this text, mentions the possibility that the pope might even delegate a layman to confirm.

Sed numquid papa hoc posset sacerdoti delegare? Quidam dicunt quod sic, etiam laico, sacramento maxime baptismi, sed et confirmationis recepte adminiculum prestante....Alii contra, quod non potest illud sacerdoti, per illud c. pervenit [Dist.95.c.1, "Pervenit"]. Nolo disputare de plenitudine potestatis. Sed hoc notandum, quod si

⁴⁹Glossa ordinaria, X 1.4.4. s.v. reservata. Roman Law contained the principle: "Princeps legibus solutus est," Digest, 1.3.31 (Corpus Iuris Civilis, editio stereotypa nova, retractavit Paulus Krueger, Berlin: Apud Weidmannos, 1915).

delegaret sacerdoti, et postea prohiberet, nihil conferret, sed episcopus prohibitus ad minus characterem conferret...et est ratio, quia episcopo competit ex officio sed presbytero ex delegatione, unde proprium nihil habet ad quod accedit id.⁵⁰

The Decretalists explained the difference between the episcopal and the sacerdotal power to administer the sacrament of Confirmation by a comparison: the bishop acts "ex officio et ordine" while the priest (and, perhaps, the layman) acts "ex delegatione pape et adminiculo habiti sacramenti." All agreed that delegation must come from the pope, and not from any other bishop.

The Decretalists here gave evidence of an advance over the discussion of this same question by the Decretists. The Decretalists saw that the bishop had his power to confirm "ex officio et ordine"; his actions flowed "ex officio et ordine." The minister who acted by delegation also had a two-fold source of his power: his delegation and his previous reception of the sacrament he was delegated to confer. For one who wasn't a bishop, the delegation supplied what the bishop had in his "officium"; the previous reception of the sacrament supplied what was termed the "adminiculum ordinis" or "adminiculum habiti sacramenti." Because he hadn't received the "ordo," he could not act "ex ordine"; his previous reception of the sacrament did not supply him with the power to act "ex ordine." It provided only a prop or a support for his action.⁵¹

⁵⁰Hostiensis, op. cit., X 1.4.4., I, p. 29v.

⁵¹In classical Latin, "adminiculum" meant a prop, a support; it was usually used in connection with props for vines; in the Middle Ages its meaning was extended, e.g. to corroborative evidence. Cf. Tomus Totius Latinitatis, ed. Jacobus Forcellini (London: Baldwin and Cradock, 1828), Vol. I, p. 44; Mediae Latinitatis Lexicon Minus, ed. J. F. Niermeyer, (Leiden, J.E. Brill, 1954), fasc. 1, p. 21.

The "adminiculum habiti sacramenti" would not seem to imply any direct power to administer the received sacrament but only a necessary condition in the minister without which he could not receive delegation to confer it.

Later authors would inquire whether delegation to **confirm** gave the delegate the "potestas ordinis" necessary to confirm or only the "executio ordinis" of a "potestas ordinis" already received. The Decretalists did point out that what was conferred was not jurisdiction and that jurisdiction was not sufficient explanation for a minister's power to confer a sacrament. Although these writers did not explain in detail the notion of sacramental character, they did maintain that no one could confer upon another a sacramental character which he did not himself already possess. This was applied to Confirmation and Orders.

The last papal statement concerning the delegation of the power of orders in the Decretales Gregorii IX occurred in a letter of Gregory IX himself. In denying to a priest the power to reconcile a church, even if the priest used water which the bishop had blessed, the pope wrote:

...licet episcopus committere valeat que iurisdictionis existunt, que ordinis tamen episcopalis sunt, non potest inferioris gradus clericis demandare. Quod autem mandantibus episcopis super reconciliatione factum est hactenus per eosdem, misericorditer toleramus.⁵²

One commentator upon this passage used a colorful expression to identify the bishop's power of orders: "Licet ea que sunt iurisdictionis possit episcopus inferioribus demandare, non tamen ea que omnibus episcoporum

⁵²X 3.40.9, "Aqua per episcopum"; Potthast no. 9203. This letter is dated "xii kal. Iun., 1233," i.e. just about a year before the Decretales Gregorii IX were promulgated.

inherent."⁵³

The important point to be sought, however, was the reason for the difference between orders and jurisdiction. The glossa ordinaria included a reason:

Sed que est ratio quare illa que sunt iurisdictionis possit committere clericis inferioribus et non illa que sunt ordinis demandare? Hec potest esse ratio: iurdictio sola voluntate et verbo committitur, sive delegatus fuerit sive ordinarius, et revocatur...; sed collatio sacramentorum non confertur sola voluntate vel verbo, immo facta est opus; quia necessaria est visibilis unctio et exterior, que est signum interioris unctionis in corde...que perpetua est et amitti non potest, licet executio quandoque suspendatur....Et ita patet quod non possunt taliter demandari sicut iurdictio vel revocari; et talia conferri non possunt, nisi ab his qui habent ea per collationem.⁵⁴

The glossator goes on to explain that a bishop can have another bishop reconcile a church; in this case there is no delegation, for the bishop already has the "ministerium consecrationis" and needs only "auctoritas" to exercise his powers in another diocese.

The final words of Gregory IX's letter ("misericorditer toleramus") presented the greatest problem: if it were not possible for a priest to be delegated to perform validly functions which required the "ordo episcopalis," how could the pope mercifully tolerate such actions which a priest had performed?

The glossa ordinaria presented a solution based upon the supreme power of the pope:

⁵³Abbas Antiquus, in X 3.40.9, Vat. Borgh. Ms. 231, f. 105v. For Abbas Antiquus (Bernardus de Montemirato), Abbas Montismaioris, Administrator Montis Cassini, obiit 1296, lectura in Decretales, 1259-1266, cf. Van Hove, op. cit., 478.

⁵⁴Glossa ordinaria, X 3.40.9. s.v. iurisdictionis.

Sed dic, quod per talem tolerantiam ratam habet talem reconciliationem et incipit valere ex nunc, cum prima nulla fuisset, et ita de nihilo facit aliquid...quia potest princeps mutare naturam rei.⁵⁵

The glossator affirms, then, that the pope can post factum validate an action which was invalid because the minister didn't have the power to perform it. In the Decretum Gratian had prescribed reconsecration in the case of doubtfully consecrated persons and things; if the first consecration should have been valid, then the reconsecration would only be a repetition of the external anointing.⁵⁶ The glossator on the decretals, however, allows the pope "to make something of nothing, to change the nature of a thing." His proofs are drawn from both civil and canon law: from the Decretum he draws a text of Saint Ambrose concerning the Eucharist, in which the Saint defends transubstantiation by drawing upon miraculous occurrences in the Old Testament and concludes: "maio remque vim esse benedictionis, quam nature, quia benedictione etiam natura ipsa mutatur."⁵⁷ From the Civil Law he takes a text of Justinian in which the emperor prescribes a fictio iuris lest the ignorant suffer from their

⁵⁵Ibid., s.v. toleramus.

⁵⁶Dictum post c.2.Dist.68.

⁵⁷De Cons.Dist.2.c.69, "Revera mirabile est," from Ambrose, Liber unus de mysteriis, c. 9, PL 16:405. For this principle: "princeps potest mutare naturam rei" cf. Ernst H. Kantorowicz, "The Sovereignty of the Artist: A Note on Legal Maxims and Renaissance Theories of Art," De Artibus Opuscula XL: Essays in Honor of Erwin Panofsky, edited by Millard Meiss (New York: New York University Press, 1961), 271-276. The attribution of this supreme power to the pope was begun about 1200 by some of the Decretalists; it was based on the papal title "Vicarius Dei, Vicarius Christi" which came into use at that time [cf., e.g., supra, X 1.7.4., p. 87; 1.7.2, p. 86, for Innocent III's use of the title of himself]. The notion was developed by Tancred (in Compil. III, 1.5.3, Bamberg Ms. Can. 19, f. 124v), by Bernardus Parmensis de Botone in the glossa ordinaria to the Decretales Gregorii IX, X 1.7.3, s.v. veri Dei vicem, and Hostiensis, Summa Aurea in 1.30, col. 319.

inexperience in property matters.⁵⁸

Hostiensis made a lengthy and penetrating study of the delegation of activities which require the potestas ordinis in the minister. He begins by distinguishing delegation by one bishop to another bishop from delegation to a simple priest.

Unus episcopus potest aquam benedicere et alius episcopus de mandato suo reconciliare, sicuti et ordinare et consecrare et alia que ordinis episcopalis sunt expedire...[sacerdotes] quia caret ordine episcopali, et ideo hec et alia que episcopalis ordinis sunt nequeunt ministrare.⁵⁹

Because the episcopacy includes a potestas ordinis, Hostiensis insists that there are more than seven ordines:

Taceant ergo qui dicunt quod in ecclesia Dei non sunt nisi septem ordines, nam et tonsuratus ordo est et episcopalis ordo est, ut hic aperte probatur de episcopali....Nec obstat xcv dist., olim [Dist. 95. c.5, "Olim"], quia idem erat olim presbyter et episcopus quantum ad nomen etsi non quantum ad officium secundum Hug. [Huguccio]. Alioquin ordinatus in presbyterum non deberet in episcopum ordinari, quia non debet eadem ordinatio iterari.⁶⁰

Huguccio had not introduced the argument from re-ordination into his discussion of the episcopacy and the presbyterate. Hostiensis found in the prohibition against re-ordination an argument that the episcopacy was an ordo distinct from the presbyterate. Otherwise the priest, when he was

⁵⁸Codex Justinianus, 5.13.un.: "Si enim, cum una in instrumento stipulatio valida inveniatur, et aliis inutilibus suam noscitur praestare fortitudinem, quare non ex nostra lege huiusmodi stipulationibus robur accedat legitimum? Est enim consentaneum nobis, qui censemus, et ubi supposita stipulatio non est, intelligi eam fuisse adhibitam, multo magis etiam, si inutilis est, validam eam effici."

⁵⁹Hostiensis, op. cit., III, 3.40.9., s.v. per quod, per sacerdotes.

⁶⁰Ibid., s.v. ordinis episcopalis.

ordained to the episcopacy, would receive a second ordination to the same ordo. [Note that Hostiensis presumes that the bishop is ordained, i.e. that episcopal consecration is a true ordination.]

Hostiensis went on to insist that the powers of the episcopal ordo were received through episcopal consecration:

Si est igitur episcopalis consecratio summus ordo, ut hic, ad quem et summa pertinent, que per inferiores expediri non possunt, sicut est reconciliare ecclesiam et coemeterium...multiformius consecrare, chrismare in fronte puerum, et similia. Nec enim possunt hec vel similia dari vel perfici nisi ab his qui hanc potestatem per huius ordinis collationem receperunt, et sic episcopi sunt....Si igitur talia minori episcopo committuntur, nihil agitur quia ordo non per commissionem sed per manus impositionem transfertur....Si autem hoc committatur episcopo, expedire potest: quia committitur illi qui in consecratione recipit potestatem talia ministrandi, nec committitur nisi materia.⁶¹

Hostiensis was still faced with the fact that concessions of some episcopal functions to simple priests had been and were still made by the pope. As his predecessors had done, he also found the explanation in the widespread powers of the pope.

Videtur quod sola ista tolerantia non sufficiat, nisi iterum per episcopum fiat reconciliatio: quia nichil actum est, sicut et ordinatus ab inferiori episcopo iterum ordinatur....Solutio: Dic quod per talem tolerantiam ratam habet papa talem reconciliationem et incipit valere ut nunc, et sic patet quod papa de nihilo facit aliquid....Talia non ex constitutione ecclesie firma vel irrita iudicantur et ideo circa talia potest dicere et facere papa quidquid placet....Nam et cuilibet simplici sacerdoti posset dare potestatem quod talia exerceret.⁶²

Hostiensis based this solution on five texts: one of these is the text from Saint Ambrose also quoted in the glossa ordinaria⁶³ while the other four treat of papal power but as this is exercised in matters which

⁶¹Ibid. ⁶²Ibid., s.v. ac misericorditer toleramus.

⁶³De cons.Dist.2.c.69, "Revera mirabile est," cf. supra, p. 102.

do not demand the potestas ordinis in the minister.⁶⁴ The contribution made by Hostiensis beyond that of the author of the glossa ordinaria is found in the words: "talía non ex constitutione ecclesie firma vel irrita iudicantur." It is only in matters which do not pertain to the "constitutio ecclesie" that the pope can exercise his power to delegate to a simple priest actions which normally require the "potestas ordinis episcopalis" in their minister. Hostiensis must moderate his statement, then, that "ordo non per commissionem sed per manus impositionem transfertur." In some instances, at least, "ordo" or the "potestas ordinis" can be transferred by papal commission without any consecration.

III. The Subject of Episcopal Consecration.

The Decretalists followed the Decretists in maintaining that episcopal consecration could only be conferred upon a priest. With respect

⁶⁴These four texts are: (i) C.3.q.6.c.10, "Hec quippe"; Nicolaus Papa, JE 2789; (ii) X 1.36.1, "Sicut grave"; Gregorius I; Compilatio I, 1.27.1, JE 1607. Cf. glossa ordinaria, X 1.36.1. s.v. auctoritate: "Nota quod si transactio vel pactum ab initio invalidum sit, per confirmationem pape sumit vigorem...et sententia que non tenet, per confirmationem pape efficitur valida." (iii) X 1.36.8, "Veniens ad apostolice"; Alexander III; Compilatio II, 1.16.3, JL 14102; Cf. glossa ordinaria X 1.36.8. s.v. confirmatam: "Sed numquid confirmatio pape transactionem personalem facit realem, ut sic immutet eius substantia? videtur quod sic, quia auctoritas principis facit quandoque ex nullo pacto actionem dari...Dic quod hec transactio ab initio, quantum ad intentionem transigentium fuit realis, sed sacerdos ille hoc facere non poterat sua auctoritate nec successorem poterat obligare sine auctoritate superioris...et ita confirmatio pape facit realem transactionem, que quantum ad ipsas personas personalis erat...quia potest facere quod illa que nulla est, sit aliqua...et plus est de nihilo facere aliquid quam de aliquo." (iv) X 3.8.4, "Proposuit nobis"; Innocent III; Compilatio III, 3.8.1; Potthast no. 126. In this letter Innocent III writes of himself: "...qui secundum plenitudinem potestatis de iure possumus supra ius dispensare."

to a letter of Innocent III, who ordered that a priest who was doubtful whether he had received the diaconate should receive it and then exercise his priesthood, the author of the glossa ordinaria wrote:

Sed quid si nullum minorem ordinem habuit et promoveatur ad sacerdotium, vel ad alium ordinem sacrum, numquid recipit ordinem? Hug. [Huguccio] dixit quod non: quia si laicus ordinetur in sacrum ordinem, nihil recipit, ut 40 dist., sicut [Dist.40.c.8, "Sicut"]...sed si aliquem de minori habeat, recipit sacrum. Vinc. [Vincentius Hispanus] dicit contra, quod bene recipit quis sacrum ordinem etiam si nullum habeat de minoribus, preter episcopalem, quem nemo recipere potest nisi sit saltem sacerdos....Et istud verius videtur. Sed quid si ordinatur in episcopum pretermisso diaconatu vel subdiaconatu? Episcopus est, dum tamen fuerit sacerdos; sed illum ordinem quem non habuit, aliis conferre non potuit.⁶⁵

The connection of the episcopacy and the presbyterate was explicit in a letter of Innocent III condemning a bishop at whose command a homicide had taken place. Innocent commanded that the guilty prelate lose his episcopal office because he was unworthy to minister at the altar.

...cum his non tantum auctoritatem prestiterit, verum etiam presentiam exhibuit corporalem, ipsum indignum altaris ministerio reputamus. Cum igitur pontificale officium sine altaris ministerio non valeat adimpleri, mandamus, quatenus, ut episcopatu cedat, moneatis eundem.⁶⁶

The glossa ordinaria presented this text as an argument for the necessity of the presbyterate in one to be consecrated to the episcopacy: "Arg. quod

⁶⁵Glossa ordinaria, X 5.29.un., "Tue littere"; Compilatio I, 5.13.un.; Potthast no. 2381. Vincentius Hispanus commented on this text: "Ego tamen credo quod sive habeat minores sive non potest recipere quolibet alios preter episcopalem ordinem, quem non accipit nisi sacerdos." (Vincentius Hispanus in X 5.29.un., Paris Bn. Lat. 3967, f. 193vb; this same commentary is found in his apparatus to Compilatio III, 5.13.un., Vat. Lat. Ms. 1378, f. 99v).

⁶⁶X 5.31.10, "Ex litteris vestris"; Compilatio III, 5.14.3; Potthast no. 3064.

non potest quis esse episcopus nisi primo fuerit sacerdos."⁶⁷

Hostiensis had a different interpretation of this passage. He agreed that only a priest could become a bishop: "Hic habes expressum argumentum quod non potest esse episcopus nisi sit sacerdos et quod episcopus suspensus a sacerdotalibus non potest pontificalia exercere."⁶⁸ He modified this statement when he interpreted it in terms of "executio" and not of validity: "Non negamus quin recipiat characterem si quis in episcopum consecratur, licet sacerdos non fuerit, nec negamus quin characterem remaneat si ordinatus fuerit quamvis suspensus. Hoc tamen dicimus quod executionem non habebit."⁶⁹ If a bishop received the episcopal character without the priestly character having been received first, he could not exercise either of them.

Hostiensis denies the "executio ordinis" to those ordained per saltum because their ordination was contrary to the form established by the Church.

Sed nec puto [quod] per saltum promotus in episcopum sive etiam presbyterum executionem habeat, etiam quo ad illum ordinem quem suscepit, quia nichil interest utrum non sit ordinatus vel non rite sit ordinatus,...hoc est, secundum formam ecclesie secundum quam nullus per saltum ex certa scientia promovetur. Si ergo sacerdos non rite ordinatus, i.e. non servata forma ecclesie, attentet celebrare, non conficit corpus Christi.⁷⁰

⁶⁷Glossa ordinaria, X 5.31.10. s.v. ministerio.

⁶⁸Hostiensis, op. cit., V, X 5.31.10. s.v. ministerio, p. 73v.

⁶⁹Ibid., s.v. adimpleri.

⁷⁰Ibid., V, X 5.29.un., p. 70v.

Thus, for Hostiensis, it would seem that there is no distinction between the episcopacy and the lesser ordines with respect to ordination per saltum. Such ordinations, since they are contrary to the forma of the Church, do not confer upon the ordinand the executio of the order to which he is ordained. Hostiensis maintained that such ordinations did, however, confer the character upon the ordinand. It should be noted that Hostiensis' understanding of the character did not include the notion of "potestas," for he explicitly teaches that a priest ordained contrary to the forma of the Church did receive the character yet he couldn't consecrate the Body of Christ. Most other authors understood the character to include also power ("potestas aptitudinis," as the Decretists called it)⁷¹ and hence one with the character could validly if not licitly perform those actions which flowed from his order. Because Hostiensis included no such power in his concept of character, his conclusion about ordination per saltum actually differs only verbally from the conclusions of other authors. The important thing in practice, and this was taught by both, was that one who was consecrated bishop without the previous reception of the priesthood could not validly exercise his episcopal powers.

Conclusions

1) The bishop acquires his powers both from the confirmation of his election and from his consecration: the former gives him "potestas iurisdictionis" while the latter confers "potestas ordinis." Celestine III

⁷¹Cf. supra, pp. 65-67 for the Decretists' notion of character.

taught that this two-fold source of episcopal power existed and the distinction was explained in the commentaries of Vincentius Hispanus, Innocent IV and Hostiensis.

2) The bishop acquires at the confirmation of his election a bond to his diocese which is like the marriage bond between husband and wife; episcopal consecration adds nothing to the substance of this bond. Like the marriage bond, the spiritual bond between the bishop and his diocese is subject only to the pope. Innocent III especially stressed this point concerning the episcopacy. Hostiensis preferred to view the bond as one between the bishop and the universal Church. In this view the bond would be entirely indissoluble, for it would be based upon the character and grace conferred at episcopal consecration.

3) A bishop-elect could delegate power of jurisdiction to others, even those who were not bishops. He could not delegate power of order. He could, however, grant to a consecrated bishop the authority (the materia) to exercise his power of order on the subjects of the bishop-elect.

4) The Decretalists offered different answers to the question of papal delegation to priests of functions which required the ordo episcopalis in their minister. Laurentius Hispanus and Alanus Anglicus thought that the pope could not delegate a priest to confirm, since only one with the ordo episcopalis could validly confirm. Vincentius Hispanus, Tancred, Innocent IV, Bernardus Parmensis de Botone and Hostiensis affirmed that a priest could be delegated to confirm and that a cleric could be delegated to confer the ordo which he himself possessed. Hostiensis thought that even a layman might be delegated to confirm if he had received this

sacrament himself. The difference between the bishop's ordinary power and the priest's delegated power was that the bishop acted "ex officio et ordine" while the priest [or layman] acted "ex demandatione [delegation] et adminiculo habiti sacramenti." The Decretalists did not specify whether the papal delegation conferred the "potestas ordinis" or only the "executio" of a power of orders already possessed. They merely insisted that anyone delegated to confer a sacrament must have previously received the sacrament (or ordo) he was delegated to confer.

5) On the basis of a letter of Gregory IX, Bernardus Parmensis de Botone and Hostiensis maintained that the pope could make valid a consecration which a priest performed, even though such a consecration required the ordo episcopalis in its minister. Their arguments were drawn from the pope's power to validate actions which required jurisdiction and from the Roman Law principles: "Princeps non subiicitur legibus--Princeps potest mutare naturam rei."

6) Hostiensis alone among the Decretalists taught that the episcopal character was conferred in the consecration of one who wasn't a priest to the episcopacy. Because he also taught that the one so consecrated could not validly exercise any episcopal functions, however, his opinion was not far from the common opinion of the Decretalists that no one could be consecrated bishop who was not already a priest.

PART TWO

THE EPISCOPACY IN THE WRITINGS OF THE THEOLOGIAN

CHAPTER III

THE EPISCOPACY IN THE WRITINGS OF PETER LOMBARD
AND HIS COMMENTATORS

In order to discuss the episcopacy in the writings of the canonists, one must begin with the Decretum of Gratian, with whose work the scientific elaboration of Canon Law begins. So also, in order to discuss the episcopacy in the writings of the medieval theologians, it is necessary to begin with the Libri Sententiarum of Peter Lombard. The science of Theology, to be sure, does not commence with his work, but it is only in the mid-twelfth century that the tract "De sacramento ordinis" was introduced into Theology.¹

Peter Lombard's treatment of the sacrament of Order has special relevance for Saint Thomas Aquinas' writings on the same subject for two reasons: first, the formal treatment of the episcopacy by Aquinas is to be found in his Commentum in Quatuor Libri Sententiarum because he did not live to complete the section on the sacraments in his Summa Theologiae; second, the commentaries on the work of Lombard, which appeared between 1150 and 1250, contain the theological development concerning the episcopacy which is the immediate context of Aquinas' contributions to the subject.

¹L. Hödl, "Der kirchlichen Ämter, Dienste und Gewalten im Verständnis der scholastischen Theologie," Franziskanische Studien XLIII (Heft 1, 1961), 3.

A collection of "sentences," as its name indicates, is not primarily an original work. It is a compilation of the opinion of others. In the twelfth century the opinions collected were those of the Fathers, whose statements were transmitted from one generation to another. The faithful reproduction of a traditional opinion did insure the continuity of theological thought from the Patristic Age to the twelfth century. At the same time, however, the system in which statements were passed along without critical analysis of their content or authenticity (which was almost impossible to verify during these centuries) did admit erroneous notions and pseudepigraphous texts into the stream of the traditional Theology.²

The notion of the episcopacy which was accepted in the western Church took shape in the fourth century. The tradition took its origin in the scriptural commentaries upon those passages in the epistles of Saint Paul in which the apostle speaks of bishops and deacons without mentioning the priests.³ In explaining such a text Ambrosiaster, whose writings came to the Middle Ages as those of Ambrose, spoke of two degrees of the priesthood:

Post episcopum tamen diaconatus ordinationem subiecit. Quare, nisi quia episcopi et presbyteri una ordinatio est? Uterque enim sacerdos

²Cf. J. de Ghellinck, S.J., "Le traité de Pierre Lombard sur les sept ordres ecclésiastiques: ses sources, ses copistes," Revue d'Histoire Ecclésiastique X (1909), 290-293.

