

## THE PLENITUDO POTESTATIS OF THE ROMAN PONTIFF

### IN SERVICE OF THE UNITY OF THE CHURCH

#### Introduction

In one of the open discussions during the session of the Synod of Bishops held in October of 2014, the Synod Fathers were debating about the possibility of the Church permitting those living in irregular matrimonial unions to receive the Sacraments of Penance and the Holy Eucharist. At a certain point, one of the Cardinals intervened with what he judged to be a definitive solution to the difficulty. In words like these, making reference to the dissolution of marriages in favor of the faith, he exclaimed: We have not begun to comprehend the extent of the *plenitudo potestatis* of the Roman Pontiff. The implication was that the *fullness of power* which is, by divine law, inherent to the Petrine Office could permit the Holy Father to act in contradiction to the words of Our Lord Himself in chapter 19 of the Gospel according to Saint Matthew and the Church's constant teaching in fidelity to the same words:

And I say to you: whoever divorces his wife, except for unchastity, and marries another, commits adultery; and he who marries a divorced woman, commits adultery.<sup>1</sup>

The Cardinal's shocking affirmation made me think again about something which the Holy Father himself had said at the beginning of the 2014 session of the Synod to all of the Synod Fathers.

He told the Synod Fathers: "It is necessary to say with *parrhesia* all that one feels."<sup>2</sup> He then concluded: "And do so with great tranquility and peace, so that the Synod may always unfold *cum Petro et sub Petro*, and the presence of the Pope is a guarantee for all and a safeguard of the faith."<sup>3</sup> The juxtaposition of the classic words which describe the power of the Pope, such that all things in the Church must be with Peter and under Peter, and the presence of the body of the Pope in a meeting risks a misunderstanding of the authority of the Pope which is not magical but derives from his obedience to Our Lord.

Such magical thinking is also reflected in the docile response of some of the faithful to whatever the Roman Pontiff may say, claiming that, if the Holy Father says something, then we must accept it as papal teaching. In any case, it seems good to reflect a bit on the notion of the power inherent to the Petrine Office and, in particular, to the notion of the *plenitudo potestatis* of the Roman Pontiff.

#### Plenitudo Potestatis in the Tradition

The history of the terminology, *plenitudo potestatis*, to express the nature of the jurisdiction of the Roman Pontiff is succinctly described in a contribution of Professor John A. Watt of the University of Hull to the Second International Congress of Medieval Canon Law, held at Boston College from August 12<sup>th</sup> to 16<sup>th</sup> of 1963.<sup>4</sup> The term is first used by Pope Saint Leo the Great in 446. In Letter 14, he writes about the authority of the Bishop with these words: "Thus we have confided to your charity our duties, such that you are called unto a share of solicitude, not unto the fullness of power."<sup>5</sup> In his customary crystalline Latin, Pope Saint Leo the Great expresses the relationship of the Roman Pontiff with the Bishops. While both the Roman Pontiff and the Bishops share the solicitude for the good of the universal Church, the Roman Pontiff alone exercises the fullness of power, in order that the unity of the universal Church be effectively safeguarded and promoted.

The term, fullness of power, is found extensively in treatments of papal authority, especially in the canonical literature. Gratian includes the dictum of Pope Saint Leo the Great along with two others canons among his decrees. These decrees emphasized "papal primacy as expressed in the supreme appellate jurisdiction and the reservation of all major issues."<sup>6</sup> Saint Bernard of Clairvaux contributed greatly to the reception of the term, so that "by the time of Huguccio it had reached a high level of development."<sup>7</sup>

Pope Innocent III, grounding the term theologically the reality of the Papal office, *Vicarius Christi*, emphasized the position of the Roman Pontiff "*supra ius*" and "as *iudex ordinarius omnium*."<sup>8</sup> Regarding the term, *supra ius*, it was clear that the Roman Pontiff could dispense from the law or interpret the law only for the purpose of serving the proper end of the law, not to subvert the law. The description of the exercise of the fullness of power as the action of Christ Himself, through His Vicar on earth, was made with "the qualification that the pope must avoid decreeing anything that was sinful or

<sup>1</sup> Mt 19, 9.