³E.g., Philippians 1:1; I Timothy 3:1-10; Titus 1:5-7; Acts 20:17-18. For a summary of the earliest ecclesiastical writings about the episcopacy, the priesthood and the other orders, cf. H. Lennerz, De Sacramento Ordinis, (Rome: Universitas Gregoriana, 1947), 2-22, 89-96.

est, sed episcopus primus est, ut omnis episcopus presbyter sit, non tamen omnis presbyter episcopus; hic enim episcopus est, qui inter presbyteros primus est.⁴

The decisive ordering of traditional western thought on the episcopacy came from Jerome, who strongly affirmed presbyteral dignity:

Nam cum apostolus perspicue doceat eosdem esse presbyteros quos episcopos, quid patitur mensarum et viduarum minister [diaconus] ut super eos tumidus se efferat ad quorum preces Christi corpus sanguinisque conficitur?...Quod atuem postea unus electus est, qui ceteris preponeretur, in schismatis remedium factum est....Quid enim facit excepta ordinatione episcopus quod presbyter non facit?⁵

Jerome based the priest's dignity upon his power to consecrate the Eucharist. This idea is echoed in the early fifth century work, De septem ordinibus ecclesiae, which was ascribed to Jerome:

Sextus seniorum ordo est qui sacerdotibus datur, qui presbyteri dicuntur, qui praesunt ecclesiae Dei et Christi sacramenta conficiunt. Hi autem in benedictione cum episcopis consortes ministeriorum sunt. Nulla in conficiendo corpore Christi ac sanguine inter eos et episcopos credenda distantia est...ac sola propter auctoritatem summo sacerdoti clericorum ordinatio et virginum consecratio reservata est.⁶

⁴Ambrosiaster, Commentaria in xiii episcolas B. Pauli: In epistolam ad Titum, cap. 3, PL 17:470.

⁵Jerome, Epistola 146 ad Evangelum, PL 22:1193-1194. Cf. Doronzo, De Sacramento Ordinis, Tom. II, 49-93, for a detailed analysis of the statements of Jerome regarding the episcopacy, together with the medieval and modern interpretations of Jerome. "Diffitendum non est ex quibusdam dictis scriptorum latinorum, praecipue HIERONYMI ex quo ceteri fere omnes dependent, generalem quandam ac speciosam objectionem confici posse...de divina origine distinctionis inter episcopatum et presbyteratum" (ibid., 49). Fr. Doronzo concludes (pp. 92-93) that Jerome's statements can be understood (i) as an affirmation of a certain substantial equality and identity between bishop and priest "in ratione sacerdotii, salva tamen superiori ordinandi praerogativa," and (ii) as a denial of the divine origin of an absolute, monarchical episcopate in which one man rules the church to the exclusion of even a deliberative participation by his subordinate bishops and priests.

⁶Pseudo-Hieronymus, De septem ordinibus ecclesiae, PL 30:155.

The tradition which these words began stressed the equality of bishops and presbyters as "sacerdotes," i.e. those who consecrate the Body and Blood of Christ. The bishop's additional power is with respect to certain functions which are reserved to him.

The transmitters of patristic thought to the Middle Ages handed down the ideas of Jerome when they discussed the episcopacy. Thus, Isidore of Seville, when he discusses clerics, mentions nine grades, from porter to bishop. In writing of priests, he stresses their dignity:

His enim, sicut episcopis, dispensatio mysteriorum Dei commissa est. Praesunt enim ecclesiae Christi, et in confectione divini corporis et sanguinis consortes cum episcopis sunt, similiter et in doctrina populorum et in officio praedicandi. Ac sola propter auctoritatem summo sacerdoti clericorum ordinatio et consecratio servata est, ne a multis ecclesiae disciplina vindicata concordiam solveret, scandala generaret.⁷

Rhaban Maur, in his De clericorum institutione, mentions only eight orders, for he identifies the psalmista with the lector. With respect to priests, however, he closely follows Isidore:

Apud veteres idem et episcopi et presbyteri fuerunt....Ideo autem presbyteri sacerdotes vocantur, quia sacram dant, sicut episcopi, i.e. in confectione divini corporis et sanguinis, et in baptismo, et in officio praedicandi. Sed licet sint sacerdotes, tamen pontificatus apicem non habent, quod nec chrismate frontem signant, nec paracletum spiritum dant, quod solis episcopis debere lectio Actuum Apostolorum demonstrat; nec ordinare clericos in sacris ordinibus possunt, quod episcopis propter unitatem et concordiam reservatur. Secundi vero ordinis viri presbyteri sunt, quorum typum praeferebant LXX in veteri testamento.⁸

⁷Isidore of Seville, De ecclesiasticis officiis, Lib. II, cap. 7, PL 83:787.

⁸Rhaban Maur, Liber de clericorum institutione, cap. 6, PL 107: 302.

Amalarius of Metz presents the same ideas in his Liber officialis by merely quoting Jerome's commentary on the epistle to Titus.⁹ In the Liber de divinis officiis, attributed to Alcuin, eight "gradus divini ministerii" are mentioned, for which the author finds parallels in the Old Testament.¹⁰

The reformers of the second half of the eleventh century were faced with the problem of heretical and simoniacal ordinations. A study of the solutions proposed by the adherents of the reform movement is a field of inquiry in itself. Much literature appeared from the time of Pope Gregory VII until the mid-thirteenth century on this question.¹¹

Among the writings of the early reformers, the work of Peter Damian, abbot and later Cardinal of Ostia, proved to be particularly important. In speaking of the episcopacy, he considered it as an elevation within the priesthood and presupposing the priesthood:

Cum vero ad instar septem donorum Spiritus Sancti, septem nihilominus sunt ordines ecclesiasticae dignitatis: quod autem his omnibus gradibus adhuc et alii praeferuntur, videlicet ut sunt patriarchae, archiepiscopi, vel episcopi, ab his non tam novus ordo suscipi, quam in eodem ipsi sacerdotio videntur excellantius sublimari. Nam cum sacerdos idcirco dicatur, quia sacrum det, hoc est, quia Deo sacrificium offerat: quid in ecclesia sublimius, quid eminentius sacerdotio potest inveniri, per quod videlicet mysterium Domini corporis et sanguinis poterit offerri? Licet igitur illi quibusdam privilegiis

⁹Amalarius, Liber officialis, Libellus II, cap. 13, Amalarii Episcopi Opera Liturgica Omnia, Tomus II, ed. John Michael Hanssens, S.J., (Città del Vaticano: Biblioteca Apostolica Vaticana, Studi e Testi 139, 1948), 226-232.

¹⁰Pseudo-Alcuin, De divinis officiis liber, cap. 34, PL 101:1231-36.

¹¹Cf. A. Michel, "Ordre," Dictionnaire de Théologie Catholique, Tome 11, Part 2 (Paris: 1932), cols. 1275-1298.

pro suo quisque ministerio specialiter potiantur, quia tamen id, quod omnibus maius est, commune cum reliquis sacerdotibus habent, cum eis etiam ~~et~~ ipsi non immerito sacerdotii nomen tenent. Ad hos nempe gradus cum ministri ecclesiae provehuntur, non ita credendi sunt Spiritum Sanctum noviter ac repente suscipere, ut ipsos tamquam eotenus vacuas domus ille supernus habitator tunc primum incipiat habitare; sed hoc potius modo, ut quos iam inhabitat, per ampliorem gratiam ad altioris quoque gradus incrementa perducant.¹²

Accepting the power to consecrate the Eucharist as the summit of priestly power, Peter Damian consequently found in the episcopacy not a new ordo, but only a more sublime elevation in the one priesthood.¹³

The treatment of the episcopacy by the canonists and theologians who wrote before 1150 reveals a marked similarity of presentation.

Les traits de ressemblance, qui vont parfois jusqu'à l'identité littérale de paragraphes entiers, s'accusent surtout avec Gandulphe de Bologne, Hugues de Saint Victor, Yves de Chartres, Alger de Liège, et Gratien, sans parler des abrégés de des anonymes.¹⁴

The reason for this is the fact that both canonists and theologians drew upon the same patristic and post-patristic sources.

Ivo of Chartres had a vast amount of material at his disposal in the three canonical collections which he compiled during the last decade of the eleventh century. He discussed the episcopacy in a dogmatic sermon which was presented under the title: "De excellentia ecclesiasticorum ordinum."¹⁵

¹²Peter Damian, Liber qui dicitur gratissimus, cap. 15, PL 145:118.

¹³The position of Peter Damian will find a vigorous defender in William of Auvergne in the thirteenth century when the question of the precise relation between episcopacy and presbyterate comes to the fore.

¹⁴J. de Ghellinck, art. cit., 293.

¹⁵Ibid., pp. 296-301, for Fr. de Ghellinck's tracing of Ivo's presentation of an example from the life of Christ for each ordo to the origin of this idea in Norman and English liturgical works.

Presbyterorum ordo a filiis Aaron sumpsit exordium, qui cum episcopis in pluribus commune habent officium: et qui nunc presbyteri vocantur, tunc sacerdotes vocabantur, et qui nunc sunt pontifices, tunc dicebantur sacerdotum principes. Distat autem hoc tantum inter pontifices et huius temporis sacerdotes, quia scilicet solis pontificibus addita est clericorum ordinario, basilicarum dedicatio, chrismatis consecratio, et manus impositio, et communis super populum benedictio: cum in aliis sacramentis, catechizandi, missam celebrandi, in ecclesia verbum faciendi ad populum, communis utrisque sit dispensatio. Sed summis sacerdotibus ea quae praetaxavimus idcirco reservata sunt ne eadem potestatis auctoritas, ab omnibus vindicata, insolentes redderet et soluto obedientiae vinculo, scandalum generaret.¹⁶

The powers and functions which are common to bishops and priests are set apart from the blessings and consecrations reserved to bishops. The reason for this distinction is that otherwise, if all had the same "potestatis auctoritas," some might become insolent and the breakdown of obedience would lead to scandal. This is exactly the position which Jerome had maintained in his letter to Evangelus.¹⁷

Up to the mid-twelfth century, the sacrament of Order and the nature of the priesthood were discussed in scriptural commentaries and in pastoral-theological-liturgical works "de officiis." It is only with the De sacramentis christianae fidei of Hugh of Saint Victor that a truly theological treatise on the sacraments can be found. Hugh transformed the sermon of Ivo of Chartres into a systematic treatise on the sacrament of Order.¹⁸

¹⁶Ivo of Chartres, Sermo 2: "De excellentia ecclesiasticorum ordinum," PL 162:518.

¹⁷Jerome, Epistola 146 ad Evangelum, PL 22:1192-1195.

¹⁸Hödl, art. cit., 3, 8.

The influence of Ivo upon Hugh is evident in the almost verbatim use which he makes of Ivo's Sermo II. The explanation of the works proper to priests and those proper to bishops and the reason underlying this diversity of functions is taken directly from Ivo.¹⁹

Hugh goes beyond Ivo, however, when he explains how there can be two dignitates in one ordo; he defines ordo as "gradus in sacramento" and dignitas as "potestas in ministerio."

De ordinibus hoc primum attendendum est, quod alii sunt secundum gradum differentem, sicut est diaconus et sacerdos, alii in eodem gradu secundum potestatem excellentem, sicut diaconus et archidiaconus unus gradus est in sacramento, non tamen una potestas in ministerio. ...Similiter sacerdos et pontifex sive summus sacerdos unus gradus est in sacramento, diversa tamen potestas in ministerio: quia cum utrisque corporis et sanguinis Christi consecrandi, baptizandi, catechizandi, praedicandi, ligandi, solvendi, una quodammodo sit dignitas, pontificibus tamen ecclesias dedicandi, ordines faciendi, manus imponendi, sacri chrismatis consecrandi, communem super populum benedictionem faciendi, singularis data est potestas. Sic itaque alia est differentia graduum in sacris ordinibus, alia est in eodem gradu differentia dignitatum.²⁰

By distinguishing dignitas from ordo and by admitting several dignitates within one ordo, Hugh set the foundation for the entire Scholastic treatment of the priesthood and the episcopacy. His proposals yet remained provisional and awaited the precision which would be provided by later authors. For example, Hugh drew the parallel: as the archdiaconate is related to the diaconate, so it shd episcopacy related to the priesthood. As an application of the distinction between dignitas and

¹⁹Hugh of Saint Victor, De sacramentis christianae fidei, Part 3, c. 12: De presbyteris, PL 176:428.

²⁰Ibid., Part 2, c. 5, PL 176:419. This idea is repeated in Part 3, c. 5 (PL 176:423): "Septimus [gradus] sacerdotum. Hic gradus disparet in eodem ordine habet dignitates."

ordo, this parallel lacks precision, for the archdiaconate and the episcopacy are obviously very different types of dignitates. The importance and validity of the basic distinction, however, remain unimpaired and Hugh's insight will bear much fruit.

The valuable contribution made by Hugh of Saint Victor lies in the fact that he offered a means by which the episcopacy could be explained in relation to the presbyterate. Ordo here implied the conferral of a sacramental character in a sacramental ordination; Hugh taught that there were seven degrees (or ordines) which pertained to this sacramental line. At the same time he proposed a line of dignitates, among which he specifically included the papacy, the episcopacy and the archdiaconate. By recognizing the distinction between these two lines, Hugh was able to incorporate into his discussion the historical problems which proved a stumbling block for so many authors. The existence and powers of patriarchs, chorepiscopi, archpriests, archdeacons, etc., were historical facts which required some explanation. Some authors tried to make each of these a separate ordo. For Hugh all those who held the dignitates (except for the archdiaconate, whose incumbent had the ordo of deacon) had one and the same ordo, that of the priesthood.

As the existence of the patriarchate influenced the Ecclesiology and sacramental theology of the Eastern Church, so the medieval disputes about metropolitans and their power over their suffragans, or the powers claimed for the archdeacons, influenced the medieval authors. If an author treated as one the questions of sacramental ordines and the various dignitates, it became impossible to develop a consistent treatise

on the sacrament of Order. It is unfortunate that the insight provided by Hugh of Saint Victor was not developed by Peter Lombard, but the Master of the Sentences devoted his attention to the sacramental ordines almost exclusively. His commentators would follow his example.²¹

Hugh of Saint Victor was influenced by Jerome, Isidore of Seville and Ivo of Chartres in his admission that certain functions were reserved to bishops in order to insure the unity of the Church and to prevent scandal; in adopting this position these authors would seem to view the bishop and the priest as possessors of the same power but not the same freedom in the use of their power.²² Yet Hugh of Saint Victor also taught that the possessor of a dignitas had his own proper "potestas excellens" or "potestas singularis."²³ Hugh would maintain, then, that the priest could not perform the functions reserved to bishops because he did not have the power to do so; it was not simply a matter of ecclesiastical prohibition forbidding the use of a power already possessed.

Peter Lombard's treatise on the sacrament of Order was woven from the writings of Hugh of Saint Victor, Gratian and Ivo of Chartres. There

²¹Cf. H⁴dl, art. cit., 9-10, for an appreciation of the value of the contribution made by Hugh of Saint Victor to the discussion of the episcopacy and the presbyterate.

²²Hugh of Saint Victor, op. cit., Part 3, c. 12: "Summis ergo sacerdotibus supradicta idcirco singulariter reservata sunt, ne eadem prorsus auctoritas potestatis ab omnibus passim vindicata, inferiores erga superpositos insolentes redderet et soluto obedientiae vinculo scandalum generaret." Compare Ivo of Chartres, Sermo II, PL 162:518; Isidore of Seville, De ecclesiasticis officiis, PL 83:787; Jerome, Epistola 146 ad Evangelum, PL 22:1194.

²³Ibid., Part 2, c. 5, PL 176:419.

was a minimum of originality in this highly artificial section of the Libri Sententiarum.²⁴ From Gratian's Decretum he took the two long citations from Isidore of Seville;²⁵ from Hugh of Saint Victor he included many passages but he did not follow Hugh's logical order; he chose to insert passages from Ivo's sermon "De excellentia ecclesiasticorum orinum" here and there. The result was repitious and without logical development. The importance of the work arises from its acceptance by the schools; later theologians would take this as the work to comment on.

Peter Lombard begins his treatment of the sacrament of Order by accepting the seven-fold division of orders and explaining it in terms of the seven-fold grace of the Holy Spirit.

Septem sunt spiritualium officiorum gradus sive ordines, sicut ex sanctorum Patrum dictis aperte traditur et capitis nostri, scilicet Jesu Christi, exemplo monstratur, qui omnium officia in semetipso exhibuit et corpori suo, quod est Ecclesia, eosdem ordines observandos reliquit. Septem autem sunt propter septiformem gratiam Sancti Spiritus.²⁶

Peter finds proof for the number seven in the writings of the Fathers and the example of Christ, but he cites no Fathers to support his statement and the examples from the life of Christ are artificial and arbitrary.²⁷

The discussion of the presbyterate is taken from Isidore, Hugh

²⁴J. de Ghellinck, art. cit., 725, ff. Peter Lombard's treatise on the sacrament of Order is found in Liber IV, Distinctio 24.

²⁵Gratian, Decretum, Dist.21.c.1, "Cleros et clericos"; Dist.25.c.1, "Perlectis."

²⁶Peter Lombard, Libri Sententiarum, Lib. IV, Dist. 24, cc. 1-2.

²⁷Ibid., chapters 5 to 11; cf. de Ghellinck, art. cit., 296-301, for a detailed analysis of the origin of this idea of Christ's exercise of each ordo in His own life.

of Saint Victor and Rhaban Maur: the etymological definition of "presbyter" and "sacerdos," the functions of the presbyter and those reserved to the bishop.²⁸

The original contribution made by Peter Lombard is his attempt to define ordo; this he does at the end of his consideration of the sacrament of Order.

Si autem quaeritur, quid sit quod hic vocatur ordo: sane dici potest, signaculum quoddam esse, id est sacrum quoddam, quo spiritualis potestas traditur ordinato et officium. Character igitur spiritualis, ubi fit promotio potestatis, ordo vel gradus vocatur. Et dicuntur hi ordines sacramenta, quia in eorum perceptione res sacra, id est gratia, confertur, quam figurant ea quae ibi geruntur.²⁹

As a sign and cause of grace, ordo is properly included among the number of the sacraments, which Peter Lombard had defined: "sacramentum enim proprie dicitur quod ita signum est gratiae Dei et invisibilis gratiae forma, ut ipsius imaginem gerat et causa existat."³⁰ He did not specify what power is conferred but he did identify sacramental ordo with character, a point which is the touchstone of the thirteenth-century theology of the sacrament of Order.

The definition of Peter Lombard did not enable him, however, to explain why the episcopacy was a dignitas and not an ordo. He did not state that the bishop did not receive an office and spiritual power at his consecration; he merely declared it was not an ordo. "Sunt et alia quaedam, non ordinum, sed dignitatum vel officiorum nomina. Dignitatis

²⁸Ibid., c. 11: "De presbyteris."

²⁹Ibid., c. 13: "quid appelletur ordo."

³⁰Ibid., Dist. 1, c. 4.

simul et officii nomen est episcopatus."³¹ In this conclusion Peter was obviously influenced by the traditional number of seven ordines and Hugh of Saint Victor's statement that the episcopacy is a dignitas. The theologians who followed him spent much time and effort in an attempt to explain Peter Lombard's statement that the episcopacy is not an ordo.

The theologians of the last half of the twelfth century often devoted only a minor place to the sacrament of Order; such was the case with Simon of Tournai (1160-1170) and Praepositinus (1188-1194).³² The reason for this is perhaps to be found in the Sententiarum libri quinque of Peter of Potiers: "De quinto [sacramento], id est de ordine, nil hic dicendum, eo quod decretistis disputatio de his potius quam theologis deservit."³³

Among the authors who did treat the sacrament of Order, two tendencies may be discovered. One group includes the episcopacy among the ordines which are part of the sacrament of Order (thereby increasing the number of ordines beyond seven); the other group prefers to see in the episcopacy a dignity or some higher degree within the highest and last of the truly sacramental ordines.

³¹Ibid., Dist. 24, c. 14: "De nominibus dignitatis et officii."

³²Simon of Tournai, Institutiones Theologiae; Praepositinus, Summa, quoted by Hødl, art. cit., 13.

³³Petrus Pictaviensis, Sententiarum libri quinque, lib. V, c. 14, PL 211:1257. Landgraf, op. cit., p. 289, note 1, quotes an anonymous Summa (Cod. Vat. Lat. 10754, f. 43v): "Sexto loco videndum est de sacramento ordinis, qui est ecclesiae VI sacramentum. Set ob reverentiam decretistis, qui de eo ultra, quam satis est, in prima decretorum parte pertractant, deferatur, et quia exinde a pueris theologis raro vel nunquam sollempniter disputatur, hunc tractatum cum silentio preterimus."

I. The Episcopacy as an Ordo.

The sacramentality of the episcopacy is affirmed by Master Simon, Guy of Orchellis, William of Auxerre, and Hugh of Saint Cher. These authors do not use one common argument to prove their conclusion.

Master Simon, whose writings are dated between 1145 and 1160, was a teacher in a cathedral school of Flanders or the southern Rhineland. His writings represent a school of thought which, while reflecting the contemporary views, retains its own particular genius.³⁴

At the beginning of his treatise "De sacris ordinibus" Simon affirms the seven-fold division of orders in the New Testament:

Sed in veteri quidem lege quinque tamen erant, ut ostensum est, diversitates, ut per hoc populus ille qui tantum quinque libris Moysi contentus erat, notaretur....In nostris vero temporibus, id est gratia lucis evangelice ubique coruscante, sacri ordines septenario distinguuntur numero, ut per hoc pateat septiformis Spiritus Sancti plenior gratiam in novo lucere testamento.³⁵

From this mystical determination of the number of ordines, Simon goes on to discuss each one in detail and to give an example from the life of Christ for each. Only when he has discussed each of the seven ordines does he present his views on the episcopacy.

Hi sunt septem gradus qui et in capite ostensi sunt et in corpore eius, quod est ecclesia, in his qui ad eos vocatur, considerari possunt. Sicut autem septem sunt diverse beatitudines, octava est que idem cum prima repromittit, sic septem sunt gradus, quos diximus; octavus est pontificalis apex. Sicut enim ignis persecutionis qui inter

³⁴Henri Weisweiler, S.J., Maitre Simon et son groupe De Sacramentis, Textes Inédits (Louvain: Spicilegium Sacrum Lovaniense, Etudes et Documents, Fascicule 17, 1937), Introduction, pp. ccix-ccxiv.

³⁵Ibid., Tractatus Magistri Simonis de Sacramentis, 62.

beatitudines octavo loco ponitur, premissas beatitudines probat et exornat, sic octavus gradus, idest pontificalis dignitas, omnes premissos ordines et instruit et consecrat. Pontificalem vero dignitatem etiam sacramentum esse nemo ambigat. Ultra hunc quicumque fuerit, id est sive archiepiscopi sive episcopi sive primatis sive etiam ipsius apostolici dignitatis, honor quidem esse poterit, sed sacramentum non erit.³⁶

There is here a curious mixture of analogy (the eighth beatitude and the eighth order) and theological precision (eight sacramental orders; outside of these there are honors but not orders). Simon considered the episcopacy an ordo because the pontifical dignity "arranges and consecrates all the other orders." This is perhaps a reflection of the statement of Isidore of Seville, quoted by Gratian: "[Pontifex] efficit sacerdotes atque levitas; ipse omnes ordines ecclesiasticos disponit; ipse, quid unusquisque facere debeat, ostendit."³⁷

While Simon found in the bishop's power over the other orders the reason why the episcopacy is an order, Guy of Orchellis, who taught at Paris about 1220, found the reason in episcopal consecration.

Sed prius discutiendum est an episcopatus sit ordo. Videtur enim quod imprimatur character in consecratione episcopi, cum ibi fit chrismatis in vertice unctio; qua ratione enim in confirmatione et baptismo, eadem ratione et in episcopi consecratione.³⁸

Because of the anointing in episcopal consecration and because the work

³⁶Ibid., 66.

³⁷Isidore of Seville, Libri XX Etymologiorum, Lib. VII, cap. 12, PL 82:290; Gratian, Decretum, Dist. 21.c.1, "Cleros et clericos."

³⁸Guidonis de Orchellis, Tractatus de sacramentis ex eius Summa de sacramentis et officiis ecclesiae, ed. Damian and Odulphus van den Eynde, O.F.M., (Saint Bonaventure, N.Y.: Franciscan Institute, 1953), 176.

of the bishop (to give orders and to consecrate virgins) is an "opus excellentiae," Guy proposed that there were nine orders, patterned after the nine-fold division among the angels.

Ad quod dicimus quod, quamvis ab altero aliquo aliter sentiatur, quod episcopatus est ordo et quod non sunt tantum septem ordines ministrorum; sed propter septiformem Spiritus Sancti gratiam sub hoc numero distinguuntur. Dicimus ergo, sine praeiudicio melioris sententiae, quod sunt novem ordines ministrorum ecclesiae, respondentes in numero novem angelorum ordinibus, viz. septem praesignati, et episcopatus octavus, archiepiscopatus nonus vel patriarchatus. Papa autem non est in ordine, sed est super cunctos ordines ministrorum....Notandum tamen quod dicunt quidam quod ista nomina, papa, patriarcha, archiepiscopus, episcopus, archidiaconus, decanus, cantor, thesaurius, primicerius, et similia, nomina sunt dignitatum, non ordinum. Nos autem priori sententiae concordamus.³⁹

Note that Guy proposes a nine-fold division of ecclesiastical ordines as his own opinion; he presents the view of those who teach the existence of only seven orders and explains that he rejects it for it seems to be based upon an accommodation to the seven-fold grace of the Holy Spirit.

William of Auxerre also maintained that there were nine ordines, but his conclusion was based upon his logical deductions from the very

³⁹Ibid. For Guy's life and works, cf. P. Glorieux, Répertoire des Maîtres en Théologie de Paris au XIII^e Siècle, (Paris: Librairie Philosophique J. Vrin, 1933, 2 Vols.), Vol. I, no. 121, p. 285. For a discussion of Guy's view of the episcopacy, cf. Augustine McDevitt, O.F.M., "The Episcopate as an Order and Sacrament on the Eve of the High Scholastic Period," Franciscan Studies XX, (March-June, 1960), 98-99. Fr. McDevitt concludes his study of Guy with the remarks: "Brief as Guy's discussion of this question is, his doctrine does set him apart from most of his contemporaries; he is the first Scholastic to teach expressly that there are nine orders in the Church. And his teaching that the episcopate is an order distinct from the presbyterate, immediately adopted by William of Auxerre, and later developed by post-Reformation theologians, is held today as the more common opinion."

definition of ordo which Peter Lombard had formulated.

Item ordo est sacrum signaculum quo confertur potestas spiritualis: sed in consecratione episcopali est sacrum signaculum, sc. sacra unctio, et confertur episcopo spiritualis potestas: hoc per se patet. Ergo ibi est ordo a diffinitione ordinis....Ad predicta duplex est solutio: quidam enim dicunt quod non sunt nisi septem ordines, quorum summa est ordo sacerdotalis, et supra ipsum nullus est ordo. Omnes enim alii ordines redeunt ad istum ordinem secundum quem fit consecratio corporis et sanguinis Domini, quod est opus excellentissimum....Aliorum est opinio que nobis magis placet, quod tot sunt ordines in ecclesia militanti quot sunt in ecclesia celesti, sc. septem predicti, et preterea episcopatus et archidiaconatus [this should be "archiepiscopatus," as the remainder of this citation shows]. Licet ordo sacerdotalis dignissimum sit quantum ad dignitatem rei consecratae, tamen episcopatus dignior est quantum ad qualitatem: episcopus enim dat potestatem consecrandi corpus et sanguinem Domini. Ad archiepiscopum autem de proprio officio pertinet consecrare episcopos, quod maxima est dignitas, licet in casu aliquo episcopus consecret episcopum....Decanatus vero et archidiaconatus non sunt ordines; non enim ibi est sacrum signaculum quo confertur potestas spiritualis, sed sunt dignitates amminiculantes ad ordines: iuvant enim episcopos.⁴⁰

The significance of William of Auxerre's treatment lies in the proper argumentation which he employs. He begins with Peter Lombard's definition of ordo; whatever is defined by this definition should be considered an ordo. He argues that episcopal consecration is so defined: it is a visible rite and the bishop receives spiritual power and office. On the other hand, the archdeacon and dean receive no ordo, for in their promotion there is no visible rite by which spiritual power is transferred.

He then considers the basic argument of those who deny that the

⁴⁰Aurea doctoris acutissimi sacrisque presulis Guillelmi Altissiodorensis in IV sententiarum libros perlucida explanatio, (Paris: Franciscus Regnault, no date), Liber IV, Tractatus Octavus, pp. 43rb-43va. Glorieux, op. cit., I, no. 129, pp. 293-294, lists William of Auxerre as regent at Paris from 1218 to 1228.

episcopacy is an ordo because they admit no ordo superior to that of the priesthood, which is the power over the very Body and Blood of Christ. William immediately applies the same criterion to the episcopacy: the bishop's proper function is to transmit the power to consecrate the Eucharist to the priests whom he ordains, hence the bishop does have power over the Eucharist. This is the most significant response which can be made to the argument that power to consecrate the Eucharist must be the highest and last ordo.⁴¹

On the same basis, the archiepiscopacy is an ordo, for the archbishop "ex proprio officio" consecrates bishops. Because there is no imposition of hands in the consecration of an archbishop different from that used in the consecration of a bishop, William would admit that the archiepiscopacy is an ordo only "ad modum angelici ordinis."⁴²

Hugh of Saint Cher, writing about a decade after William of Auxerre, seemed to hold that there were nine orders. His treatment of the question is mostly a listing of opinions. What is noteworthy is that while William of Auxerre named the episcopacy and the archiepiscopacy as the eighth and ninth orders, Hugh was hesitant about the archiepiscopacy.

⁴¹Cf. Michel, art. cit., col. 1306: "Telle est l'idée fondamentale qui revient sans cesse sous les affirmations des théologiens du Moyen Age: 'Ordo est ad sacrificium administrandum' (Bonaventure, IV Sent., d. 24, part 1, a. 2, q. 3)."

⁴²William of Auxerre, op. cit., p. 43va. McDevitt, art. cit., 102, points out that William determined what a bishop was from what he did, while later theologians would make more precise the distinction between officium and ordo and thereby find a way to explain how a man could perform functions which another could not even though both had the same ordo.

He was content to cite William's argument about the archiepiscopacy and then to present arguments that tonsure was the ninth order.⁴³

II. The Episcopacy as a Dignitas.

The authors who maintained a seven-fold division of orders were faced with these arguments for the existence of nine orders. It soon became apparent that it would not be sufficient to rely only upon the authority of Peter Lombard. A definite answer had to be given to those who taught that the episcopacy is an eighth order. A more thorough probing of the relation between bishop and priest, between dignitas and ordo, would be introduced.

Stephan Langton, who taught at Paris during the last two decades of the twelfth century,⁴⁴ could rely upon a repetition of Peter Lombard and an affirmation that the Eucharist determined the priestly ordo.

Sed ideo tantum omnes VII ordines dicuntur propter VII dona Spiritus Sancti, et ideo etiam per ordines distinguuntur gradus ecclesiae, et nichil magis episcopus quam faciat sacerdos, licet faciat aliud, et ideo non dicitur episcopatus ordo. Non enim maius potest facere quam corpus dominicum consecrare.⁴⁵

When Alexander of Hales came to treat the sacrament of Order in

⁴³McDevitt, art. cit., 111-113. McDevitt publishes the section on the sacrament of Order from Hugh's Commentarium in quatuor libros sententiarum from Mss. Bibl. Vat. Lat. 1174 and 1098, ibid., 130-132. Much of Hugh's presentation is also quoted by Landgraf, op. cit., 299-300, and note 57, from Leipzig Universitätsbibliothek Cod. Lat. 573. For Hugh's life cf. Glorieux, op. cit., I, no. 2, pp. 43-51.

⁴⁴Cf. Glorieux, op. cit., I, no. 104, pp. 238-260.

⁴⁵Quoted by Landgraf, pp. cit., p. 296, from Paris Cod. Nat. Lat. 14556, f. 180.

the second decade of the thirteenth century, however, a simple restatement of Peter Lombard was no longer sufficient. Alexander subjected the statements of Peter Lombard to very close scrutiny. He begins by considering the definition of ordo; by interpreting "signaculum" to mean the imprinting of a character, he excludes the episcopacy from the number of ordines.

Definit autem Magister ordinem sic: 'Ordo est signaculum quoddam quo spiritualis potestas traditur ordinato et officium,' secundum quam definitionem videtur quod episcopatus sit ordo: est enim 'signaculum,' quod patet ex ipsa unctione, et multo fortius, ut videtur, quam sacerdotalis ordo, quia fit illa unctio chrismate. Respondemus: per hanc definitionem separatur ordo ab aliis sacramentis. Per hoc enim quod dicitur 'signaculum' separatur ab aliis sacramentis in quibus non imprimitur character. Per hoc autem quod dicitur 'in quo sp. pot. trad.' distinguitur ab iis in quibus character tantum imprimitur: non enim in Baptismo et Confirmatione spiritualis potestas traditur super membra ecclesiae.... Si vero obicitur de episcopatu, solvendum est per hoc quod dicitur 'signaculum': non enim novus character imprimitur sed gratia confertur ad quamdam spiritualem potestatem, praeexistente caractere sacerdotali.⁴⁶

In order to appreciate the force of his argument, one must know what Alexander of Hales means by character. It is clear that he considers Order to be a character-sacrament, together with Baptism and Confirmation. It is also clear that character does not imply spiritual power over the members of the Church. The bishop does receive such power ("gratia confertur ad quamdam spiritualem potestatem"), yet he does not receive a new character. Even with his new power, the bishop retains the character he has on the basis of his priestly ordination.

The full statement of Alexander's conception of the character of

⁴⁶Magistri Alexandri de Hales, Glossa in quattuor libros sententiarum Petri Lombardi, ed. Patres Collegii S. Bonaventurae, (Quaracchi-Florence: Ex typographia Collegii S. Bonaventurae, 1957), Vol. IV: in Librum Quartum, Dist. 24, pp. 399-400. For Alexander's life and works, cf. Glorieux, op. cit., II, no. 301, pp. 15-24.

priestly ordination occurs when he proposes his own definition of ordo.

Potest autem assignari altera definitio ordinis, ex qua magis potest perpendi quis sit Ordo et quis non. Et est talis: Ordo est sacramentum spiritualis potestatis ad aliquod officium ordinatum in Ecclesia ad sacramentum communionis. Constat enim quod sacramentum communionis est dignissimum inter sacramenta, quia in eo continetur ille ex quo omne sacramentum, scilicet totus Christus....Ad hoc ergo sacramentum convenit omnem potestatem spiritualem ordinari....Ex quo perpenditur: cum potestas ordinis sacramentalis sit ad sacramentum communionis, et hoc pertineat ad ordinem sacerdotalem, quae superadditur, est ratione causarum, et quia ibi suppletur potestas Domini in conferendo ordinem sacerdotalem.⁴⁷

By placing the Eucharist in the very definition of ordo, Alexander gives the spiritualis potestas conferred in the sacrament a very definite object. The episcopacy cannot be confused with the presbyteral ordo, for the episcopacy confers the spiritual power to ordain priests and not any power to consecrate the Eucharist.

The fundamental reason behind Alexander's conclusions is to be found in his sublime analysis of the sacramental character of the priesthood:

Character vero ad distinctionem pertinebat: quae distinctio principaliter in Ordine pertinet ad principale opus Characteris divini. Aeternus enim Character se **characterizavit in cruce, praecipiens** quod sacramentum Eucharistiae fieret in eius commemorationem. Unde in sacerdote imprimitur character memoriae illius characterizationis.⁴⁸

The character received at priestly ordination is a memorial of Christ's own action upon the cross when he "characterized" Himself and, at the same time, ordered that His action should be commemorated in the Eucharist. The close connection between Christ, His crucifixion, the Eucharist and the priestly character determines the nature of the priestly

⁴⁷Ibid., 401.

⁴⁸Ibid., 410.

ordo.

A more positive explanation of the place of the episcopacy in the Church is found in Alexander's discussion of the text of Denys the Areopagite, who spoke of a three-fold work of purgation, illumination and consummation in the Ecclesiastical Hierarchy.

Unde perpenditur quod potestas inferiorum est in superioribus. Hoc autem triplex opus secundum appropriationem eorum quae tribus personis conveniunt accipitur. Nam consummatio ad plenitudinem potentiae refertur, illuminatio vero ad sapientiam, purgatio ad bonitatem. Multiplicantur autem haec tria opera ita quod unumquemque per tres differentias. [He then assigns purgation to exorcists, porters and acolytes, and illumination to lecters, subdeacons and deacons].... Secundum autem opus consummationis triplex distinguitur ordo. Est enim perfecta caritas quae ascendit ad amorem Dei et superioris. Haec in sacerdotibus extendi debet; similiter gratia prima potestatis, sicut et potestas respectu Baptismi et Poenitentiae. Perfectior enim debet esse in episcopis: unde superintendentes dicuntur, quibus est plenior gratia potestatis distributa, ut benedicendi abbates, consecrandi virgines, dedicandi ecclesias et confirmandi. Est perfectissima, quae debet esse in Papa, scilicet 'patre patrum.' Huic est collata plenitudo potestatis; hanc enim vice Petri, principis apostolorum, obtinet. Secundum hunc modum configuratur ecclesiastica hierarchia in numero ordinum angelicae hierarchiae.⁵⁰

According to this explanation, the entire hierarchy, from the pope down through all the orders to that of porter, is arranged in descending fashion according to powers. In each instance the power of a lower grade is also included in the power of the higher grades. It is significant that in this list Alexander makes no mention of character or of power to consecrate the Eucharist. One can conclude from this that Alexander views two types of spiritual power in the Church: the first type is that conferred with the sacerdotal character and ordered to the Eucharist; the second is ordered to sacramental and non-sacramental

⁵⁰Alexander of Hales, op. cit., 404.

functions exclusive of the Eucharist. According to power over the Eucharist, the priesthood is the seventh and highest order in that line. According to other spiritual power in the Church, however, the fulness of power resides with the pope, whose power is shared in diminishing degrees by those in lower ranks of the hierarchy.

It is worthy of note that Alexander is not sidetracked in his explanation of the hierarchy by the array of ecclesiastical officials. He limits his consideration to the pope, bishops, priests and lesser orders; he does not consider patriarchs, archbishops, archpriests or archdeacons. Professor Hödl rightly sees in this explanation offered by Alexander of Hales a stride forward in thirteenth century Theology. By introducing into his explanation the wider context of a theory of the structure of the Church, he obviated the difficulties which plagued his contemporaries, namely, how to explain the variety of ecclesiastical offices merely in terms of the sacrament of Order.⁵¹

Alexander of Hales was followed by his pupil, Odo Rigaldi, who added clarification and precision to his master's teaching on orders.

⁵¹Hödl, art. cit., 17-18. Professor Hödl has seen that Alexander not only explained the sacrament of Order in terms of the Eucharist, but that he also had a developed theory of the hierarchy, in which he taught that the power of the bishop is not absolute: the absolute, all-embracing power in the Church is had by the pope. McDevitt, in discussing the position of Alexander (art. cit., 102-109), limits himself to the former consideration and thus concludes that one cannot tell whether the "potestas Domini" conferred in episcopal consecration is a completely new power or only the permission to use a power already possessed through priestly ordination. (ibid., 107). Professor Hödl realized that Alexander distinguished the "potestas" in question with respect to the episcopacy and the papacy (and even the non-Eucharistic aspects of the lesser orders) from the power over the Eucharist conferred in priestly ordination.

Odo retained Alexander's two-fold basis for distinguishing "potestas":

Quoniam ordines possunt dupliciter distingui, ordo enim proprie dicitur signaculum potestatis spiritualis, potestas autem ista potest attendi vel in comparatione ad membra ecclesiae vel comparatione ad sacramentum communionis....Sic enim sunt septem ordines et sic pontificatus non est ordo, quia non dedit aliquam potestatem respectu consecrationis dominici corporis, immo habet tantam simplex sacerdos quantam episcopus. Alio modo potest considerari ut dicit potestatem comparatam ad diversa officia respectu membrorum ecclesiae, et sic, ut quidam dicunt, sunt novem ordines, et sic episcopatus et papatus.⁵²

Odo was not as clear as his master in identifying sacerdotal power with the character conferred at ordination. He was most precise, though, in distinguishing power according to its order to the Eucharist or to the Mystical Body of Christ. He also explained the roles of those who hold a position less than that of the bishop with respect to power in the Church.

...multiplex est potestas super membra ecclesiae, una quae est quantum ad actum principalem, quod est regere membra ecclesiae. Ista potestas respicit magis dignitatem quam ordines. Est alia potestas quae attenditur quantum ad actus spirituales et secundarios, scil. ad docendum, ad illuminandum, ad daemonia effugendum, et talis potestas proprie respicit ordinem.⁵³

The principal function to which the power of the priesthood is ordered is the consecration of the Eucharist. In the list of the seven sacramental orders an ascending gradation is found which culminates in the order of the priesthood, which is the power to consecrate the Body and Blood of Christ. The spiritual power over the members of the Church is principally ordered to the ruling of the members; this power is held by the pope and the bishops. Priests also have a share in spiritual

⁵²Odo Rigaldi, quoted by Hédl, art. cit., p. 20, from Cod. Lat. Troyes 824, f. 286^{ra}; for Odo, cf. Glorieux, op. cit., II, no. 303, p. 31.

⁵³Ibid., f. 285^{rb}, Hédl, p. 21.

power over members of the Church, but in this area their power is limited to secondary actions (such as teaching, illuminating, purifying--these are secondary to the principal object of power in the Church: to rule the members).

Alexander of Hales' understanding of the sacrament of Order was also reflected in the writings of Philip the Chancellor.⁵⁴ Philip very faithfully accepted Alexander's explanation of character and its relation to the Eucharist.

Episcopatus non est ordo secundum quod tantum sunt septem (ordines), nec secundum eos qui dicunt novem esse; nec imprimit characterem. Oportuit enim ut summus ordinum staret ibi, ubi est opus principale, quod est opus Filii Dei, immo est verus Filius Dei....Increatus Character illud opus principale primo operatus est in eo ordine et in supremo caractere. Unde ultra non est ordo, neque character.⁵⁵

Philip gave a definition of the episcopacy which was much like that of Alexander of Hales, who taught that in episcopal consecration "gratia confertur ad quamdam spirituales potestatem, praeexistente caractere sacerdotali."⁵⁶ Philip wrote: "ordo sacerdotalis adiuncta potestate spiritualis gratiae facit episcopum."⁵⁷ Both authors saw in the episcopacy an addition to the priesthood; this addition is not a new character or, properly speaking, a new ordo, but it is the "power of

⁵⁴Cf. Glorieux, op. cit., I, no. 119, pp. 282-284. Although he became a master as early, perhaps, as 1206, Philip's writings date from a period twenty years later.

⁵⁵Philip the Chancellor, Quaestio de ordine, Ms. Douai Bibl. Munic. 434 I, f. 117-118; text in McDevitt, art. cit., 137.

⁵⁶Alexander of Hales, op. cit., 400.

⁵⁷Philip the Chancellor, loc. cit.

grace" (Philip) or "grace for some spiritual power" (Alexander of Hales).

When he comes to explain the three orders mentioned by Denys (i.e., purifying, illuminating, consummating), Philip does so within a historical and not a doctrinal context. The division of Denys is seen as an early stage in the Church's explanation of the distinction of orders.

*Assignatio facta est diversa secundum diversitatem temporum et causarum. Et secundum hoc diversi ponuntur numeri ordinum et transmutatio ordinis, ut patet in subdiaconatu, qui in primitiva ecclesia non fuit sacer ordo, et modo est sacer. Iuxta hoc etiam fit multiplicatio ordinum. Secundum hanc diversitatem distinguitur quandoque numerus secundum genera potestatum, et hunc respectum habuit divisio in primitiva ecclesia.*⁵⁸

The early Church knew the three orders of bishop, priest and deacon, which were divided according to "genera potestatum." In the course of time each genus was divided into three species, resulting in a total of nine. This was properly a division according to "officia et potestates" rather than according to "characteres, qui utique pauciores sunt quam ordines, quoniam omnis character excellentiae (est) ordo, sed non omnis ordo character."⁵⁹ The seven-fold division of orders, on the basis of the character and defined in terms of the Eucharist, is of later origin.

*Haec autem divisio est secundum potestates et characteres, et est tropologica, data secundum conformitatem Ecclesiae. Illa prima [sc. Denys' division] secundum potestates tantum, et est mystica.*⁶⁰

Philip seems to see the earlier division as an attempt to distinguish orders according to external criteria; later the Church understood that orders should be distinguished on the basis of the proper, intrinsic principle: the character which is ordered to the Eucharist.

⁵⁸Ibid., 139.

⁵⁹Ibid., 140.

⁶⁰Ibid., 142.

The great Franciscan doctor, Saint Bonaventure, likewise follows Alexander of Hales with respect to the episcopacy. He adds, however, that the episcopacy taken together with the priesthood can be called an order. In itself, however, it is not an order.

Cum ordinis potestas principaliter sit ordinata ad dispensationem sacramentorum et maxime illius Sacramenti nobilissimi, scilicet corpus Domini, quod ibi est status graduum et ordinum ascendentium, et ita ultra sacerdotium non est gradus ordinis. Sed tamen intra hunc gradum et ordinem contigit esse distinctionem dignitatum et officiorum, quam tamen novum gradum vel ordinem non constituunt, ut archipresbyter, episcopus, archiepiscopus, patriarcha, Pontifex Summus....Et ita episcopatus, prout concernit ordinem sacerdotii, bene potest dici ordo; sed prout distinguitur contra sacerdotium, dicit dignitatem quandam vel officium ipsi annexum, et non est proprie nomen ordinis, nec novus character imprimitur, nec nova potestas datur, sed potestas data ampliatur.⁶¹

Thus, Bonaventure admits in the episcopacy an extension of priestly power; he does not admit a new power which is conferred in episcopal consecration. The dignity conferred, however, is permanent and it remains with the character of the priesthood even if all jurisdiction is taken away from the bishop.

When he comes to explain the seven-fold division of the sacrament of Order, Bonaventure lists the opinions current in the mid-thirteenth century. He rejects a division based on the gratiae gratis datae, since these are given to different individuals, while orders are conferred on the same individual. He then considers the nine-fold division based on the writings of Denys, which he calls "aliquantulum aptius" than the

⁶¹ Doctoris Seraphici S. Bonaventurae, Omnia Opera, Tomus IV: In Quartum Librum Sententiarum (Quaracchi: Ex typographia Collegii S. Bonaventurae, 1889), Dist. 24, part 2, a. 2, q. 3; for Bonaventure's life and works, cf. Glorieux, op. cit., II, no. 305, pp. 37-51.

preceding basis of division.⁶² He summarizes this division thus:

Et sic status istius ordinationis consummatur in unitate et descendit per gradus novem, ut sic conformetur Ierusalem caelesti. ...Et iste modus est satis probabilis; tamen adhuc aliquantulum a proprietate recedit, dum non accipitur ordinum distinctio per id quod est proprium sibi et intrinsecum.⁶³

The proper and intrinsic norm of orders he finds in that to which ordo tends, namely, the Eucharist. In rejecting the hierarchical division based upon Denys as a division of the sacrament of Order, Bonaventure is faithful to Alexander of Hales. Yet he fails to appreciate Alexander's real contribution to the question. Alexander had seen that although the Eucharist determined the sacramental orders, other spiritual powers in the Church could be arranged in a nine-fold hierarchy in which the papacy and the episcopacy took their proper place. Also, Alexander admitted that episcopal consecration conferred a new power, and not only an extension of the power of the priesthood itself, as Bonaventure taught.