<sup>2</sup> English translation: Francis PP. II, "Pope Francis' invitation to the Synod Fathers at the opening of the General Congregation: With honesty and humility," *L'Osservatore Romano*, Weekly Edition in English, 10 October 2014, p. 6.

<sup>3</sup> English translation: *Ibid.*, p. 6.

<sup>4</sup> Cf. J. A. Watt, "The Use of the Term 'Plenitudo Potestatis' by Hostiensis," in Stephen Ryan Joseph Kuttner, ed., *Proceedings of the Second International Congress of Medieval*

*Canon Law*, Boston College, 12-16 August 1963 (Città del Vaticano: S. Congregatio de Seminariis et Studiorum Universitatibus, 1965), pp. 161-187. [Watt].

<sup>5</sup> "Vices nostras ita tuae credidimus charitati, ut in partem sis vocatus sollicitudinis, non in plenitudinem potestatis." [Ep. 14, PL 54.671], quoted in Watt, p. 161.

<sup>6</sup> Watt, p. 164.

<sup>7</sup> Watt, p. 164.

<sup>8</sup> Watt, p. 165.

might lead to sin or subversion of the Faith.”<sup>9</sup>

The 13<sup>th</sup> century canonist Hostiensis treated amply the notion of the fullness of power of the Roman Pontiff, using the term in 71 individual contexts in his writings: the *Summa*, the *Apparatus* or *Lectura* on the *Gregoriana*, and the *Apparatus* on the *Extravagantes* of Innocent IV. In Appendix A of his article, Professor Watt provides a representative list of legislative texts of Pope Innocent III in which he uses the term, fullness of power, while in Appendix B of his article, he provides a list of all 71 usages of the term, fullness of power, by Hostiensis.<sup>10</sup>

Hostiensis introduced a distinction of two uses of the fullness of power: the Pope’s “ordinary power, ‘potestas ordinaria’ or ‘ordinata’ when by virtue of his *plenitudo officii*, he acted according to the law already established,” and “his absolute power, ‘potestas absoluta’ when by virtue of his *plenitudo potestatis*, he passed over or transcended existing law.”<sup>11</sup> The adjective, *absolute*, must be understood in the context of Roman Law and its service to the development of canonical discipline, not according to the secular understanding of Machiavelli or of a totalitarian dictators.

In Roman Law, it signified a dispensation from a law and supply of a defect in a law. In the words of Professor Watt, Dispensation was a use of the absolute power to set aside existing law; *suppletio* was an act of absolute power to remedy defects that had arisen either through the non-observance of existing law or because existing law was inadequate to meet the particular circumstances. In both cases the absolute power, the *plenitudo potestatis*, stands revealed as a discretionary power over the established legal order, a prerogative power to act for the common welfare outside that order, if, in the pope’s judgment, circumstances made this necessary.<sup>12</sup>

In other words, the fullness of power was not understood as an authority over the very constitution of the Church or her Magisterium but as a necessity for the governance of the Church in accord with her constitution and Magisterium. Hostiensis describes it as a necessary tool so that “curia business could be expedited, delays shortened, litigation curtailed,” while, at the same time, “he considered that it was a power to be used with great caution, as a power in the Pauline phrase ‘unto edification and not for destruction,’ a discretionary power to maintain the constitution of the Church, not to undermine it.”<sup>13</sup>

It is clear that the fullness of power is given by Christ Himself and not be some human authority or popular constitution, and, therefore, can only be rightly exercised in obedience to Christ. Professor Watt observes:

It was axiomatic that any power which had been given by Christ to His Church was for the purpose of fulfilling the end of the society which He had founded, not to thwart it. Therefore the prerogative power could only be exercised within these terms. Therefore “absolutism” (*solutus a legibus*) was not licence for arbitrary government. If it was true that the will of the prince made the law, in the sense that there was no other authority which could make it; it was also true as a corollary that, where this will threatened the foundations of the society whose good the will existed to promote, it was no law. The Church was a society to save souls. Heresy and sin impeded salvation. Any act of the pope *in quantum homo* which was heretical or sinful in itself or might foster heresy or sin threatened the foundations of society and was therefore void.<sup>14</sup>

In other words, the notion of fullness of power was carefully qualified.