The opinion of Bonaventure that episcopal consecration "amplifies the sacerdotal power" [and thereby the episcopacy taken together with the priesthood can be called an ordo] seems to go back to an expression of Peter Damian which had been developed by William of Auvergne. Peter Damian had written that the bishop "non tam novus ordo suscipi quam in eodem ipsi sacerdotio videntur excellentius sublimari."⁶⁴

William of Auvergne, master of Theology (1222-1228) and bishop of Paris (1228-1249) maintained a seven-fold division of orders. He

⁶²Ibid., q. 4.

⁶³Ibid

⁶⁴Peter Damian, op. cit., cap. 15, PL 145:118.

considers the presbyterate and the episcopacy as two degrees within the seventh and highest ordo. The bishop possessed the fulness and perfection of the priesthood, while the simple priest has the essential power to consecrate the Eucharist and other limited powers.

Iam patefacimus tibi quinque potestates seu officia ordinis sacerdotalis, viz., officium interpellandi, officium sacratissimae Eucharistiae seu sacrificium offerendi, officium sacramentandi, deinde officium docendi doctoresque instituendi, quod est prima clavis, novissime ligandi atque solvendi in utroque foro officium, quod est secunda clavis. Et quia in solis episcopis plenitudo potestatis et istorum officiorum perfectio est, manifestum est episcopatum plenum et perfectum esse sacerdotium. Officium enim sacramentandi plenum atque perfectum minores sacerdotes non habent, quia nec sacramentum confirmationis nec sacros ordines nec maiora sacramentalia impendere possunt; similiter auctoritatem docendi seu doctores instituendi modicam habent....Si quis autem dixerit: cum episcopatus ordo non sit, ad quid ergo consecrantur episcopi? Respondemus: ad complendum et perficiendum atque ad summum perducendum ipsos non solum officii plenitudine et amplitudine potestatis, sed etiam ad cumulandum gratia et pinguedine sanctitatis. Quemadmodum et virgines sanctae non novum matrimonium cum coelesti sponso in consecratione sua contrahunt sed in baptismo dudum contractum firmant potius et astringunt...sic summi sacerdotes sive episcopi in consecratione sua non novum ordinem sed ipsius ordinis sacerdotalis, sc. quem prius habebant, perfectionem et plenitudinem recipiunt, quantum ad potestatem et officia quae supra diximus.⁶⁵

Rather than limiting the priesthood to its essential power over the Eucharist, William takes the priestly order in its widest signification. The simple priest does receive the essence of the priesthood, but it is only the bishop who receives the totality of priestly powers.

The reason why William of Auvergne adopted this explanation is perhaps to be found in the problem which troubled so many of his

⁶⁵Guilelmi Alverni, Episcopi Parisiensis, Opera Omnia, Tomus Primus (Paris: Apud Emundum Couterot, 1674), De sacramento ordinis, cap. 13, p. 553. Cf. Glorieux, op. cit., I, no. 141, pp. 315-320: after only a few years as master, William was consecrated bishop of Paris.

contemporaries: the variety of the existing ecclesiastical offices. As William argued, if the episcopacy is a separate order, then why not the archiepiscopacy, and so on.

Si quis autem dicere voluerit episcopatum esse ordinem aliud a sacerdotio minori: nec opponimus nos nec contradicimus; verum non effugiat facile quin oporteat eum dicere, archiepiscopatum esse ordinem, et deinde primatum, postea patriarchatum, et novissime papatum. Manifestum autem est quod ipse non est maior quam Petrus: non est enim nisi successor ipsius quantum ad potestatem et dignitatem. ...Ipse Jesus Christus non plus quam episcopus est in dignitatibus ecclesiasticis secundum quod homo.⁶⁶ Manifestum ergo est ultra episcopatum nullum esse ordinem.

By including the episcopacy within the totality of the priestly order, William could explain the sacramental powers proper to the bishop. He could also exclude the other offices in the ecclesiastical hierarchy from the list of orders. It would seem that he would consider offices above the episcopacy as jurisdictional positions which did not imply any greater power of sacramental order than that received in the episcopacy.⁶⁷

Roland of Cremona, the first Dominican master at Paris, wrote a few years after William of Auvergne.⁶⁸ Roland also taught that if one

⁶⁶Ibid.

⁶⁷William of Auvergne did not maintain that there were two sacramental ordinations involved in the conferring of the priesthood in its fulness: one to the simple priesthood and another to the episcopacy. He viewed episcopal consecration as a sacramental, as Fr. McDevitt indicates from a text in William's treatment of Extreme Unction: "Et hoc apparet evidenter in eis sacramentalibus, quae impenduntur hominibus, scilicet evidenter ostendimus in consecratione episcopali, quae sanctitatem sacerdotalem evidenter auget atque magnificat, nisi per indignitatem steterit recipientis; potestatem autem et ministerium sacerdotalis ordinis extendit et ampliatur ad perfectum." [William of Auvergne, *Tractatus de sacramento Extremae Unctionis*, op. cit., p. 553c; McDevitt, art. cit., p. 111, note 50.]

⁶⁸Cf. Glorieux, op. cit., I, no. 1, p. 42.

considered the episcopacy a separate order, he would have to do likewise for the other ecclesiastical grades: archdeacon, archpriest, archbishop, primate and pope. Roland therefore maintained that there were seven sacramental orders, the highest of which is the priesthood, which confers power over the greatest object, the Eucharist. Roland did admit an augmentation of the presbyterate in episcopal consecration: "Unde in consecratione episcopi non confertur character, quamvis augmentatur gratia si digne accipit," and, a few lines further, "Nec ideo archiepiscopatus apponit ordinem, nec episcopus...sed augent illa quae secundum ordinem presbyteratus sunt."⁶⁹ Lest one think from these words that the episcopacy might be some intrinsic extension of the priesthood, Roland added:

Sed cum huiusmodi non sint nisi quaedam accidentalialia supra ordinem sacerdotalem, mirum est de humana stultitia et contingentia, quod episcopus dedignatur vocari 'presbyter,' et archiepiscopus et patriarcha et papa dedignarentur, et velint denominari ab accidentibus. Patet quod illi qui gaudent in illis dignitatibus, et non magis quod sunt sacerdotes, quod arrogantes sunt.⁷⁰

It would seem that for Roland there was a true extension of the priesthood in episcopal consecration; this was not, however, an essential extension, for the bishop had no more power than the simple priest over the Eucharist. Considered in relation to the priesthood, it could be said that the episcopacy added only certain accidental perfections to the basic priestly power.

A somewhat similar position was held by Albert the Great, the

⁶⁹Roland of Cremona, Summa Theologica, Ms. Paris Mazarine 795, f. 127^d; text in McDevitt, art. cit., p. 135.

⁷⁰Ibid.

teacher of Thomas Aquinas. Albert saw that the essence of the priesthood consisted in the inseparable powers of the priest to consecrate the Eucharist and to forgive sins; hence, the priesthood was the highest ordo.

Non sunt nisi septem ordines, ut Magister dicit: et alia non sunt ordinum sed officiorum nomina et quaedam sunt ad ordines praeparationes. Sufficientia autem, licet multis modis possit accipi, tamen ex hoc potest assignari, scilicet ut dicatur quod solus est ordo perfectus, qui presbyteratus vocatur: et unum habet actum principalem, scilicet conficere corpus et sanguinem Domini, et alium secundarium, qui est datus ad praeparandum populum ut idonee communicet corpori et sanguini Christi, et hic actus est ligare et solvere....Actus illi dividi non possunt ab una potestate: quia corpus Christi verum non consecratur nisi propter mysticum: et unire corpus verum cum mystico subiecto, non est inferioris potestatis quam consecrare ipsum pro mystico.⁷¹

Albert points out the close connection between the priest's power over Christ's Mystical Body and His sacramental Body. There is therefore one power for consecrating the Eucharist and for preparing the people to receive it.

The bishop's power over the Mystical Body is seen as a purely jurisdictional power. Episcopal consecration does confer grace, but only for the worthy exercise of episcopal jurisdiction.

Cum enim nullus possit esse actus excellentior quam conficere corpus Christi, nullus potest esse ordo post sacerdotium; sed iurisdictionum officia sunt quae enumerat distincta super corpus mysticum, cui intendunt taliter officiati; et quando consequuntur, accipiunt gratiam, non ad ordinem sed ad executionem iurisdictionis in ecclesia sunt digni....Ordo vocatur hic [sc. respectu episcopatus] gradus dignitatis secundum iurisdictionem et dicitur ordo quia actus quosdam sacros iurisdictionis exercet.⁷²

⁷¹Beati Alberti Magni, Ratisbonensi Episcopi, Ordinis Praedicatorum, Omnia Opera, ed. Augustus Borgnet, Vol. XXX, (Paris: Apud Ludovicum Vivès, 1894), Commentarii in IV Sententiarum, Dist. 24-50, Dist. 24, A, Art. 5, Responsio, p. 35. For Albert's life and works, cf. Glorieux, op. cit., I, no. 6, pp. 62-77.

⁷²Ibid., Dist. 24, M, Art. 39-40, p. 81.

The bishop receives jurisdiction at his promotion and he can perform certain acts "non ex ordine tantum nec ex iurisdictione tantum... sed ex ordine simul et iurisdictione."⁷³ The reason for this is that for Albert ordo implied in itself no superiority over the members of the Mystical Body. When one received such superiority, it was by appointment from a superior; the recipient could then perform functions which the simple priest could not perform. The superiority which was received, however, was not an extension of the priestly power of order; Albert did insist, though, that only those who possessed the sacramental ordo of the priesthood could be made superiors in the Church.

⁷³Ibid., Vol. XXIX, Commentarii in IV Sententiarum, Dist. 1-23, Dist. 7, A, Art. 4, q. 3, obi. 3, p. 159. An attempt somewhat similar to Albert's attempt to explain the episcopacy as a combination of order and jurisdiction is that of Guerric of Saint Quentin (who taught at Paris from 1233-1242: cf., Glorieux, op. cit., I, no. 4, pp. 54-58). In his Quaestio de ordine Guerric attempted to explain the episcopacy as a combination of ordo and officium: when the bishop acted, his ordo caused grace in another and his officium caused office. "Efficit ergo in altero quod figurat. Sed in altero efficere dupliciter est. Quia vel gratiam, et hoc facit sacramentum Ordinis; vel officium, et hoc facit episcopatus et huiusmodi, quae potius sunt dignitates quam ordines....Quod obicitur, '(episcopus) habet istos tres actus, purgare, illuminare et perficere,' respondeo: distinguendum est, quia aut habet perficere in gratia, et hoc habet ratione ordinis; vel in officio, et hoc habet ratione dignitatis vel episcopatus." (Guerric of Saint Quentin, Quaestio de ordine, Mss. Assisi 138, f. 152 and Paris Nat. Lat. 16417, f. 56; text in McDevitt, art. cit., pp. 142, 144.) That Guerric considered that the episcopacy conferred only jurisdiction upon its recipient is evident from his discussion of ordination: "Ergo dispositio ad collationem ordinis est sacerdotium, forma vero est auctoritas Ecclesiae, quam habet episcopus. Quae forma potest venire supra materiam aut cum solemnitate, sicut cum episcopus ordinat, aut sine solemnitate, ubi est necessitas." (ibid., p. 144). If one accepts this explanation it is difficult to see why the functions which are reserved to bishops are invalid, and not only illicit, when performed by a simple priest. These last words would seem to indicate that necessity could supply the powers of the episcopacy, which was an idea familiar to several of the theologians treated here who discussed the possibility of episcopal consecration by a priest: cf. McDevitt, art. cit., 101, 114-115, 121, 124.

Habentes enim ordinem sunt quasi membra officialis in corpore, per quae transmittitur nutrimentum ad alias partes corporis, et non est necessarium quod ex hoc constituti sunt super alios, quia hoc est potius commissionis a superiore quam ordinis, quamvis ordinem soli sunt possibiles ad curam animarum, possibiles inquam potentia propinqua, quae fiat in exsecutione per ordinationem ecclesiae statim, sine aliquo alio....Unde talia posse [scil., episcopalis consecratio datur ad quosdam actus, ad quos non est presbyteratus] accidit ordini, inquantum coniunctus est dignitati, et non facit ordinem alium.⁷⁴

Albert requires both order and jurisdiction in the bishop--the former is received in sacramental ordination, the latter by commission from a superior. Albert does not specify the exact manner in which order and jurisdiction are operative in the production of a specific effect. He does not view the episcopacy as an order nor does he speak of it as an extension of the priestly power itself.

Conclusions

In the twenty-fourth Distinction of the Fourth Book of Sentences

Peter Lombard affirmed a seven-fold division of the sacrament of Order.

⁷⁴Sancti Doctoris Ecclesiae Alberti Magni, Ordinis Fratrum Praedicatorum, Episcopi, Opera Omnia, ed. Institutum Alberti Magni Coloniense, Bernhardo Beyer, Praeside, (Monasterii Westfalorum in Aedibus Aschendorff, 1958), Tomus XXVI: De sacramentis, tractatus octavus: de ordine, q. 1; quid sit ordo, p. 136, and q. 3: quot sint ordines et penes quid accipiatur numerus eorum, p. 141. In his commentary upon Denys, Albert admits that "ordo" does have a two-fold signification, and in a less strict sense, the episcopacy could be called an order. "Si ordo dicatur sicut proprie dicitur ordo, potestas spiritualis ad actus sacramentales, sic episcopatus non est ordo distinctus a sacerdotio, quia non potest in aliquem actum superiorem quam sacerdos. Si autem dicatur ordo potestas spiritualis ad actus qui pertinent ad unum dictorum [scil. purgatio, illuminatio, consummatio], sic episcopatus dicitur ordo supra sacerdotium: et secundum hoc loquitur Dionysius." [Opera Omnia, ed. Borgnet, Vol. XIV: Commentarii in Librum Sancti Dionysii Areopagitae 'De Ecclesiastica Hierarchia,' cap. 5, p. 704.]

He based this upon the seven-fold grace of the Holy Spirit. The episcopacy was called a dignity and an office. Peter Lombard thereby continued a tradition which can be traced in the writings of Rhaban Maur, Isidore of Seville, Pseudo-Jerome, Jerome and Ambrosiaster.

The commentators upon the Sentences were divided upon the number of sacramental orders. Master Simon affirmed the existence of eight orders: he added the episcopacy to the traditional seven, because the bishop ordains to the other orders. Guy of Orchellis added a ninth order, the archiepiscopacy, for the archbishop consecrates other bishops; the ecclesiastical hierarchy thereby reflects the nine-fold division of the celestial hierarchy among the angels. William of Auxerre affirmed the existence of nine orders, seeking a reason for this in the very definition of ordo of Peter Lombard. The power to ordain to the priesthood and to consecrate to the episcopacy were the spiritual powers proper to the episcopacy and archiepiscopacy. Hugh of Saint Cher seemed to favor a nine-fold division of orders; he was inclined to view tonsure as the ninth order, rather than the archiepiscopacy.

Alongside these opinions were those of the authors who taught that there were only seven orders. Alexander of Hales brought out the intimate connection between order and character and between the priestly character, the Eucharist, and Christ's "characterizing" of Himself on Calvary; these reflections led him to the conclusion that there could be no sacramental order above the priesthood. Alexander saw a foundation for a nine-fold division of sacred power (the seven traditional orders plus the episcopacy and the papacy) in a consideration of the powers in the Church other than

the power to consecrate the Eucharist.

Alexander's pupil, Odo Rigaldi, sharpened the distinction between the two types of power in the Church. He taught that if spiritual power were considered in relation to the Eucharist, then there were seven orders; if it were considered in relation to the members of the Church, however, then there were nine orders.

Philip the Chancellor repeated Alexander's insistence upon the character as the determining principle for orders. He granted that, although it conferred no new character, the episcopacy did confer a "power of grace." He also taught that the nine-fold division of Denys was an early attempt to distinguish the orders, but it was based on extrinsic rather than intrinsic principles.

Bonaventure viewed the episcopacy, taken together with the priesthood, as an order. He did not teach that it was a separate or eighth order, for no new power was given in episcopal consecration; the episcopacy was an extension of the power already received in priestly ordination. Like Philip, he viewed the nine-fold division of order as one based upon extrinsic and improper criteria.

William of Auvergne was the clearest proponent of the view that the episcopacy was the fulness of the priesthood, while the simple priest received the essential, although not the total, power of the seventh and highest order. He realized that the arguments for calling the episcopacy an order could also be used for the archiepiscopacy, patriarchate, papacy.

Roland of Cremona likewise taught the existence of seven orders, lest the number grow beyond all reasonable bounds. The episcopacy was, for him, an accidental addition to the priesthood's essential power of

order. Albert the Great also viewed the episcopacy as a dignity added to the priestly order. He based his conclusion on the fact that the Eucharist is the determining principle for orders. He considered that the episcopacy was jurisdiction added to the priestly order. Although he did not define jurisdiction, he did give the term a wide signification. He saw no superiority arising from order, so that all superiority in the Church was termed jurisdiction. Any function which required a position of superiority in its minister was reserved to the bishop.

This is a brief summary of theological thought on the nature of the sacrament of Order and on the relationship between the episcopacy and the priesthood from the time of Peter Lombard until the mid-thirteenth century. The opinions of the authors cited on these pages give an idea of the state of the question about 1250. These were the opinions which Thomas Aquinas found when he arrived at Paris in 1252 to give his inaugural lecture as bachelor of Theology. He had been appointed to this post by John the Teutonic, Master General of the Friars Preachers, after his four years as a pupil of Albert the Great at Cologne.⁷⁵ As Thomas undertook his explanation of the Sentences of Peter Lombard, he had to face these varied opinions and arguments and formulate his own position.

⁷⁵Angelus Walz, Saint Thomas Aquinas, translated by Sebastian Bullough, O.P., (Westminster, Md.: The Newman Press, 1951), 31.

CHAPTER IV

THE EPISCOPACY IN THE WRITINGS OF THOMAS AQUINAS

This fourth and final chapter is an exposition of Saint Thomas Aquinas' exposition of the episcopacy. Once the teaching of the Angelic Doctor is drawn from the various works in which he considers the episcopacy, it will be possible to compare his views with those of his predecessors. In this way it will become evident how Aquinas accepted the explanations of others and in what areas he made his own original contribution.

The difficulty which presents itself at the outset is the fact that Thomas died before completing the Tertia Pars of his Summa Theologiae. Among the questions which were thereby omitted from the definitive treatment of his mature work are those concerning the sacrament of Order and the episcopacy. For an ex professo treatment of these questions one must turn to Thomas' Commentum in quatuor libros sententiarum Magistri Petri Lombardi. Now this work, which was composed between 1254 and 1256, is one of Aquinas' first writings. Thus, there arises the question: does this work present the author's definitive thought about the episcopacy?

This problem is intensified for one who considers the vast literature concerning the episcopacy which was produced by subsequent generations of Aquinas' disciples. These authors frequently departed from Aquinas' explanations of the episcopacy, especially from the explanation he presented in his commentary on the Sentences. Two reasons are given for such a departure: the first is that Saint Thomas changed his mind regarding the episcopacy after the time when he wrote

this commentary;¹ the second reason is that some authors present their own views as logical developments of the principles set down by Thomas.²

In the present chapter the conclusions so ably and comprehensively worked out by Father Doronzo, O.M.I., will be followed: (i) that Saint Thomas did not substantially alter his position concerning the nature of the episcopacy in his later writings; and (ii) that many of the authors in the so-called Thomistic tradition actually departed from Aquinas' thought in an effort to accomodate themselves to the more common opinions among theologians (especially post-Tridentine writers) that the episcopacy is a distinct sacramental order from the priesthood.³

¹Doronzo, De Sacramento Ordinis, Tom. II, pp. 136-138, quotes Journet, Bouëssé and Lécuyer to the effect that Thomas taught the sacramentality of the episcopacy in his later writings.

²Ibid., pp. 175-180. The so-called development of the Thomistic opinion occurred in two steps: in the thirteenth century Petrus de Palude, O.P., taught that the episcopacy is an extension of the priestly character to new acts, hence the episcopacy is a sacrament and imprints a character, though not a character distinct from the priestly character; the second and decisive step was taken by Gonet in the seventeenth century when he taught that the episcopacy is an intrinsic extension of the priestly character, that it is a real and physical mode of the priestly character. Today Gonet's opinion is widely held within the Thomistic school.

³Ibid., pp. 139-147. Fr. Doronzo analyzes the texts cited by those who claim that Saint Thomas changed his mind and concludes that the texts do not warrant such an affirmation. On pp. 179-183 he shows that, far from remaining true to the principles of Aquinas, these later authors have left Aquinas' position altogether and have adopted the so-called canonical position in fact while retaining some verbal accomodation to Saint Thomas. In this dissertation the episcopacy will be treated from the works of Saint Thomas; this is not a study of the episcopacy in the Thomistic school. Because of the widespread confusion regarding the true position of Saint Thomas, however, the work of Fr. Doronzo and his detailed analysis of the so-called Thomistic tradition, and his proof that this is actually a departure from Saint Thomas, are most valuable and useful today as many theologians again turn their attention to the episcopacy.

It will not be necessary, then, to consider the works of Saint Thomas in chronological order in the hope of finding a change in his position. The order to be followed here will be the doctrinal order used by Saint Thomas himself. The doctrinal order proceeds from the more general question of the nature, purpose and division of the sacraments to the more particular questions of the nature of the sacrament of Order, the basis for distinguishing several sacramental orders, and, finally, the nature of the episcopacy and its relationship to the properly sacramental orders.

The basic position of Saint Thomas regarding the episcopacy is that in relation to the sacrament of Order it is not a distinct, sacramental order; it is an order in relation to the Mystical Body of Christ. Thomas thus indicates that a full presentation of the nature of the episcopacy would be found in a treatise on the Church, rather than in the treatise on the Sacraments.

Unfortunately there is no treatise on the Church either in the Libri Sententiarum of Peter Lombard or in the Summa Theologiae of Saint Thomas. In his sacramental theology, however, Aquinas does indicate the prominent role of the Church in the economy of salvation. While the grace conferred in the sacraments is that merited by Christ on Calvary, it is the Church which is the channel through which that grace comes to men in each succeeding generation. The objective redemption of Calvary must be applied to men if it is to effect their sanctification.

Efficacia...sacramentorum...est ex tribus: scilicet ex institutione divina sicut ex causa principali agente, ex passione Christi sicut

ex causa prima meritoria, ex fide ecclesiae sicut ex continuante instrumentum principali agente.⁴

Thus, there are always two aspects under which one may consider the Sacraments.

Sacramenta ex hoc quod sunt sacramenta, habent quod sint in remedium contra defectum aliquem; ex hoc autem quod sacramenta Ecclesiae, habent per ministros Ecclesiae dispensari, et in membra Ecclesiae transfundi.⁵

The sacraments are administered by the Church for her members.

The effects of the sacraments, grace and, for three sacraments, character, are not only a remedy against the defects of sin but also a positive perfection ordered to the divine cult, which is exercised in the Church.

Gratia autem sacramentalis ad duo praecipue ordinari videtur: videlicet ad tollendos defectus praeteritorum peccatorum...et iterum ad perficiendum animam in his quae pertinent ad cultum Dei secundum religionem Christianae vitae...Christus liberavit nos a peccatis nostris praecipue per suam passionem, non solum efficienter et meritorie, sed etiam satisfactorie. Similiter etiam per suam passionem initiavit ritum Christianae religionis....Unde manifestum est quod sacramenta Ecclesiae specialiter habent virtutem ex passione Christi.⁶

Ad actus convenientes praesenti Ecclesiae deputantur quodam spirituali signaculo eis insignito, quod character nuncupatur....Character fidelium est quo distinguitur fideles Christi a servis diaboli, vel

⁴Sancti Thomae Aquinatis, Doctoris Angelici, Ordinis Praedicatorum, Commentum in quatuor libros sententiarum (Parma: Typis Petri Fiaccadori, 1858), Lib. IV, Dist. 1, q. 1, a. 4, ql. 5, sol. 3. Cf. Aquinas' In symbolum apostolorum expositio (S. Thomae Aquinatis, Opuscula Theologica, Vol. II: De re spirituali, ed. Fr. Raymond M. Spiazzi, O.P., Rome: Marietti, 1954, pp. 191-217), articles nine and ten, for a brief summary of Thomas' explanation of the Church as the Mystical Body of Christ, in which the members receive perfection from the Head by means of the sacraments, in which the virtue of Christ's passion is operative.

⁵Ibid., Dist. 2, q. 1, a. 2, Solutio.

⁶S. Thomae Aquinatis, Doctoris Angelici, Summa Theologiae, Cum textu ex recensione Leonina (Rome: Marietti, 1948), III, q. 62, a. 5c.

in ordine ad vitam aeternam, vel in ordine ad cultum praesentis Ecclesiae. Quorum primum fit per caritatem et gratiam...secundum autem fit per characterem sacramentalem.⁷

Since Christ, by His single action upon the cross, merited grace for men and, at the same time, initiated the essential rite of the Christian religion, it follows that when men receive grace from Christ, they also receive an orientation to the Christian religion, i.e. to the Church. Conversely, among the sacraments (which form the essential part of "the cult of the Christian religion") the place of honor is held by the Eucharist, the sacramental renewal of Christ's action on Calvary.

Simpliciter loquendo, sacramentum Eucharistiae est potissimum inter alia sacramenta. Quod quidem tripliciter apparet. Primo, quidem, ex eo quod in eo continetur ipse Christus substantialiter, in aliis autem sacramentis continetur quaedam virtus instrumentalis participata a Christo....Secundo hoc apparet ex ordine sacramentorum ad invicem: nam omnia alia sacramenta ordinari videntur ad hoc sacramentum sicut ad finem....Tertio hoc apparet ex ritu sacramentorum. Nam fere omnia sacramenta in Eucharistia consummantur.⁸

Other arrangements of the sacraments can be based upon certain special considerations, e.g. Baptism is the most necessary sacrament. Yet it remains true that the essential arrangement of the sacraments among themselves is in relation to the Eucharist.

In his general division of the seven sacraments, Thomas Aquinas speaks of the sacrament of Order in relation to the administration of

⁷III, q. 63, a. 3, ad 1um; a. 3, ad 3um.

⁸III, q. 65, a. 3c. For Saint Thomas Baptism is ordered to the reception of the Eucharist: "Per Baptismum ordinatur homo ad Eucharistiam. Et ideo ex hoc ipso quod pueri baptizantur, ordinantur per Ecclesiam ad Eucharistiam. Et sic, sicut ex fide Ecclesiae credunt, sic ex intentione Ecclesiae desiderant Eucharistiam: et per consequens recipiunt rem ipsius." (III, q. 73, a. 3c) and "Sacramentum autem Eucharistiae, quamvis sit posterius Baptismo in perceptione, est tamen prius in intentione." (III, q. 73, a. 5, ad 4um).

the sacraments or in terms of the Church.

Est autem duplex perfectio. Una formae ad actum: et hanc quidem perfectionem facit ordo quantum ad executionem bonorum, quia reddit hominem idoneum ad dispensationem sacramentorum.⁹

Sunt enim quidam propagatores et conservatores spiritualis vitae secundum spirituale ministerium tantum, ad quod pertinet ordinis sacramentum.¹⁰

Nam per Ordinem Ecclesia gubernatur et multiplicatur spiritualiter, et per Matrimonium multiplicatur corporaliter.¹¹

In this way the Angelic Doctor points to the social purpose of the sacrament of Order. While five sacraments are ordered to the spiritual perfection of the individual recipient, two sacraments are also, and indeed primarily, social sacraments: Order and Matrimony. It is these two sacraments which insure the continuity of the Church.¹²

When he approaches a specific study of the sacrament of Order, Aquinas finds the fittingness of a special sacrament in its social nature.

Deus sua opera in sui similitudinem producere voluit quantum possibile fuit, ut perfecta essent et per ea cognosci posset. Et ideo, ut in suis operibus repraesentaretur non solum secundum quod in se est, sed etiam secundum quod aliis influit, hanc legem naturalem imposuit omnibus, ut ultima per media perficerentur et media per prima, ut Dionysius dicit. Et ideo, ut ista pulchritudo Ecclesiae non deesset

⁹IV Sent., Dist. 2, q. 1, a. 2, Solutio.

¹⁰Santo Tomas de Aquino, Summa Contra los Gentiles, Edición bilingüe, en dos tomos, con el texto arábigo de la leonina (Madrid: Biblioteca de autores Cristianos, 1953), Lib. IV, cap. 58. [cited hereafter Summa Contra Gentiles.]

¹¹Thomae Aquinatis, De articulis fidei et Ecclesiae sacramentis, (Opuscula Theologica, Vol. I: De re dogmatica et morali, ed. Fr. Raymond A. Verardo, O.P., Rome: Marietti, 1954, pp. 139-151), Pars Altera, no. 613.

¹²Cf. IV Sent., Dist. 2, q. 1, a. 2, Solutio.

posuit ordinem in ea, ut quidam aliis sacramenta traderet, suo modo in hoc assimilati, quasi Deo cooperantes.¹³

The same fittingness is shown from the need for ministers of the other sacraments.

In omnibus sacramentis de quibus iam actum est, spiritualis confertur gratia sub sacramento visibilium rerum. Omnis autem actio debet esse proportionata agenti. Oportet igitur quod praedictorum dispensatio sacramentorum fiat per homines visibiles, spiritualem virtutem habentes....Huius etiam ratio aliunde sumi potest....Quia igitur Christus corporalem sui praesentiam erat Ecclesiae subtracturus, necessarium fuit ut alios institueret sibi ministros, qui sacramenta fidelibus dispensarent.¹⁴

In general, then, the grace merited by Christ on Calvary comes to men through the sacraments, the separated instruments of the God-Man. These visible signs and causes of grace remove from men the defects left by sin and order them towards the Christian cult, which is offered in the Church, the Mystical Body of Christ. So that the Church might have that beauty of order which arises from a gradation in which the higher perfect the lower, and so that the visible ministry of Christ might be continued after His Ascension by men having the spiritual power to sanctify others, it is eminently fitting that there should be a special sacrament to confer upon men the power to dispense the sacraments. This is Saint Thomas' explanation of the position of the sacrament of Order in God's plan.

¹³Supplementum, q. 34, a. 1. [The Supplementum to the Summa Theologiae contains Saint Thomas' commentary on the 24th Distinction of the Fourth Book of Peter Lombard's Sentences and all but one question (the third) of the 25th Distinction.]

¹⁴Summa Contra Gentiles, Lib. IV, cap. 74. The necessity here mentioned is, of course, hypothetical; cf. III, q. 61, a. 1, where Thomas shows the convenience of man's salvation by means of sacraments, and III, q. 1, a. 1-3, for the fittingness of a redemptive Incarnation.

Saint Thomas gives an indication even in his general division of the sacraments that the sacrament of Order is not to be considered in relation to the dispensing of all the sacraments equally.

Perficitur autem homo in ordine ad totam communitatem dupliciter. Uno modo per hoc quod accipit potestatem regendi multitudinem et exercendi actus publicos. Et loco huius in spirituali vita est sacramentum Ordinis: secundum illud Heb. 7 [27], quod sacerdotes hostias offerunt non solum pro se sed etiam pro populo.¹⁵

The general power of ruling the community and exercising public actions is immediately limited by the text from the epistle to the Hebrews to the offering of sacrifice.

It is in considering the plurality of orders that Saint Thomas works out a principle whereby one can determine which are the sacramental orders. There are many orders so that God's wisdom might be represented in an ordered distinction, so that human infirmity might be relieved through many offices rather than through just one, and so that many men might be enabled to become cooperators with God.¹⁶

The ministers who are established by the sacrament of Order receive spiritual power which enables them to act as agents in the dispensing of the sacraments.¹⁷ It is according to the diversity of acts to which this power is ordered that the sacrament of Order is divided, since any power is distinguished according to its proper act and object.¹⁸ The spiritual power of Order is no exception to this

¹⁵III, q. 65, a. 1.

¹⁶Supplementum, q. 37, a. 1.

¹⁷Summa Contra Gentiles, Lib. IV, cap. 74.

¹⁸Supplementum, q. 37, a. 1 ad 1um; cf. I, q. 77, a. 3: "Potentia, secundum illud quod est potentia, ordinatur ad actum....Ratio autem actus diversificatur secundum diversam rationem obiecti."

general principle. As a true power, it is specified by its proper act and object, in order to which it is properly to be defined.

The immediate objection arises that a diversity of powers, and therefore of orders, would also mean a diversity of sacraments: there would be as many sacraments of order as there were orders. It is to answer this basic objection that Aquinas explains how the sacrament of Order is a potestative, rather than a universal, whole. The universal or logical whole is found in each of its parts in the same way: every species of the genus animal equally participates in the generic nature. The potestative whole, however, is quite different from the universal whole.

*Distinctio ordinis non est totius integralis in partes, neque totius universalis, sed totius potestativi. Cuius haec est natura, quod totum secundum completam rationem est in uno, in aliis autem est aliqua participatio ipsius. Et ita est hic. Tota enim plenitudo huius sacramenti est in uno ordine, scilicet sacerdotalis; sed in aliis est quaedam participatio ordinis....Et ideo omnes ordines sunt unum sacramentum.*¹⁹

Thus, according to Aquinas, the sacerdotal order possesses the complete nature and power of the sacrament of Order, while the other orders have only some participation in the power and sacrament of Order.

¹⁹*Ibid.*, ad 2um. Cf. I, q. 77, a. 1 ad 1um: "Modum quo totum potestativum praedicatur de suis partibus medium est inter totum universale et totum integrale. Totum enim universale adest cuilibet parti secundum totam suam essentiam et virtutem, ut animal homini et equo; et ideo proprie de singulis partibus praedicatur. Totum vero integrale non est in qualibet parte, neque secundum totam essentiam, neque secundum totam virtutem. Et ideo nullo modo de singulis partibus praedicatur; sed aliquo modo, licet improprie, praedicatur de omnibus simul, ut si dicamus quod paries, tectum et fundamentum sunt domus. Totum vero potentiale adest singulis partibus secundum totam suam essentiam, sed non secundum totam virtutem. Et ideo quodammodo potest praedicari de qualibet parte; sed non ita proprie sicut totum universale."

I. Priesthood: Power of Order over Christ's Sacramental Body.

Before determining the number of sacramental orders, Aquinas lists the opinions of those who distinguish the orders on the basis of gratiae gratis datae [mentioned in I Corinthians 12:4], or by a comparison with the celestial hierarchy [Denys the Areopagite], or on the basis of the seven gifts--each is rejected as an inadequate principle for determining orders.²⁰

Since the sacrament of Order principally implies power,²¹ it must be divided according to the acts and objects to which the power is ordered. The sacerdotal order is essentially ordered to the Eucharist.

Ordinis sacramentum ad sacramentum Eucharistiae ordinatur, quod est 'sacramentum sacramentorum,' ut Dionysius dicit. Sicut enim templum et altare et vasa et vestes, ita et ministeria quae ad Eucharistiam ordinatur, consecratione indigent: et haec consecratio est ordinis sacramentum. Et ideo distinctio ordinis est accipienda secundum relationem ad Eucharistiam.²²

Quia vero potestas ordinis ad dispensationem sacramentorum ordinatur; inter sacramenta autem nobilissimum et consummativum aliorum est Eucharistiae sacramentum...oportet quod potestas ordinis consideretur praecipue secundum comparisonem ad hoc sacramentum.²³

The argumentation here rests upon the relationship which exists among the sacraments themselves. Because the Eucharist is the end and consummation of all the other sacraments, containing as it does Christ Himself, the spiritual common good of the whole Church, it follows that power to

²⁰Ibid., a. 2.

²¹Ibid., q. 34, a. 2 ad 2um: "Ordo potestatem principaliter importat. Et ideo character, qui est spiritualis potestas, in definitione ordinis ponitur."

²²Ibid., q. 37, a. 2; Denys, De eccl. hier., c. 3, no. 1.

²³Summa Contra Gentiles, Lib. IV, cap. 74.

dispense the sacraments will be principally power to consecrate the Eucharist.

The relationship between the sacrament of Order and the Eucharist can also be seen from the nature of the character conferred in priestly ordination. For Saint Thomas the character conferred by the sacrament was to be identified with the instrumental power by which one became an instrument of God.

Cum ergo character ordinetur ad aliquid simpliciter, non ad illud bene vel male (quia sacerdos potest conficere bene vel male), non potest esse quod qualitas, super quam fundatur relatio characteris, sit habitus; sed magis potentia....Ubi cumque autem sunt operationes propriae, oportet quod sint principia propria illarum operationum. Unde sicut in aliis rebus sunt potentiae naturales ad proprias operationes, ita etiam renati in vitam spiritualem habent quasdam potentias, secundum quas possunt illa opera: quae potentiae sunt similes illis virtutibus quibus sacramenta efficaciam habent sibi inditam: quia sicut sacramenta causant gratiam instrumentaliter... ita recipientes characterem operantur divina per ministerium. Minister autem est sicut instrumentum eius cui ministrat....Et ideo tam virtus sacramenti quam minister et character est instrumentalis. ...Unde hoc signum [character] nihil aliud est quam quaedam potentia qua potest in actiones hierarchicas, quae sunt ministrationes et receptiones sacramentorum et aliorum quae ad fideles pertinent.²⁴

Thomas identified the character, which is spiritual power, with the sacrament of Order: "Ipse character interior sit essentialiter et principaliter ipsum sacramentum ordinis."²⁵

Now the powers conferred in the sacramental characters make the recipients partakers in the very priesthood of Christ Himself.

Character proprie est signaculum quoddam quo aliud insignitur ut ordinandum in aliquem finem....Homo autem fidelis ad duo deputatur. Primo quidem et principaliter ad fruitionem gloriae. Et ad hoc

²⁴IV Sent., Dist. 4, q. 1, a. 1, Solutio.

²⁵Supplementum, q. 34, a. 2 ad 1um.

insignitur signaculo gratiae....Secundo autem deputatur quisque fidelis ad recipiendum vel tradendum ea quae pertinent ad cultum Dei. Et ad hoc proprie deputatur character sacramentalis. Totus autem ritus Christianae religionis derivatur a sacerdotio Christi. Et ideo manifestum est quod character sacramentalis specialiter est character Christi, cuius sacerdotio configurantur fideles secundum sacramentales characteres, qui nihil aliud sunt quam quaedam participationes sacerdotii Christi, ab ipso Christo derivatae.²⁶

Christ is a priest, radically, in virtue of the hypostatic union, which constitutes Him a mediator between God and men; it is in the sacrifice of the cross that Christ's priesthood expresses itself most perfectly. By His sacrifice Christ merited grace for men and satisfied Divine Justice for men's sins. Christ perfectly fulfilled Paul's definition of the priest: "Omnis namque pontifex ex hominibus adsumptus, pro hominibus constituitur in iis quae sunt ad Deum, ut offerat dona et sacrificia pro peccatis." [Heb. 5:1] The most perfect participation in Christ's priesthood will, then, be found in those who receive power over the Eucharistic Body and Blood of Christ. The Eucharist is the sacrament of Christ's sacrifice: "Eucharistia est sacramentum perfectum Dominicae passionis, tamquam continens ipsum Christum passum."²⁷ The priest who, in sharing Christ's priesthood, consecrates the Eucharist, acts in the very person of Christ: "Forma huius sacramenti [Eucharistiae] profertur ex persona ipsius Christi loquentis; ut detur intelligi quod minister in perfectione huius sacramenti nihil agit nisi quod profert verba Christi."²⁸

²⁶III, q. 63, a. 3; Saint Thomas calls Christ the "fons totius sacerdotii." (III, q. 22, a. 4).

²⁷III, q. 73, a. 5 ad 2um.

²⁸Ibid., q. 78, a. 1.

The perfection of Christ's priesthood is shared by those who participate in it.

Christo non competit habere characterem: sed potestas sacerdotii eius comparatur ad characterem sicut id quod est plenum et perfectum ad aliquam sui participationem. Sacerdotium Christi est aeternum...Et inde est quod omnis sanctificatio quae fit per sacerdotium eius est perpetua, re consecrate manente....Ideo character indelibiliter inest animae, non propter sui perfectionem, sed propter perfectionem sacerdotii Christi, a quo derivatur character sicut quaedam instrumentalis virtus.²⁹

Thus, Saint Thomas' conclusion that "tota enim plenitudo huius sacramenti [ordinis] est in uno ordine, scilicet sacerdotalis,"³⁰ rests upon his profound appreciation of the Eucharist. In itself, the Eucharist is the supreme sacrament for it contains "ipsum Christum passum,"³¹ and "celebratio huius sacramenti est imago repraesentativa passionis Christi."³² Although all of Christ's actions from the moment of His conception merited men's salvation, His passion had a special role in the achieving of this result.³³ Saint Thomas summarizes the role of the passion with respect to man's salvation:

²⁹Ibid., q. 63, a. 5 c and ad 1um; IV Sent., Dist. 4, q. 1, a. 1, q1. 5, sol. 5 ad 1um: "Ipse [Christus] fuit sacerdos, quasi sacerdotium instituens; et ideo eius non est habere characterem, sed illius qui aliunde sacerdotium recepit, ut per characterem principali sacerdoti configuratur."

³⁰Supplementum, q. 37, a. 1 ad 3um.

³¹III, q. 73, a. 5 ad 2um.

³²III, q. 83, a. 1 ad 2um.

³³III, q. 48, a. 1 ad 2um et 3um: "Christus a principio suae conceptionis meruit nobis salutem aeternam: sed ex parte nostra erant impedimenta quaedam, quibus impediamur consequi effectum praecedentium meritorum. Unde, ad removenda illa impedimenta, oportuit Christum pati. ...Passio Christi habuit aliquem effectum quem non habuerunt praecedentia merita, non propter maiorem caritatem, sed propter genus operis, quod erat conveniens tali effectui."

Passio Christi, secundum quod comparatur ad divinitatem eius, agit per modum efficientiae; inquantum vero comparatur ad voluntatem animae Christi, agit per modum meriti; secundum vero quod consideratur in ipsa carne Christi, agit per modum satisfactionis, inquantum per eam liberamur a reatu poenae; per modum vero redemptionis, inquantum per eam liberamur a servitute culpa; per modum autem sacrificii, inquantum per eam reconciliamur Deo.³⁴

The dignity of the Eucharist is proportionately reflected in the dignity of its proper minister, the priest. Acting as he does in the very person of Christ, the priest in consecrating the Eucharist is in some way identified with Christ, the divine priest and victim: "Sacerdos gerit imaginem Christi, in cuius persona et virtute verba pronunciat ad consecrandum....Et ita quoddammodo idem est sacerdos et hostia."³⁵ There can be no more intimate participation in Christ's priesthood than that now possessed by priests of the New Law as they stand in Christ's place while offering the unbloody sacrifice of Calvary.

These considerations led Thomas Aquinas to find in the power over the Eucharist the principle for distinguishing the various sacramental orders, rather than in the power over any or all of the other sacraments.

Ordines ordinantur principaliter ad sacramentum Eucharistiae, ad alia autem per consequens: quia etiam alia sacramenta ab eo quod in Sacramento continetur, derivantur. Unde non oportet quod distinguantur ordines secundum sacramenta.³⁶

Using the Eucharist as the basic principle, Saint Thomas divided the various sacramental orders and the various powers proper to each order.

³⁴Ibid., a. 6, ad 3um.

³⁵Ibid., q. 83, a. 1, ad 3um.

³⁶Supplementum, q. 37, a. 2 ad 3um.

Cum consecratio quae fit in ordinis sacramento ordinetur ad sacramentum Eucharistiae, ut dictum est, ille est principalis actus uniuscuiusque ordinis secundum quem magis proxime ordinatur ad Eucharistiae sacramentum. Et secundum hoc etiam unus ordo est alio eminentior, secundum quod unus actus magis de proximo ad praedictum sacramentum ordinatur. Sed quia ad Eucharistiae sacramentum, quasi dignissimum, multa ordinantur; ideo non est inconueniens ut, praeter principalem actum, etiam multos actus unus ordo habeat; et tanto plures quanto est eminentior, quia virtus, quanto est superior, tanto ad plura se extendit.³⁷

As the highest of the sacramental orders, the sacerdotal order has the most power and hence extends to a greater number of actions than the lesser orders. All the actions proper to the sacerdotal order, however, are to be judged in relation to the priest's power to consecrate the Eucharist.

Duplex est praeparatio suscipientium sacramentum. Quaedam remota: et haec per ministros efficitur. Quaedam proxima: qua statim efficiuntur idonei ad sacramentorum susceptionem. Et haec pertinet ad sacerdotes. Quia etiam in naturalibus ab eodem agente fit materia in ultima dispositione ad formam et recipit formam. Et quia in proxima dispositione ad Eucharistiam fit aliquis per hoc quod a peccatis purgatur, ideo omnium sacramentorum quae sunt instituta principaliter ad purgationem peccatorum, est minister proprius sacerdos: scilicet, baptismi, poenitentiae et extremae unctionis.³⁸

The power which the priest has with respect to sacraments other than the Eucharist is power over Christ's Mystical Body. This depends upon the power which he possesses over Christ's real [sacramental] body, i.e. the power to consecrate the Eucharist.

³⁷Ibid., a. 4.

³⁸Ibid., ad 1um; cf. III, q. 67, a. 2: "Sacerdotes ad hoc consecrantur ut sacramentum Corporis Christi conficiant.... Per baptismum autem aliquis fit particeps ecclesiasticae unitatis; unde et accipit ius accedendi ad mensam Domini. Et ideo, sicut ad sacerdotem pertinet consecrare Eucharistiam, ad quod principaliter ordinatur sacerdotium, ita ad proprium officium sacerdotis pertinet baptizare; eiusdem enim videtur esse operari totum, et partem in toto disponere." Cf. also Summa Contra Gentiles, Lib. IV, cap. 74, in fine.

Sacerdos habet duos actus: unum principalem, supra corpus Christi verum; et alium secundarium, supra corpus Christi mysticum. Secundus autem actus dependet a primo, sed non convertitur. Et ideo aliqui ad sacerdotium promoventur quibus committitur primus actus tantum: sicut religiosi quibus cura animarum non committitur.³⁹

The priest fulfills his priestly role by performing his primary function.

A priest without the cura animarum would be bound, in virtue of his ordination, to offer Mass; he is not bound to exercise his secondary powers.

Alii autem actus sacerdotis, ut ligare et solvere, respiciunt corpus mysticum; similiter etiam docere et baptizare; et ideo, quia non tenetur aliis vel subiectione vel praelatione, potest ab illis actibus sine peccato cessare. Sed consecratio est actus dignior et ordinatus ad corpus Christi verum, nec respicit corpus Christi mysticum nisi ex consequenti; et ideo etiam si nulli homini teneatur, tamen tenetur Deo ut reddat ei sacrificium acceptum.⁴⁰

The distinction of the priest's principal and secondary actions can be found in the very action of Christ, who conferred the powers for these actions upon the disciples at different times.

Dominus discipulis dedit potestatem sacerdotalem quantum ad principalem actum ante passionem in Cena....Sed post resurrectionem dedit eis potestatem sacerdotalem quantum ad actum secundarium, qui est ligare et solvere.⁴¹

Both actions flow from the one sacerdotal power, however. Saint Thomas speaks of Christ's conferring priestly power for the principal and then for the secondary action. After Christ instituted the powers, they were conferred together as one priestly power, ordered to two actions.

³⁹Ibid., q. 36, a. 2 ad 1um; cf. Contra impugnantes Dei cultum et religionem, (Opuscula Theologica S. Thomae Aquinatis, Vol. II, pp. 5-110), cap. 4, no. 163. This is the first [1256] of Thomas' works in defense of the Mendicants.

⁴⁰IV Sent., Dist. 13, q. 1, a. 2, ql. 6, Solutio 1 ad 2um.

⁴¹Supplementum, q. 37, a. 5 ad 2um.

Ad duo, quorum unum est causa alterius, una potestas ordinatur, sicut in igne calor ad calefaciendum et dissolvendum. Et quia omnis gratia et remissio in corpore mystico ex capite suo provenit; ideo eadem potestas esse videtur per essentiam, qua sacerdos conficere potest et qua potest ligare et solvere, si iurisdictio adsit....Et quia nihil est aliud character ordinis sacerdotalis quam potestas exercendi illud ad quod principaliter ordo sacerdotii ordinatur, sustinendo quod sit idem quod spiritualis potestas; ideo character, et potestas conficiendi et potestas clavium est unum et idem per essentiam, sed differt ratione.⁴²

The reason why the two actions flow from the same power is to be found in the principle: "Ab eodem agente fit materia in ultima dispositione ad formam et recipit formam."⁴³ The important point to be noted here is that for Aquinas the one sacerdotal character is the principle of the priest's actions upon Christ's sacramental and His Mystical Body. These actions are distinct, however, and the latter exists for the former: the priest absolves to prepare the penitent for the reception of the Body of Christ. The two actions are so related that only one who can perform the final action, the consecration of the Eucharist, can perform those actions which proximately dispose men for the reception of the Eucharist.

The consideration of the priest's power over the Mystical Body leads Saint Thomas to an argument for the necessity of the episcopacy, as a power superior to that of the simple priest. For it is necessary that someone have the complete power over Christ's Mystical Body, as the priest has the complete power over His sacramental Body.

⁴²Ibid., q. 17, a. 2, ad 1um; cf. ibid., q. 8, a. 1: "Gratia, quae in sacramentis datur, a capite in membra descendit. Et ideo solus ille minister est sacramentorum, in quibus gratia datur, qui habet ministerium super corpus Christi verum. Quod solius sacerdotis est, qui consecrare Eucharistiam potest." This is also to be found in IV Sent., Dist. 7, q. 3, a. 1, ql. 3, sol. 3.

⁴³Ibid., q. 37, a. 4 ad 1um.

Sacerdos habet duos actus: principalem, scilicet consecrare verum corpus Christi, et secundarium, scilicet praeparare populum ad susceptionem huius sacramenti. Quantum autem ad primum actum, actus sacerdotis non dependet ab aliqua superiori potestate nisi divina. Sed quantum ad secundum, dependet ab aliqua superiore potestate et humana....Sacerdos autem non potest absolvere et ligare nisi praesupposita praelationis iurisdictione, qua sibi subdantur illi quos absolvit. Potest autem consecrare quamlibet materiam a Christo determinatam, nec aliud requiritur, quantum est de necessitate sacramenti....Et ita patet quod oportet esse supra sacerdotalem potestatem episcopalem quantum ad actum secundarium sacerdotis, non quantum ad primum.⁴⁴

The necessity for the existence of episcopal power can also be derived from the necessity for a minister of the sacrament of Order.

Quia vero omnium horum ordinum collatio cum quodam sacramento perficitur; sacramenta vero Ecclesiae sunt per aliquos ministros Ecclesiae dispensanda; necesse est aliquam superiorem potestatem esse in Ecclesia alicuius altioris ministerii, quae ordinis sacramentum dispenset.⁴⁵

The bishop and the priest are both Christ's representatives, but in different ways. In Christ were united all the ecclesiastical offices;

⁴⁴Ibid., q. 40, a. 4.

⁴⁵Summa Contra Gentiles, Lib. IV, cap. 76. While it might have seemed from the close connection which Saint Thomas had presented between power over Christ's real body and the conferring of the sacraments, that the priestly order gave its recipient the power to confer all the seven sacraments, Aquinas here introduces a limitation. The priest hasn't the power to confer his own priesthood upon another; another power, and a power "alicuius altioris ministerii," is needed to ordain. As Thomas will go on to explain, the conferring of the sacraments of Order and Confirmation, because they place their recipients in a special position in the Mystical Body, require that their ministers have power over the Mystical Body. Although Thomas attributes full power over Christ's real body to the priest, he is careful to attribute no direct power over the Mystical Body to him. The Angelic Doctor surely had before his eyes the practice of the Church, in which only bishops performed those actions which had to do directly with the Mystical Body. (Cf. Supplementum, q. 38, a. 1, s.c. 1, 2, 3; only bishops consecrate the sacred vessels, i.e. the things which the priest needs to exercise his power to consecrate the Eucharist, only the bishop confirms, and only the bishop blesses virgins—and if such functions are proper to bishops, a fortiori the consecration by which a man receives the power of the priesthood.)

He was their exemplar. His ministers in the Church represent His perfection. The priest represents Christ as Christ Himself fulfilled a certain ministry; the bishop represents Him as He instituted other ministers and founded the Church.⁴⁶ This distinction was foreshadowed in the Old Testament in Aaron, who was both priest and high priest; in the New Testament the priests resemble Aaron's power to offer sacrifice, the bishops resemble his power as high priest to perform certain functions which lesser priests could not perform.⁴⁷

II. Episcopacy: Power of Order over Christ's Mystical Body.

Once Saint Thomas has established the necessity for the existence of episcopal power in the Church, he determines the nature of the episcopacy. He begins by considering whether the episcopacy is an order and he immediately answers with the distinction which provides his basic insight into the episcopacy.

Ordo potest accipi dupliciter. Uno modo, secundum quod est sacramentum. Et sic ordinatur omnis ordo ad Eucharistiae sacramentum. Unde; cum episcopus non habeat potestatem superiorem sacerdote quantum ad hoc, episcopatus non erit ordo. Alio modo potest considerari ordo secundum quod est officium quoddam respectu quarundam actionum sacrarum. Et sic, cum episcopus habeat potestatem in actionibus hierarchicis respectu corporis mystici supra sacerdotem, episcopatus erit ordo.⁴⁸

Order is understood in two senses, only one of which is sacramental.

The power of order follows a similar division. While Saint Thomas denies that the episcopacy is a sacramental order, because the bishop has no

⁴⁶Supplementum, q. 40, a. 4 ad 3um.

⁴⁷Ibid., ad 1um.

⁴⁸Ibid., a. 5.

power over the Eucharist beyond that of the simple priest,, he affirms that the episcopacy is an order with respect to the Mystical Body, for in this area the bishop does have power which the priest lacks. Thomas will give more precision to his initial statement that the episcopacy is an "*officium quoddam respectu quarundam actionum sacrarum*," for he does not teach that the episcopacy consists only in a priest's receiving an office in the Church.

To say that the episcopacy is not merely an office is to imply that the power which the bishop possesses as his specifically episcopal power is not only power of jurisdiction. "*Potestas episcopalis non est tantum iurisdictionis, set etiam ordinis, secundum quod ordo communiter accipitur.*"⁴⁹ The bishop's power of order, however, because it is not directly related to the Eucharist, is not a character.

*Ordo, prout est sacramentum imprimens characterem, ordinatur specialiter ad sacramentum Eucharistiae, in quo ipse Christus continetur; quia per characterem ipsi Christo configuramur. Et ideo, licet detur aliqua potestas spiritualis episcopo in sui promotione respectu aliquorum sacramentorum, non tamen illa potestas habet rationem characteris. Et propter hoc episcopatus non est ordo secundum quod ordo est sacramentum quoddam.*⁵⁰

Yet the power which the bishop receives at his consecration is proper to him in such a way that it is never lost; in its indelibility, episcopal power resembles the character conferred in priestly ordination. The priest's power is indelible for it is a participation in the perpetual priesthood of Christ Himself.

⁴⁹Ibid., ad 3um. "Ordo" is used "specialiter" for the priest's order.

⁵⁰Ibid., ad 2um.

In promotione episcopi datur sibi potestas quae perpetuo manet in eo: quamvis dici non possit character, quia per eam non ordinatur homo directe ad Deum, sed ad corpus Christi mysticum. Et tamen indelibiliter manet sicut character, et per consecrationem datur.⁵¹

The conferring of episcopal power in a consecration gives the recipient a permanent power, for the consecration is not removed. This is wholly different from the power of jurisdiction, which is conferred by a simple injunction and does not permanently inhere.

Duplex est spiritualis potestas: una quidem sacramentalis, alia iurisdictionalis. Sacramentalis quidem potestas est quae per aliquam consecrationem confertur. Omnes autem consecrationes Ecclesiae sunt immobiles, manente re quae consecrantur....Et ideo talis potestas secundum suam essentiam remanet in homine qui per consecrationem eam est adeptus quamdiu vivit, sive in schisma sive in heresim labatur: quod patet ex hoc quod rediens ad Ecclesiam non iterum consecratur.⁵²

The episcopal power is truly and properly a power of order with respect to the Mystical Body of Christ; this is seen in the fact that it

⁵¹Ibid., q. 38, a. 2, ad 2um. As Saint Thomas taught that the bishop received indelible power, yet this power was not a character, so he also taught that the episcopacy conferred grace, yet it was not a sacrament. Thus, he writes: "Quantum ad sacramenta ministranda subdit 'sive ministerium in ministrando' i.e. si quis accepit gratiam vel officium ministerii, puta ut sit episcopus vel sacerdos, qui dicuntur ministri Dei." (Super epistolam ad Romanos lectura, cap. 12, lect. 2, ad Rom. 12:7, Super epistolas S. Pauli lectura, ed. Raphael Cai, O.P., Rome: Marietti, 1953, Vol. I, p. 182.) Or again, "Et addit 'quae est in te per impositionem manuum mearum' a quo, scilicet, ordinatus erat episcopus. In qua manus impositione data est ei gratia Spiritus Sancti." (Super secundam epistolam ad Timotheum lectura, cap. 1, lect. 3, ad II Tim. 1:6, ibid., Vol. II, p. 269. Doronzo, op. cit., Tom. II, pp. 145-146, and 286-287, offers various explanations of this "grace of episcopal consecration" as a "grace of state" or an extension of the sacramental grace of priestly ordination to new acts, or as following from episcopal consecration as from a moral cause or condition: in any of these cases one would not conclude that episcopal consecration would be a sacrament because grace was conferred.

⁵²II II, q. 39, a. 3. Doronzo, op. cit., Tom. II, pp. 144-145, explains that Aquinas speaks only of sacramental power here for it is the more obvious example of indelible power, as contrasted with jurisdiction, which is conferred by injunction from a superior.

is given in a consecration (and is therefore indelible) and it is the basis of the bishop's superiority over the priest.

Quamvis episcopus non habeat aliquem ordinem supra sacerdotem, secundum quod ordines distinguuntur per actus relatos ad corpus Domini, verumtamen habet aliquem ordinem supra sacerdotem secundum quod ordines distinguuntur per actus supra corpus mysticum. Et ideo Dionysius [De eccl. hier., cap. 5, par. 1] ponit episcopatum ordinem: unde et cum quadam consecratione dignitas episcopalis confertur; et ideo in promotione membrorum corporis mystici aliquid potest competere episcopo quod non competit simplici sacerdoti.⁵³

Because the bishop's power enables him to perform functions beyond those pertaining to the priestly order, the episcopacy can be said to add to the priesthood: "Episcopatus non addat aliquid supra sacerdotium per relationem ad corpus Domini verum, sed solum per relationem ad corpus mysticum."⁵⁴

The bishop has power over those two sacraments which give their recipients a special place in the Mystical Body: he can confirm and ordain. In this sense the bishop's power is like the political power which is ordered to the common good, rather than the inferior powers which look only to some limited good.⁵⁵

In qualibet opere ultima consummatio supremæ arti aut virtuti reservatur....Hoc autem confirmationis sacramentum est quasi ultima consummatio sacramenti baptismi....Et ideo collatio huius sacramenti episcopis reservatur, qui obtinent summam potestatem in Ecclesia.⁵⁶

As the possessor of power over the Mystical Body, the bishop not only establishes men in the divine ministry through sacramental

⁵³IV Sent., Dist. 7, q. 3, a. 1, ql. 3, sol. 2 ad 3um.

⁵⁴Ibid., Solutio 3.

⁵⁵Supplementum, q. 38, a. 1.

⁵⁶III, q. 72, a. 11.

ordination,⁵⁷ he also blesses and consecrates those things which lesser ministers need for the fulfillment of their own special functions.

Episcopus accipit potestatem ut agat in persona Christi supra corpus eius mysticum, idest supra ecclesiam: quam quidem potestatem non accipit sacerdos, licet possit eam habere ex episcopi commissione. Et ideo ea quae non pertinent ad dispositionem corporis mystici, non reservantur episcopo: sicut consecratio huius sacramenti [Eucharistiae]. Ad episcopum vero pertinet non solum tradere populo, sed etiam sacerdotibus, ea ex quibus possunt propriis officiis uti. Et quia benedictio chrismatis et olei sancti et olei infirmorum, et aliorum quae consecrantur, puta altaris, ecclesiae, vestium et vasorum, praestat quandam idoneitatem ad sacramenta perficienda quae pertinent ad officium sacerdotum, ideo tales consecrationes episcopo reservantur, tamquam principi totius ecclesiastici ordinis.⁵⁸

The bishop, then, as the "princeps totius ecclesiastici ordinis,"⁵⁹ and the holder of the "summa potestas in ecclesia,"⁶⁰ truly possesses an order. Although Saint Thomas taught that the episcopacy is no order in relation to the Eucharist, he wrote that it would be manifestly false to affirm without qualification that the episcopacy is therefore not an order in any sense.

Quod vero quinto proponitur, quod episcopatus non est ordo: hoc manifeste continet falsitatem, si absolute intelligatur. Expresse enim dicit Dionysius esse tres ordines ecclesiasticae hierarchiae.... Habet enim ordinem episcopus per comparisonem ad corpus Christi mysticum, quod est Ecclesia, super quam principalem accipit curam et quasi regalem. Sed quantum ad corpus Christi verum, quod in Sacramento continetur, non habet ordinem supra presbyterum. Quod autem habeat ordinem, et non solum iurisdictionem solam, sicut archidiaconus vel curatus presbyter, patet ex hoc quod Episcopus potest multa facere quae non potest committere: sicut confirmare, ordinare et consecrare basilicas, et huiusmodi: quae vero iurisdictionis sunt, potest aliis committere. Idem patet ex hoc quod si

⁵⁷Supplementum, q. 38, a. 1.

⁵⁸III, q. 82, a. 1 ad 4um; cf. also Supplementum, q. 29, a. 6.

⁵⁹Ibid.

⁶⁰III, q. 72, a. 11.

Episcopus depositus restituatur, non iterum consecratur tamquam potestate ordinis remanente, sicut et in aliis contingit ordinibus.⁶¹

This text is important, for it was written in January of 1270;⁶² the position which Saint Thomas here maintains is exactly what he had written earlier when he commented on the Sentences. In both instances there is a manifest appeal to the De ecclesiastica hierarchia of Denys the Areopagite. The importance of Denys for Aquinas is the fact that Denys was considered to be a witness of the early Church: "Accipienda est auctoritas Dionysii, qui scripsit ordinem ecclesiasticae hierarchiae secundum quod erat in Ecclesia primitiva."⁶³ The authority of Denys was extensive in the Middle Ages; it was not until the end of the nineteenth century that definite proof was offered that this author was not that Denys who was Paul's disciple. The works bearing his name are to be assigned to an anonymous writer who wrote about 500, probably in Syria.⁶⁴

Saint Thomas refers to Denys for three major principles which he uses in his treatment of the sacrament of Order: the existence of sacramental character,⁶⁵ the Eucharist as the ultimate term of man's sanctification,⁶⁶ and the existence of the three orders of perfecting,

⁶¹De perfectione vitae spiritualis, cap. 24, number 715 (Opuscula Theologica, Vol. II, pp. 111-153), Vol. II, p. 150.

⁶²Ibid., pp. 111-112: "Editoris introductio."

⁶³Ibid., cap. 23, number 694, Vol. II, p. 146.

⁶⁴Cf. André Rayez, "Denys l'Aréopagite (Le Pseudo-)," Dictionnaire de Spiritualité, Tom. III (Paris: Beauchesne, 1957), cols. 245-257.

⁶⁵IV Sent., Dist. 4, q. 1, a. 1, solutio: "Et quod huiusmodi potentia sit character patet si quis diligenter considerat verba Dionysii, a quo prima traditio characteris nobis advenit."

⁶⁶Ibid., Dist. 2, q. 1, a. 2, Solutio.

illuminating and purging.⁶⁷ While it is surely possible now to withdraw from Denys' words the authority which would properly belong to an immediate disciple of Saint Paul, it is more than even necessary to attempt to understand the position of Denys which Aquinas follows. In other words, abstracting from the authority of the author, do the principles enunciated have merit in their own right? It would seem that Aquinas not only respected the person of Denys, but also appreciated the insight which he conveyed in his writings. Thus, Aquinas found confirmation for calling the episcopacy an order in the practice of the Church: the functions reserved to bishops are such that the bishop cannot delegate them to his inferiors, as he can the power of jurisdiction; also, the power of the bishop remains, for he is never reconsecrated.⁶⁸ Yet, at the same time, the simple priest has power to consecrate the Eucharist and this power is not essentially dependent upon any superior human power.⁶⁹ Since the offering of sacrifice is above all the office of the priest,⁷⁰ it would seem that one who has received the power to offer the sacrifice of the Mass has received the ultimate priestly power. The minor orders (deacon and below) can be explained in terms of their relation to the Eucharist;⁷¹

⁶⁷Contra impugnantes Dei cultum et religionem, ca. 1, no. 14, p. 9.

⁶⁸De perfectione vitae spiritualis, cap. 24, no. 715, p. 150.

⁶⁹Supplementum, q. 40, a. 4.

⁷⁰III, q. 22, a. 4, s.c.: "In sacrificio offerendo potissime sacerdotalis consistit officium."

⁷¹Supplementum, q. 37, a. 2: "Potestas ordinis aut est ad consecrationem Eucharistiae ipsius aut ad aliquod ministerium ordinandum ad hoc. Si primo modo, sic est ordo sacerdotum....Cooperatio autem ministrorum est vel in ordine ad ipsum sacramentum vel in ordine ad suscipientes."

the order of priesthood is found by participation in these lesser orders and in its whole plenitude in the priestly order.⁷² Such considerations led Aquinas to posit two types of ordo in the Church. In relation to the Eucharist and in a properly sacramental acceptation, the fulness of order is found in the priest; in relation to the Mystical Body the bishop truly possesses an order.⁷³ The bishop's order is termed "hierarchic" rather than "sacramental" to express its relation to the Mystical Body of Christ, in contrast to the sacramental order which is directly related to the real Body of Christ, the Sacrament par excellence.

Saint Thomas' insistence upon the distinction between these two ordines does not proceed to the exclusion of an intimate connection between them. Since spiritual power is held by both bishop and priest with respect to the sacraments, one might be led to posit two sacraments of Order and, thus, eight sacraments. The one sacrament of Order would confer upon the priest the power to consecrate the Eucharist, to give sacramental absolution, and to administer the sacraments of Baptism (as ordinary minister) and Extreme Unction; the other sacrament of Order would confer upon the bishop the spiritual power to confirm and ordain, as well as the power to consecrate the matter necessary for the sacraments administered by priests.

The principles which he employed do not lead Aquinas to make such a radical separation between bishop and priest. Alongside the texts where he separates the two, it is necessary to place the texts where he treats

⁷²Ibid., a. 1 ad 2um.

⁷³Ibid., q. 40, a. 5.

episcopal and presbyteral power together.⁷⁴ The basic position held by Aquinas is that, while the powers remain distinct, the priestly power is derived from and in many instances dependent upon the episcopal power, and thus the episcopacy is truly considered to be the fulness of the priesthood; the bishop is properly the "Summus Sacerdos." "Potestas ministrorum est in episcopo sicut in origine, non autem in sacerdote."⁷⁵

Saint Thomas considers the transmission of sacerdotal power as the distinguishing feature of ordination to the priesthood. Because ordination is a conferring of power, the role of the minister is much greater in this sacrament than in any of the other sacraments. For by the transmission of power the recipient of the sacrament becomes like the minister.

Hoc sacramentum principaliter consistit in potestate tradita. Potestas autem a potestate traducitur sicut simile ex simili....Alia sacramenta non ordinantur principaliter ad effectus similes potestati secundum quam sacramenta dispensantur, sicut hoc sacramentum: et ideo in hoc sacramento est quasi quaedam communicatio univoca. Quamvis enim in episcopo, qui est minister huius sacramenti, non est auctoritas respectu collationis huius sacramenti, tamen habet aliquam potestatem respectu potestatis ordinis quae confertur per ipsum inquantum a sua potestate derivatur.⁷⁶

Ordination is said to confer upon the priest power of the same sort as that possessed by the bishop who ordains; Thomas does not hesitate to call

⁷⁴Thomas separates the episcopacy from the priesthood as a separate ordo in Supplementum, q. 40, a. 5; De perfectione vitae spiritualis, cap. 24, no. 715; Quaestiones Quodlibetales (Rome: Marietti, 1949, ed. viii revisa), Quod. III, a. 17 [q. 6, a. 3], and several other places. He considers the priesthood and the episcopacy together when he speaks of ordination to the priesthood and the derivation of priestly power from episcopal power.

⁷⁵Supplementum, q. 40, a. 7 ad 3um.

⁷⁶Ibid., q. 34, a. 4 c et ad 1um.

the conferring of priestly power "quasi quaedam communicatio univoca." He also gives to the bishop a certain authority over the power which he confers inasmuch as the power conferred is derived from his own power and is like his own power ("sicut simile ex simili"). These last words do not mean, surely, that the bishop is the principal cause in ordination; "Episcopus non dedit ordinem sed Deus per ministerium episcopi."⁷⁷ God alone can be the principal cause of grace and sacramental character; a human being can only be a minister, that is, an instrumental cause.⁷⁸

Aquinas' statements must be understood in this sense: while Baptism, Confirmation, Extreme Unction and even the Eucharist are sacraments which operate in virtue of the matter which is used, the matter of the sacrament of Order operates in a different manner. In ordination the minister himself has a most important role to fulfill.

Cum effectus proprius huius sacramenti [ordinis], scilicet character, non percipiatur ex aliqua operatione ipsius qui ad sacramentum accedit, sicut erat in poenitentia, sed omnino ex extrinseco adveniat, competit ei materiam habere. Tamen diversimode ab aliis sacramentis quae materiam habent. Quia hoc quod in sacramento confertur, in aliis sacramentis derivatur tantum a Deo, non a ministro, qui sacramentum dispensat; sed illud quod in hoc sacramento traditur, scilicet spiritualis potestas, derivatur etiam ab eo qui sacramentum dat, sicut potestas imperfecta a perfecta. Et ideo efficacia aliorum sacramentorum principaliter consistit in materia, quae virtutem divinam significat et continet ex sanctificatione per ministerium adhibita. Sed efficacia huius sacramenti residet penes eum qui sacramentum dispensat: materia autem adhibetur magis ad determinandum

⁷⁷IV Sent., Dist. 13, q. 1, a. 1, ql. 5, sol. 4 ad 2um.

⁷⁸III, q. 64, a. 1: "Gratia, quae est interior sacramenti effectus, est a solo Deo....Character etiam, qui est interior quorundam sacramentorum effectus, est virtus instrumentalis, quae manat a principali agente, quod est Deus."

potestatem, quae traditur particulariter ab habente eam complete, quam ad potestatem causandam.⁷⁹

The role of the minister in ordination is such that God not only works the sacramental effect through the instrumentality of the minister and the sacramental rite, but in this sacrament the very effect of the sacrament is that the recipient receive a power like that of the minister.⁸⁰

It is important to note in this text the terms Aquinas uses to compare episcopal and presbyteral power: "potestas imperfecta a perfecta; potestas quae traditur particulariter ab habente eam complete." Thus, while the priest's power is like the bishop's ("simile ex simili; quasi quaedam communicatio univoca"⁸¹), at the same time the bishop's power is complete and perfect, while the priest's is imperfect and particular. Thomas' explanation of the episcopacy appears most clearly when it is seen just how the bishop's power surpasses that of the priest.

Surely the bishop and the priest do not differ in their power to consecrate the Eucharist: "Communis usus ecclesiae et canonum institutio

⁷⁹Supplementum, q. 34, a. 5.

⁸⁰Cf. Doronzo, op. cit., Tom. III, pp. 371-372: "Est tamen discrimen inter Ordinem (cujus materia sunt exteriora instrumenta) et cetera sacramenta (habentia pariter suam exterioram materiam, scilicet aquam, oleum, etc.), quia istorum effectus est non solum totaliter ab extrinseco sed etiam totaliter a Deo, utut mediante sacramento...dum e converso effectus Ordinis, cum sit potestas, est non solum a Deo sed etiam a ministro, qui per suam potestatem, applicando utique sacramentum, causat potestatem in subjecto, ita ut haec causalitas, non solum nec principaliter sit in materia seu sacramento, sed etiam ac principaliter in ministro, et proinde minister in hoc sacramento non sit, sicut in ceteris, merum instrumentum applicans materiam et formam, sed etiam immediatus veluti fons ex quo, tamquam simile ex simili, et per quandam univocam communicationem, procedit proprius hujus sacramenti effectus, seu spiritualis potestas."

⁸¹Supplementum, q. 34, a. 4.

...docent potestatem consecrandi et baptizandi episcopis et sacerdotibus esse communem."⁸² Aquinas expressly taught that the bishop had no power over the Eucharist superior to that of the priest: "Episcopus non habeat potestatem superiorem sacerdote quantum ad hoc [Eucharistiam]."⁸³ The reason for this is to be found in what may well be Thomas' strongest argument that the episcopacy is not a separate, sacramental order:

Unus ordo non dependet a praecedenti quantum ad necessitatem sacramenti. Sed episcopalis potestas dependet a sacerdotali: quia nullus potest recipere episcopalem potestatem nisi prius habeat sacerdotalem. Ergo episcopatus non est ordo.⁸⁴

The bishop and the priest have the same power over the Eucharist because the bishop must also be a priest. The episcopacy depends upon the presbyterate as upon a necessary foundation: there can be no bishop who is not also a priest.⁸⁵ The communication of priestly power in ordination can be called "quasi communicatio quaedam univoca" for in ordaining to the priesthood, the bishop transmits a power which is like his own presbyteral power.

The difference between bishop and priest was located by Aquinas

⁸²IV Sent., Dist. 13, q. 1, a. 1, ql. 2, s.c.

⁸³Supplementum, q. 40, a. 5.

⁸⁴Ibid., s.c.

⁸⁵Cf. Doronzo, op. cit., Tom. II, p. 301: "Episcopatus essentialiter dependet a presbyteratu posterioritate non temporis sed naturae, quatenus nemo fieri potest episcopus quin sit etiam presbyter...nec possit existere aliquis merus episcopus (non presbyter) sicut datur merus presbyter (non episcopus); ex qua ratione, in qua est praecisa vis argumenti S. Thomae, sequitur episcopatum non distingui adaequate a presbyteratu, sicut presbyteratus a diaconatu, nec proinde continere illum tantummodo eminenter, sicut presbyteratus continet diaconatum, sed formaliter, ita ut episcopatus, simpliciter et adaequate sumptus, in generali saltem ratione Ordinis et abstrahendo a quaestione de sacramentalitate, contineat presbyteratum et illi complementum perfectionis addat."

in power of another type than priestly power. In priestly power bishops and priests are equal. The bishop's power, however, is termed perfect, complete and universal because he has an additional power. It is precisely this additional power which enables the bishop to confer upon others the very priestly power which he possesses.

Ad communicandum alteri quod quis habet, non exigitur solum propinquitas, sed completio potestatis. Et quia sacerdos non habet completam potestatem in hierarchicis officiis, sicut episcopus, ideo non sequitur quod possit diaconos facere, quamvis ille ordo sit sibi propinquus.⁸⁶

The "completio potestatis" which the bishop has is his power with respect to hierarchical offices, that is, with respect to the Mystical Body. In its own order, sacerdotal power is complete in the priest, who has full power over the Eucharist. Such power is not sufficient, though, for the valid conferring of dignities in the Mystical Body, such as those conferred by Confirmation and Order. Saint Thomas is most explicit in affirming that the priest participates only in the bishop's power over Christ's real Body (and this power the bishop has from his own priestly ordination), not in his power over Christ's Mystical Body (the power which the bishop has from his episcopal consecration).

In rebus ordinatis ita est quod semper inferior participat aliquid de perfectione superioris....Et ideo, quia ordo sacerdotis continuus est ordini episcopi, participat etiam aliquid de perfecta virtute quantum ad illam perfectionem qua aliquis in seipso perficitur; non autem quantum ad perfectionem qua aliquis in eminentiori gradu constituitur, sicut est in ordine, vel altiori officio, sicut est in confirmatione; et ideo sacerdos participat ab episcopo potestatem consecrandi, non autem confirmandi vel ordinandi. Et quod ipsam habeat participative, Dionysius dicit [De eccl. hier., cap. 5, par. 1]; quod patet ex hoc quod sacerdos consecrat super altare ab episcopo

⁸⁶Supplementum, q. 38, a. 1 ad 5um.

consecrato et in vasis consecratis per episcopum, ipse etiam consecratus per episcopum.⁸⁷

The reason why the consecration of churches, altars, vestments and sacred vessels is reserved to bishops is precisely to show that even in the sacrament of the Eucharist "potestas sacerdotalis ab episcopali derivatur."⁸⁸

A higher power is required for the consecration of the matter used in the sacraments than is required for the use of the consecrated matter.⁸⁹ This higher power is not a power which is higher than the priestly power in the very same line. One cannot say that as the priest's power surpasses that of the deacon in relation to the Eucharist (which is the proper object of both), so the bishop's power surpasses that of the priest: in the latter instance the objects are not the same. Here the sacramental and Mystical Body of Christ are the objects of presbyteral and episcopal power respectively. Likewise the minister of ordination must have a higher power in order to confer the priesthood upon others.

Quia vero omnium horum ordinum collatio cum quodam sacramento perficitur, sacramenta vero Ecclesiae sunt per aliquos ministros Ecclesiae dispensanda: necesse est aliquam superiorem potestatem esse in Ecclesia alicuius altioris ministerii, quae Ordinis sacramentum

⁸⁷IV Sent., Dist. 13, q. 1, a. 1, ql. 5, sol. 2 ad 2um. With respect to the power of dispensing the sacraments in general, Aquinas wrote: "Minister sacramenti non propria virtute effectum sacramenti inducit ut principale agens, sed per efficaciam sacramenti quod dispensat: quae quidem efficacia primo est a Christo, et ab ipso in alios descendit ordinate: scilicet in populum mediantibus ministris qui sacramenta dispensant, et in ministros inferiores mediantibus superioribus qui materiam sanctificant; et ideo in omnibus sacramentis quae indigent materia sanctificata, prima sanctificatio materiae fit per episcopum, et usus quandoque per sacerdotem, ut ostendatur sacerdotalis potestas ab episcopali derivata." (Supplementum, q. 29, a. 6; cf. also ibid., ad 1um.).

⁸⁸Summa Contra Gentiles, Lib. IV, cap. 76.

⁸⁹Cf. Supplementum, q. 31, a. 3 ad 2um ("altior virtus activa").

dispenset. Et haec est episcopalis potestas, quae, etsi quidem quantum ad consecrationem corporis Christi non excedat sacerdotis potestatem; excedit eam in his quae pertinent ad fideles.⁹⁰

This is a clear statement of Aquinas' understanding of the relation between the episcopacy and the priesthood: the bishop holds both the power over the Eucharist (the priestly power) and the superior power of a higher ministry over the faithful (the episcopal power). The superiority of the bishop's power does not in any way diminish the dignity of the priest's power. It is rather to be considered as an addition or complement to presbyteral power by means of which the presbyteral power itself is perpetuated in the Church.

No one has written with more clarity of the precise superiority of the episcopal power over the presbyteral power according to Thomas Aquinas than Ferrariensis. In commenting upon the Summa Contra Gentiles he wrote:

Nam dictum est in hoc capite quod necesse est esse aliquam superiorem potestatem a quo ordines dispensentur, quae est potestas episcopalis, et quod ex hac sacerdotalis dependet potestas. Ergo, cum sacerdotalis ordo ad consecrationem corporis Christi principaliter ordinetur, episcopalis potestas est superior sacerdotali quoad actum qui est circa corpus Christi verum.

Dicitur quod illa consequentia non tenet. Aliud est nim loqui de executione actus sacerdotalis, qui est conficere corpus Christi, et aliud de receptione sacerdotalis potestatis, qua quis ad illum actum ordinem habet. Nam per receptionem talis potestatis homo ad corpus Christi mysticum ordinem habet, cujus est pars: non enim esset talis potestatis susceptivus nisi esset pars populi Christiani. Per executionem vero actus sacerdotalis circa Eucharistiae consecrationem, ad corpus Christi verum habet ordinem. Unde ex hoc quod potestas episcopalis est superior ordine sacerdotali, ordinato principaliter ad actum circa corpus Christi verum, tamquam talis ordinis dispensativa, sequitur quod sit illo superior quantum ad actum circa corpus Christi mysticum, inquantum episcopus non solum potest absolvere et alios

⁹⁰ Summa Contra Gentiles, Lib. IV, cap. 76.

actus circa fideles in quos et simplex sacerdos potest, sed etiam habet ipsum sacerdotalem conferre ordinem; non autem quantum ad actum qui immediate circa corpus Christi verum exercetur, quia nec talis actus simplicis sacerdotis, quantum ad sui executionem, ab episcopali dependet potestate, nec aliquid potest episcopus circa actum consecrandi Eucharistiam, quantum ad ea quae sunt de necessitate sacramenti, quod simplex sacerdos non possit.⁹¹

Ferrariensis here elaborates upon Aquinas: the transmission of the power of the priesthood and the use of priestly power once it has been conferred are not the same thing. Hence, the bishop is not superior to the priest with respect to the action ordered directly to Christ's real Body.

The power which the bishop has over the Mystical Body is like papal rather than sacerdotal power:

Potestas sacerdotis exceditur a potestate episcopi quasi a potestate alterius generis. Sed potestas episcopi exceditur a potestate papae quasi a potestate eiusdem generis. Et ideo omnem actum hierarchicum quem potest facere Papa in ministratione sacramentorum, potest facere episcopus: non autem omnem actum quem potest facere episcopus, potest facere sacerdos in sacramentorum collatione. Et ideo, quantum ad ea quae sunt episcopalis ordinis, omnes episcopi sunt aequales.⁹²

Now it is obvious that Thomas is not speaking here of jurisdiction, for the whole context concerns power to administer the sacraments, i.e. power of Order. Nor is he speaking of sacerdotal power over the Body of Christ, for in this bishops and priests are equal. He is speaking of the power of order which the bishop has over the Mystical Body, and in this power the bishop and the pope have power "of the same genus."

⁹¹Sancti Thomae Aquinatis, Doctoris Angelici, Omnia Opera, ex recensione Leonina, Tom. XV, (Rome: Typis Riccardi Garroni, 1930), Summa Contra Gentiles cum commentariis Francisci de Sylvestris Ferrariensis, in Lib. IV, cap. 76, no. III, 2.

⁹²Supplementum, q. 40, a. 6 ad 3um.

In this way Saint Thomas placed the pope in a privileged position not only of universal jurisdiction but also of supreme power of order. The pope as a priest holds equal power over the Eucharist with all priests; as bishop he has equal power over the Mystical Body with all bishops; and as pope he has the plenitude of power over the Mystical Body by which he can not only administer the sacraments of Confirmation and Order, as other bishops, but he can also delegate certain functions over the Mystical Body to priests, since they have power of order over the real Body of Christ, from Whom proceeds all grace in His Mystical Body. This is the explanation given by Aquinas of the difficult subject of delegation of power over the sacraments to simple priests.

Cum episcopatus non addat aliquid supra sacerdotium per relationem ad corpus Domini verum, sed solum per relationem ad corpus mysticum, Papa, per hoc quod est Episcoporum Summus, non dicitur habere plenitudinem potestatis per relationem ad corpus Domini verum, sed per relationem ad corpus mysticum. Et quia gratia sacramentalis descendit in corpus mysticum a capite, ideo omnis operatio in corpus mysticum sacramentalis, per quam gratia datur, dependet ab operatione sacramentali super corpus Domini verum; et ideo solus sacerdos potest absolvere in foro poenitentiali et baptizare ex officio. Et ideo dicendum quod promovere ad illas perfectiones quae non respiciunt corpus Domini verum, sed solum corpus mysticum, potest a papa, qui habet plenitudinem pontificalis potestatis, committi sacerdoti, qui habet actum summum super corpus Domini verum; non autem diacono vel alicui inferiori qui non habet perficere corpus Domini verum. Non autem potest simplici sacerdoti committere promovere ad perfectionem quae respicit aliquo modo corpus Domini verum: et ideo simplex sacerdos ex mandato papae non potest conferre ordinem sacerdotii: ordines sacri habent actum supra corpus Domini verum vel supra materiam eius. Potest autem concedere simplici sacerdoti quod conferat minores ordines quia isti nullum actum habent supra corpus Domini verum vel materiam eius, nec etiam supra corpus mysticum habent actum per quem gratia conferatur...et similiter potest concedere alicui sacerdoti quod confirmet: quia confirmatio perficit eum in actu corporis mystici, non autem habet aliquam relationem ad corpus verum.⁹³

⁹³IV Sent., Dist. 7, q. 3, a. 1, ql. 3, sol. 3; cf. also Supplementum, q. 38, a. 1, ad 3um, and III, q. 72, a. 11 ad 1um.

Such is Saint Thomas' teaching on the delegation of certain sacraments to the ministry of priests. Two things are certainly clear: he maintains that only the pope can delegate such functions to priests, for he alone, as "Summus episcoporum," has the fulness of power over the Mystical Body; and only a priest can receive such delegation, for he alone has the prerequisite power of order over the sacramental Body of Christ. The questions which remain: does the pope confer a physical or a moral power in such delegation, does the delegated priest act both from his sacerdotal character and the delegated power or from the delegated power alone, are not answered by Saint Thomas. The reader of Aquinas can realize the need for caution lest he read more into the text than is actually there from the example of Cardinal Cajetan. This penetrating commentator refused to enter into any lengthy discussion of the difficult question of delegation.

Ita quod hoc est mirabile circa ministrum huius sacramenti [confirmationis], quod episcopus ita est minister proprius confirmationis, quod a non-episcopo facta nulla est; et tamen ex dispensatione apostolica, non-episcopus illam potest conferre. Et licet multi multa in hoc scripserunt, soli tamen illi verum scripserunt qui noluerunt 'sapere plus quam oportet' [Rom. 12:3]; in istis enim sanctorum auctoritas [sc. Pope St. Gregory the Great in Decretum, Dist. 95.c.1, "Pervenit"] praeponenda est rationi.⁹⁴

A complete presentation of Aquinas' notion of the episcopacy must include two elements which complement the episcopal power of order over the Mystical Body. These are the jurisdiction which is proper to the

⁹⁴Sancti Thomae Aquinatis, Doctoris Angelici, Opera Omnia, ex recensione Leonina, cum commentariis Thomae de Vio Cajetani, Ordinis Praedicatorum, Tom. XII (Rome: Ex typographia Polyglotta S.C. de Propaganda Fide, 1906), III, q. 72, a. 11.

bishop and his position in a state of perfection. These two aspects of the episcopacy are developed at length by Saint Thomas in his three opuscula in defense of the Mendicants against the attacks of certain secular priests at Paris, especially William of Saint Amour and Gerard d'Abbeville.⁹⁵

Within decades of their foundation, the Mendicants found themselves fighting for their very existence. Their special end was an apostolic end: the salvation of souls, to be achieved by preaching and teaching. The principal argument put forward by their opponents was that pastors hold a proper authority over their own subjects; therefore, the pope and the local ordinary could not delegate others to preach or hear confessions within the confines of the pastor's territory. If the pope

⁹⁵Saint Thomas wrote three opuscula in defense of the Mendicants: the doctrine of these three works was summarized in the Summa Theologiae, II II, 183-189; (i) Contra impugnantes Dei cultum et religionem was written in 1256 during Thomas' first regency at Paris; it is summarized in II II, 186-188; (ii) De perfectione vitae spiritualis was written in December, 1269, and January, 1270; it is summarized in II II, 183-185; (iii) Contra pestiferam doctrinam retrahentium homines a religionis ingressu was also written in 1270; it is summarized in II II, 189. For an understanding of the chronology of these works and the particular authors and doctrines each was intended to refute, one can consult the detailed studies of Fr. Glorieux, S.J.: "'Contra Geraldinos' L'enchaînement des polémiques," Recherches de Théologie ancienne et médiévale, 1935, 129-155; "Le 'Contra Impugnantes' de Saint Thomas: ses sources, son plan," Bibliothèque Thomiste XIII (Mélanges Mandonnet, Tome I), 1930, 51-81; "Les polémiques 'Contra Geraldinos'--Les pièces du dossier," Recherches de Théologie ancienne et médiévale, 1934, 5-41; "Pour qu'on lise le 'De Perfectione,'" La Vie Spirituelle, Tome 23, Supplément, June, 1930, [97]-[126]; "Une offensive de Nicolas de Lisieux contra S. Thomas d'Aquin," Bulletin de littérature ecclésiastique, tome 39, no. 3, July-Sept., 1938, 121-129. It is only by following the dispute step by step, as it were, that one can appreciate fully the questions which were raised and the answers which were offered to them by each side. In the course of the dispute the very constitution of the Church and the purpose and nature of religious orders were discussed.

were to grant universal jurisdiction to a preacher, he would create a number of universal bishops, which would be a monstrosity in the Church.⁹⁶

Thomas replied by asserting that in sacerdotal ordination no jurisdiction is conferred; both secular and religious priests receive whatever jurisdiction they may have when the cura animarum is entrusted to them.⁹⁷ When a priest is delegated to preach or hear confessions, he does so by delegated power, not by ordinary or proper power.⁹⁸ Even when a bishop appoints a priest to be pastor of a particular parish, the bishop does not cease to have full jurisdiction for the people within that parish; in fact, the bishop not only retains full power over those parishoners, but he is more properly said to have the cura animarum there than the pastor whom he appoints.⁹⁹ "Ridiculum est dicere et blasphemiae vicinum, quod episcopus non possit usum clavium exercere

⁹⁶Magistri Guillelmi de Sancto Amore, Sacrae Facultatis Theologiae Parisiensis e celeberrima Domo Sorbonica Doctoris olim Integerrimi, Opera Omnia (Constance: Ad Insigne Bonae Fidei apud Alithophilos, 1632); cf. "Tractatus brevis De periculis novissimorum temporum," cap. 2, pp. 26-28: "Si una persona vel infinitae persone habeant potestatem praedicandi ubique, non invitati; cum hoc sit potissimum officium episcoporum, iam erunt infiniti episcopi universales, quod est contra iura....Etsi ergo aliis, quam regularibus viris, possit committi praedicationis officium, videtur tamen ex iam dictis, quod salva Ecclesiastica Hierarchia, regularibus viris, dum in suo inferiori perficiendorum gradu manent, praedicationis officium committi non possit: Igitur, si viri regulares praedicationi se immisceant, videtur quod non sint a Deo missi; et ideo pseudo sint reputandi. Sic ergo patet ex praedictis, qui sunt penetrantes domos et qui sunt pseudo; patet etiam, quod per tales instabunt, vel instant pericula novissimorum temporum universae ecclesiae."

⁹⁷De perfectione vitae spiritualis, cap. 26, no. 730; cf. II II, q. 187, a. 1.

⁹⁸Contra impugnantes Dei cultum et religionem, numbers 99, 125, 134-136, 138-141, 143, 147-148, 153, 181.

⁹⁹Ibid., numbers 79 to 95.

in quemlibet suae dioecesis, sicut et Christus posset."¹⁰⁰

The local ordinary is the "proprius sacerdos" of everyone within his diocese; the pope is the "proprius sacerdos" of every Christian.¹⁰¹ Therefore the pope can delegate a priest to hear confessions everywhere. The one so delegated acts by commission, not by proper or ordinary power. The reason for this is that the pope has immediate and full authority in every diocese, even though he isn't the special and proper ruler of each, lest the authority of the other bishops be destroyed.¹⁰²

Saint Thomas concluded with a summary of the hierarchy of jurisdiction which paralleled the hierarchy of order which he had given in his earlier writings. It is noteworthy that in each instance the pope and the bishop hold key positions; Thomas was never sidetracked into finding in the archiepiscopacy or the patriarchate a special order.

¹⁰⁰Ibid., number 90.

¹⁰¹The term "proprius sacerdos" was most important in the 13th-century discussions of the sacrament of Penance and its proper minister because of the famous canon 21 "Omnis utriusque sexus" of the Fourth Lateran Council in 1215 [Decretales Gregorii IX, 5.38.12.; Denziger, Enchiridion Symbolorum, no. 437]. This canon prescribed the annual confession and communion for all the faithful. The annual confession was to be made to one's "proprius sacerdos": "Omnes utriusque sexus fidelis, postquam ad annos discretionis pervenerit, omnia sua solus peccata saltem semel in anno fideliter confiteatur proprio sacerdoti...suscipiens reverenter ad minus in Pascha Eucharistiae sacramentum, nisi forte de consilio proprii sacerdotis ob aliquam rationabilem causam ad tempus ab eius perceptione duxerit abstinendum....Si quis autem alieno sacerdoti voluerit iusta de causa confiteri peccata, licentiam prius postulet et obtineat a proprio sacerdote, cum aliter ille ipsum non possit absolvere vel ligare." One of the arguments against the exercise of the cura animarum by the Mendicants (outside of their own parishes) was this canon. Aquinas vigorously argued that the "proprius sacerdos" included the pope, the local bishop, (and anyone delegated by these) and the pastor.

¹⁰²Contra impugnantes Dei cultum et religionem, number 154.

Ad aliud quod obicitur, scilicet quod sacerdos est sub episcopo, sicut episcopus sub archiepiscopo; dicendum, quod non est omnino simile. Constat enim quod archiepiscopus non habeat immediatam iurisdictionem in illos qui sunt de dioecesi episcopi, nisi causa ad eum deferretur; sed episcopus habet immediatam iurisdictionem in parochianos sacerdotis....Cuius ratio est, quia potestas sacerdotis naturaliter et ex iure divino subditur potestati episcopi, cum sit imperfecta respectu illius, ut Dionysius probat; sed episcopus subditur archiepiscopo solum ex ordinatione Ecclesiae. Et ideo in quibus Ecclesia statuit episcopum archiepiscopo subiectum, in illis tantum subiectus est ei. Sacerdos autem qui ex iure divino episcopo subditur, in omnibus est ei subiectus; sicut etiam Papa habet immediatam iurisdictionem in omnes Christianos.¹⁰³

These divisions of jurisdiction do not destroy the unity of the Church; they make it possible. The lower degree serves the higher and the highest of all serves Christ, the only true spouse of the Church.

Sponsus Ecclesiae, proprie loquendo, est Christus....Alii autem, qui sponsi dicuntur, sunt ministri sponsi, exterius cooperantes ad generationem spiritualium filiorum; quos tamen non sibi sed Christo generant. Qui quidem ministri intantum sponsi dicuntur, inquantum vicem veri sponsi obtinent. Et ideo papa, qui obtinet vicem in tota Ecclesia, universalis Ecclesiae sponsus dicitur. Episcopus autem suae dioecesis, presbyter autem suae parochiae. Unde et dioecesis sponsus papa est, episcopus parochiae. Nec tamen propter hoc sequitur quod sint plures sponsi unius Ecclesiae; quia sacerdotes suo ministerio cooperantur episcopo tamquam principali, et similiter episcopi papae, et ipse papa Christo. Unde Christus, papa, episcopus et sacerdos non computantur nisi unus sponsus Ecclesiae.¹⁰⁴

Because of the special and permanent bond which binds them to the cura animarum, bishops are said to be in the state of perfection. Thomas defines this state as one in which a person obliges himself by vow to God that he will serve Him in the works of perfection for his entire

¹⁰³Ibid., number 157.

¹⁰⁴Ibid., number 158. As Thomas wrote elsewhere: "Datum est apostolis dimittere peccata. Et ideo credendum est quod ministri Ecclesiae, ad quos derivata est huiusmodi potestas ab apostolis, et ad apostolos a Christo, in Ecclesia habeant potestatem ligandi atque solvendi, et quod in Ecclesia sit plena potestas dimittendi peccata, sed gradatim, scil. a papa in alios praelatos." (In symbolum apostolorum expositio, art. 10, number 996).

life.¹⁰⁵ Now perfection consists in charity [I Cor. 13]: the love of God, to which religious bind themselves, and the love of God extended to their neighbor, to which bishops bind themselves. After the example of the apostles, whose successors they are, they must love their enemies, they must be willing to give their lives for their flocks, if this is demanded, and they must minister to the spiritual needs of their flock.¹⁰⁶

The state of episcopal perfection is the most perfect because bishops must not only be perfect themselves but they must bestow perfection upon others.

Manifestum est autem maiorem perfectionem requiri ad hoc quod aliquis perfectionem aliis tribuat, quam ad hoc quod aliquis in se ipso perfectus sit; sicut maius est posse facere aliquem talem quam esse talem; et omnis causa potior est suo effectui. Relinquitur ergo episcopalem statum maioris perfectionis esse quam sit status cuiuscumque religionis.¹⁰⁷

¹⁰⁵De perfectione vitae spiritualis, no. 651; II II, q. 184, a. 4.

¹⁰⁶Ibid., numbers 652-655; cf. II II, q. 184, a. 5. Perfection is demanded of bishops ex officio: "De necessitate pastoralis officii est ut periculum mortis non refugiat propter gregis sibi commissi salutem. Obligatur ergo ex ipso officio sibi commissio ad hanc perfectionem dilectionis, ut pro fratribus animam ponat." (De perf. vitae spir., number 654). This obligation can be found in the example of the Good Shepherd, Who gives His life for His sheep [John 10:11] and in Saint Peter's calling Christ the pastor and bishop of souls [I Peter 2:25].

¹⁰⁷Ibid., number 658; also number 674: "Religionis status perfectionem non praesupponit, sed ad perfectionem inducit; pontificalis autem dignitas perfectionem praesupponit: qui enim pontificatus honorem suscipit, spirituale magisterium assumit....Ridiculum autem est perfectionis magistrum fieri qui perfectionem per experientiam non novit." This is not, of course, to imply that the validity of episcopal consecration is in any way dependent upon the sanctity of the individual consecrated. One can infer, though, that the candidate for the episcopacy should be selected by the Church; it would be presumptuous for an individual to judge that his own sanctity would be sufficient so that he might become a "Magister perfectionis" for others. (cf. II II, q. 185, art. 1-3).

The sign that bishops are in the state of perfection is found in their consecration. The Church confers the state of perfection with some solemn consecration or benediction: either monastic profession or episcopal consecration.¹⁰⁸ Episcopal consecration is the sign of the state of perfection for it is the final and definitive action by which the bishop is bound to the cura animarum in his diocese. Because pastors, archdeacons or even bishops-elect have no such perpetual obligation, Aquinas does not consider that they are in a state; they are rather like novices in a religious order.¹⁰⁹ The cura animarum is itself an action proper to one in the state of perfection insofar as it pertains to the perfect love of God and neighbor.¹¹⁰ To be bound perpetually by solemn consecration to the cura animarum is, for the bishop, to be in the state of perfection.

The bishop's perpetual obligation to the cura animarum gives him a regal position, while subordinate ministers are like the minor officials under the king.

Quod vero tertiodecimo proponitur, quod sicut patriarcha praesidet in suo patriarchatu, et episcopus in suo episcopatu, ita archidiaconus in suo archidiaconatu et presbyter curatus in sua parochia: est manifeste falsum. Nam episcopi principaliter curam habent omnium suae dioecesis; presbyteri autem curati vel etiam archidiaconi habent

¹⁰⁸Ibid., numbers 656, 681, 688, 711: the consecration is not the cause of the bishop's position in the state of perfection but it is rather a sign that the individual so consecrated is in a state: II II, q. 184, a. 5.

¹⁰⁹Ibid., number 680; II II, q. 184, a. 6; Quaestiones Quodlibetales, Quodlibet. III, a. 17 [q. 6, a. 3].

¹¹⁰Ibid., number 698; cf. II II, q. 184, a. 7.

aliquas administrationes sub episcopis; sic enim se habent ad episcopum sicut balivi vel praepositi ad regem.¹¹¹

These same words appear again in Thomas' Lenten Quaestiones Quodlibetales, 1270, which were written just a few months after the completion of his De perfectione vitae spiritualis.¹¹² After stating that the bishop has the "principalis cura" and is therefore consecrated, like a king, he concludes: "Et propter hoc episcopatus est ordo in comparatione ad corpus mysticum; non autem plebanatus vel archidiaconatus, sed officium tantum."¹¹³

In this way Thomas connects the bishop's order in the Mystical Body with his "principalis cura" and his position in the state of perfection. This is not to deny what he had written previously and to reduce the episcopacy to jurisdiction. It rather serves to underscore his basic conception of the episcopacy. The stress on the bishop's "principalis cura" complements the original conclusion that the bishop has no order with respect to the real Body of Christ but with respect to His Mystical Body.

For Saint Thomas the priesthood is properly to be defined in terms of the power (character) which is conferred in priestly ordination. In virtue of this power the priest can validly offer the sacrifice of the Mass; this is his proper function and the direct object of his power.

¹¹¹Ibid., number 708; II II, q. 184, a. 6 ad 2um; Quodlibet. III, a. 17 [q. 6, a. 3].

¹¹²Cf. Glorieux, "Les polémiques 'Contra Geraldinos'--les pièces du dossier," Recherches de néologie ancienne et médiévale, 1934, 33-35.

¹¹³Quodlibet. III, a. 17 [q. 6, a. 3].

The episcopacy presupposes the priesthood in its recipient. By his consecration the bishop receives the power of order over the Mystical Body which is necessary for the valid conferring of those sacraments which directly look to the Mystical Body: Confirmation and Order. The priest may receive the jurisdiction necessary to perform certain of his functions, for example, the administration of the sacrament of Penance; he may also receive papal delegation to act as extraordinary minister of certain functions ordinarily reserved to bishops. But even without such jurisdiction or delegation, the priest can fulfill his properly sacerdotal role by offering the Mass. The bishop, on the other hand, has more than an aptitude for jurisdiction; one can say that he has an exigency for the reception of jurisdiction from the pope.¹¹⁴ Since the power which he receives in his consecration looks to the Mystical Body, the fulfillment of episcopal consecration comes in the bishop's assuming his proper role as chief shepherd in his own diocese. Thus, Saint Thomas explains why the episcopacy is not to be defined in the same way as the priesthood and, at the same time, why the bishop is called the high priest and the

¹¹⁴M.J. Gerlaud, O.P., Saint Thomas d'Aquin, Somme Théologique: l'Ordre, (Paris: Desclée & Cie, 1931), Renseignements Techniques, III: L'épiscopat, p. 226: "La consécration sacerdotale, d'ordre strictement sacramentel, n'appelle pas d'elle-même quelque juridiction; ainsi des moines sont ordonnés prêtres dont la vie solitaire exclut toute activité pastorale. La consécration épiscopale au contraire, d'un genre autre que la consécration sacerdotale, parce qu'elle confère sur le corps mystique le pouvoir de régence du Christ, crée une exigence à la juridiction; la juridiction est dès lors l'achèvement de la consécration." Thus, one must look to the local ordinary for the full implementation of episcopal consecration; titular and auxiliary bishops can validly perform the sacramental rites reserved to bishops, but the complete notion of the episcopacy implies more than the administration of Confirmation and Order.

episcopacy is called the fullness and complement of the priesthood.¹¹⁵

¹¹⁵Ef. Doronzo, op. cit., Tom. II, pp. 304-313. On pages 308-10 the author gives three interpretations of the "potestas ordinis supra corpus Christi mysticum" which the bishop possesses: this power may be considered:

- i) as an immediate and, as it were, intrinsic complement to and perfection of the priest's power to absolve (i.e. his power over the Mystical Body)--yet Saint Thomas seems to identify the priest's power over the real and Mystical Body of Christ;
- ii) as a new power by which the bishop can confirm and ordain--this seems to be most in accord with the letter of Saint Thomas;
- iii) as the conferring of the ecclesiastical dignity in which the radical power to confirm and ordain, which the priest receives in his sacerdotal ordination, finds valid exercise.

In any of these three possibilities the episcopacy is not properly and per se sacramental, but only radically and presuppositively, i.e. insofar as the subject of episcopal consecration must possess the priestly character.

CONCLUSION

The writings of the medieval canonists and theologians concerning the episcopacy can be compared in two ways: either in their methodology or in their content. With respect to methodology it is sufficient to note that the canonists approached the episcopacy as an existing institution framed in the common law of the Church. They discussed those aspects of the episcopacy which occurred in ecclesiastical legislation; there was no intention to formulate a comprehensive treatise on the episcopacy. The theologians, on the other hand, approached the episcopacy indirectly, by means of the sacrament of Order; they were especially concerned to determine whether the episcopacy is a sacramental ordo.

The canonists and theologians could not avoid, however, coming to grips with the same questions. The common ground was the bishop's power with respect to the administration of the sacraments. The question which faced the authors from each science can be stated: in what way is the bishop's power to confer the sacraments superior to that of the simple priest? or, in other words, has the bishop a potestas ordinis superior to that of the simple priest?

In this conclusion the answer which Thomas Aquinas formulated to this question will be compared with the answers given by some of the canonists and theologians who wrote during the century preceding him. The basic answer of Aquinas is found in his distinction: both ordo and potestas ordinis refer to two different things--power over the real, sacramental Body of Christ or power over His Mystical Body.

With respect to Christ's sacramental Body, the bishop has no

ordo or potestas ordinis superior to that of the priest. With respect to the Mystical Body, however, the bishop has an ordo and a potestas ordinis superior to that of the priest. The value of Aquinas' treatment of the episcopacy is to be judged in terms of the validity of this distinction and its application to bishops and priests.

One can attempt to evaluate the validity of the distinction by comparing it with the answers given by other authors to the questions raised concerning the episcopacy. One must begin with the two writers who had such a great influence on the medieval theology of the episcopacy: Jerome and Denys the Areopagite. The texts of Jerome, which seemed to indicate an identity for a certain period between bishops and priests were analyzed by the commentators on the Decretum. Aquinas agreed completely with the position of Huguccio, who taught that bishops had always been superior to priests "in administratione, in prelatione, in officio et in celebratione sacramentorum". Huguccio here opposed the position of Sicardus of Cremona and the author of the Summa "Imperatorie maiestati" who had written that there was an original equality "in officio" between bishops and priests (i.e., in the administration of the sacraments: "quodcumque enim sacramentum poterat conferre Petrus, poterat et minimus sacerdos"). Huguccio admitted only a change in the name: originally both bishops and priests had been designated by the terms "episcopus" and "presbyter"; to counteract the occasion of schism and the danger to ecclesiastical order, the terms had been limited to their present signification. This was also the position adopted by Aquinas:

De presbytero et episcopo dupliciter loqui possumus. Uno modo, quantum ad nomen. Et sic olim non distinguebantur episcopi et presbyteri....Sed secundum rem, semper inter eos fuit distinctio, etiam tempore apostolorum....Dicere autem presbyteros non differre ab episcopis, inter dogmata haeretica numerat Augustinus.¹

With respect to the writings of Denys the Areopagite, in which a nine-fold division of ordines was presented whereby the ecclesiastical hierarchy imitated the celestial hierarchy among the angels, Aquinas opposed the interpretation of Guy of Orchellis, William of Auxerre, and Hugh of Saint Cher. These authors argued to the existence of nine sacramental ordines. Aquinas understood Denys in another manner.

Dionysius loquitur de ordinibus [De eccl. hier., cap. 5] non secundum quod sunt sacramenta sed secundum quod ad hierarchicas actiones ordinantur....Sed ordines habent quod sint sacramenta ex relatione ad maximum sacramentorum.²

Aquinas determined the number of sacramental ordines, i.e. the number of ordines which were potential parts of the sacrament of Order, from the relation of each one to the consecration of the Eucharist. Since the Eucharist is in itself the greatest of the sacraments (for it contains Christ Himself and not just an instrumental power derived from Him) and in the consecration of the Eucharist the minister is more closely identified with Christ than in the confection of any other sacrament, the priesthood, whose proper operation is the consecration of

¹II II, q. 184, a. 6 ad 1um; cf. De perfectione vitae spiritualis, cap. 23, numbers 695-696; De articulis fidei et Ecclesiae sacramentis, number 626.

²Supplementum, q. 37, a. 2 ad 1um; cf. De perfectione vitae spiritualis, cap. 24, number 715, and cap. 23, number 694; Quaestiones Quodlibetales, Quodlibet. III, a. 17 [q. 6, a. 3].

the Eucharist, is the highest and last of the sacramental ordines. The sacrament of Order is fully realized in the priestly ordo. Aquinas here followed the position already maintained by Alexander of Hales, Odo Rigaldi, Philip the Chancellor, Bonaventure and Albert the Great. All of these writers had taught that there was no priestly function superior to the consecration of the Eucharist.

These authors then had to explain the superiority of the bishop over the priest in the administration of certain sacraments. They had to explain why Peter Lombard called the episcopacy a dignitas and not an ordo, once they had denied the assertion of Master Simon and the others who taught that there were more than seven sacramental ordines.

The solution of Aquinas was to affirm the existence of another ordo, which was not sacramental, but which did confer an indelible power of order over the Mystical Body. In presenting this solution the Angelic Doctor seemed to depart from his Dominican predecessors, Roland of Cremona and Albert the Great, who did not call the episcopacy an ordo but only an accidental or jurisdictional addition to the priesthood. Albert had written: "Ordo vocatur hic [respectu episcopatus] gradus dignitatis secundum iurisdictionem," while Roland had written of dignities above the priesthood: "Non sint nisi quaedam accidentalia supra ordinem sacerdotalem."

Thomas also departed from those who saw in the episcopacy some addition to the priesthood within the same sacerdotal ordo. Philip the Chancellor had written: "Ordo sacerdotalis adiuncta potestate spiritualis gratiae facit episcopum," and Bonaventure had written even

more explicitly: "[Episcopatus] non est proprie nomen ordinis, nec novus character imprimatur, nec nova potestas datur, sed potestas data ampliatur." William of Auvergne had considered the sacerdotal ordo as embracing both the episcopacy and the presbyterate: the bishop held the "plenitudo potestatis," while the priest's power was limited.

The solution of Aquinas is closest to that of Alexander of Hales and his pupil, Odo Rigaldi. Each of these authors had affirmed that no power existed above that of the priest with respect to the Eucharist. Alexander of Hales had even formulated his own definition of the sacrament of Order in terms of the "sacramentum communionis." He then spoke of the priest's power to baptize and absolve as "gratia prima potestatis." In the same line the bishop held "plenior gratia potestatis" and the pope had the "perfectissima [potestas]." Odo Rigaldi made an even clearer division between power which is ordered to the Eucharist and other spiritual power when he wrote: "Potestas autem ista [spiritualis] potest attendi vel in comparatione ad membra ecclesiae vel comparatione ad sacramentum communionis."

Aquinas, Alexander of Hales and Odo Rigaldi found no problem in the offices above the presbyterate other than the papacy and the episcopacy. They were not led to posit a separate power of order for the archbishop, patriarch, etc. They limited their three-fold division of power over the members of the Mystical Body to the divinely-instituted offices: papacy, episcopacy, presbyterate. The significance of their position lies in the fact that they did not consider the episcopacy and the papacy as purely jurisdictional offices. They adopted a middle

position: the episcopacy was not only jurisdiction, yet it was not a sacramental ordo. Between these two they saw that there was an ordo with a potestas ordinis over the Mystical Body.

Was this a needless multiplication of entities? From the writings of Aquinas one can draw two features of the episcopacy which do indicate that the episcopacy must not be judged by the same principles by which one could judge the priesthood or a purely jurisdictional office. These two points are the historical facts that only priests could be consecrated to the episcopacy and that the pope could delegate the power of the bishop over the sacraments to a simple priest. If the episcopacy were an ordo in the same line as the priesthood, it would seem that episcopal consecration should confer the priesthood on a non-priest, just as sacerdotal ordination confers the diaconate on a non-deacon who receives it. Also, if the bishop possessed a power of order similar to that of the priest, it is difficult to understand how this could be delegated by the pope. Surely the pope can never delegate a non-priest to consecrate the Eucharist or to absolve from sin. Aquinas' explanation of papal delegation of episcopal power to priests and of "preposteratio ordinis" was very close to the common teaching of the canonists.

Sicardus of Cremona, the author of the Summa "Omnis qui tuste," Huguccio, Raymond of Pennafort, Vincentius Hispanus and others had taught that episcopal consecration conferred upon a subject who was not a priest would be invalid. Aquinas also maintained this conclusion. His reason for this was the relationship he affirmed between Christ's sacramental Body and His Mystical Body: only one with power over the

former could receive power over the latter.

Likewise, because the priest had power over the Eucharist, he could be delegated by the pope, who has the plenitude of power over the Mystical Body, to perform certain functions for which the bishop is the ordinary minister. Laurentius Hispanus and Alanus Anglicus alone among the canonists are listed as denying the pope's power to delegate a priest to confirm. The other authors affirmed that the pope could make such a delegation, but another bishop could not, for the pope alone is the successor of Saint Peter and has the "plenitudo potestatis."

In probing for the reason for such papal power, Sicardus of Cremona found it in the fact that Christ had not determined the substance and minister of the sacrament of Confirmation as He had, for example, for the Eucharist; therefore the pope could delegate a priest to confirm. The author of the Summa "Omnis qui iuste" found the reason in the substance of the sacrament of Order: Christ had attached the power to confirm to the priestly ordo in such a way that the Church could allow or forbid priests to confirm. The Decretalists emphasized that the pope was here delegating potestas ordinis and not jurisdiction.

Aquinas would not agree with Huguccio and several other canonists that the pope could also delegate a cleric to confer the ordo which he himself possessed. He would agree with the canonists' assertion that the bishop acted "ex officio et ordine" while a delegated minister acted "ex demandatione et adminiculo ordinis." For Aquinas the "adminiculum ordinis" would be explained as the priestly ordo, which was necessary in anyone to whom was delegated power over the Mystical Body. Likewise, he would agree with the canonists that the delegated minister could act

only according to the terms of his delegation and until this was revoked; the delegated minister never acted "ex auctoritate propria seu ordinaria."

The canonists generally recognized that the episcopacy differed from the presbyterate both because there could be no episcopal consecration of a subject who was not a priest and because episcopal power could be delegated to a priest by the pope. One might ask, then, in what way Huguccio and the Decretalists considered the episcopacy to be an ordo. Huguccio presents two reasons why the episcopacy is an ordo: the first is the treatment given to the episcopacy in the Decretum, Dist.21.c.1, "Cleros et clericos," where Isidore of Seville lists nine grades of clerics and gives the name "ordines ecclesiastici" to these grades. The second reason is Huguccio's denial of the assertion of Sicardus of Cremona and the author of the Summa "Imperatorie maiestati" that the bishop and the priest were at one time equal "in officio, i.e. in celebratione sacramentorum." Now it is evident that Isidore was explaining the meaning of names in his Libri XX Etymologiorum and that he was not attempting to give a scientific determination of the precise number of ordines ecclesiastici. It also seems evident from the text of Jerome which began the whole discussion of the original "identity" of bishops and priests that he was speaking of an identity which existed with respect to administration or jurisdiction. Jerome wrote, for example:

Quod autem postea unus electus est, qui ceteris preponeretur, in schismatis remedium factum est.
Sicut ergo presbyteri sciunt se ex ecclesiae consuetudine ei, qui

sibi prepositus fuerit, esse subiectos: ita episcopi noverint se magis consuetudine quam dispensatione dominicae veritate presbyteris esse maiores et in communi debere ecclesiam regere.³

The interpretation of those who saw an original equality in all respects between bishops and priests was going further than these texts warranted.

Aquinas knew the statement of Isidore, "ordo episcoporum est quadripartitus," and he also knew the statements of Jerome. His own interpretation was that the episcopacy is an ordo, but not with respect to the Eucharist, and that the episcopacy had at one time not been distinguished from the presbyterate in name. Since Huguccio was not composing a treatise on the sacraments or on the sacrament of Order, his affirmation that the episcopacy is an ordo need not be understood as a contradiction of the position adopted by Alexander of Hales, Odo Rigaldi and Thomas Aquinas, who spoke of the episcopacy as an ordo over the Mystical Body. Even Huguccio's reference to the episcopacy as the "sacramentum illius ordinis" can be understood in the manner in which Aquinas considered the episcopacy to be sacramental, namely presuppositively, for it presupposes the sacramental character of Order in its recipient. Huguccio had also taught that only a priest could be consecrated to the episcopacy.

It would probably be more correct to see the exposition of Huguccio as a stride forward in the efforts of the late twelfth-century canonists to distinguish ordo and iurisdictio. This distinction was not

³Jerome, Epist. 146 ad Evangelum, PL 22:1192-1195; quoted in Decretum, Dist. 93.c.24, "Legimus," and Comment. in Tit. 1:5, PL 26:596-598, quoted in Decretum, Dist.95.c.5, "Olim."

completely elaborated until the early thirteenth century. Thus, the distinction introduced by the canonists between potestas ordinis and potestas iurisdictionis would have received a further precision from Aquinas and those theologians who went on to subdivide the potestas ordinis according to its relation to Christ's real or Mystical Body.

The most important influence of the canonists upon the notion of the episcopacy developed by Saint Thomas is to be found with respect to the bishop's position in his own diocese.⁴ Following the lead provided by several decretal letters of Innocent III, the Decretalists spoke of the "spirituale coniugium" between the bishop and his diocese. This notion is echoed in Aquinas' emphasis upon the permanent obligation of the bishop to the cura animarum. He also adopted the canonists' reservation of the cura animarum to the bishop: any priest, whether secular or regular, exercised the cura animarum only with permission of the bishop.

The theology of the episcopacy worked out by Thomas Aquinas is a synthesis of many elements. His work reflects the positions of the canonists and theologians who had preceded him as well as a remarkable conformity with the existing ecclesiastical institutions. By emphasizing the two-fold nature of ordo and potestas ordinis, he found a solution to such contemporary problems as "ordinatio per saltum" to the episcopacy and the delegation of episcopal power to priests. His writings might well be considered by those theologians who are presently engaged in an effort to elaborate a comprehensive theology of the episcopacy.

⁴In his writings in defense of the Mendicants Thomas directly or indirectly makes 365 citations of 142 capitula from the Corpus Iuris Canonici in answering objections and in framing his own arguments.

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