It was understood that it did not permit the Roman Pontiff to do certain things. For example, he could not act against the Apostolic Faith. Also, for the sake of the good order of the Church, it was a power to be used sparingly and with the greatest prudence. Watt observes:

It was unfitting to depart from the *ius commune* too frequently or to do so *sine causa*. The pope could do so, but he should not, for the exercise of the *plenitudo potestatis* was to further the *utilitas ecclesie et salus animarum* and not the self-interest of individuals. The setting aside of the *ius commune* must therefore always be an exceptional act impelled by grave reasons. If the pope did so act *sine causa* or arbitrarily, he put his salvation in danger.<sup>15</sup>

Since the notion of fullness of powers contains the just-described limitations, how is the violation of the limitations

<sup>9</sup> Watt, p. 166.

<sup>10</sup> Watt, pp. 175-187.

<sup>11</sup> Watt, p. 167.

<sup>12</sup> Watt, pp. 167-168.

<sup>13</sup> Watt, p. 168.

<sup>14</sup> Watt, p. 173.

<sup>15</sup> Watt, p. 168.

judged and corrected?

What is to be done if the Roman Pontiff so acts? Hostiensis is clear that the Pope is not subject to human judgement. “He should be warned of the error of his ways and even publicly admonished, but he could not be put on trial if he persisted in his line of conduct.”<sup>16</sup> For Hostiensis, the College of Cardinals, even though they do not share in the fullness of power, “should act as a *de facto* check against papal error.”<sup>17</sup>

Hostiensis recognized the need of the exercise of the fullness of power at certain times, in order to “rectify the imperfections of the established order or thwart those who were manipulating it for private ends,” but he also “thought as a general rule the pope should be slow to depart from the common law and he also thought that he should take the fraternal advice of his appointed advisers before doing so.”<sup>18</sup> Apart from public admonition and prayer for divine intervention, he does not offer a remedy for the abuse of the fullness of power. If, in conscience a member of the faithful believes in conscience that a particular exercise of the fullness of power is sinful and cannot bring his conscience to peace in the matter, “the pope must, as a duty, be disobeyed, and the consequences of disobedience be suffered in Christian patience.”<sup>19</sup>

Time has not permitted me to examine the question of the correction of the Pope who abuses the fullness of power inherent in the primacy of the See of Peter. As you are likely aware there is an abundant literature on the question. Certainly the treatise, *De Romano Pontifice* of Saint Robert Bellarmine, and other classical canonical studies must be examined. Suffice it to say that, as history shows, it is possible that the Roman Pontiff, exercising the fullness of power, can fall either into heresy or into the dereliction of his primary duty to safeguard and promote the unity of faith, worship and practice. Since he is not subject to a judicial process, according to the first canon on the competent forum (“*Prima Sedes a nemine iudicatur*”),<sup>20</sup> how is the matter to be addressed?

A brief preliminary response, based upon the natural law, the Gospels and canonical tradition, would indicate a two-fold process: first, the correction of a supposed error or dereliction made directly to the Roman Pontiff himself; and, then, if he fails to respond, a public declaration. According to natural law, right reason demands that subjects be governed according to the rule of law and, in the contrary case, provides that they have recourse against actions in violation of the rule of law. Christ Himself teaches the way of fraternal correction

which applies to all members of His Mystical Body.<sup>21</sup> We see His teaching embodied in the fraternal correction of Saint Peter by Saint Paul, when Saint Peter dissembled regarding the freedom of Christians from certain ritual laws of the Jewish faith.<sup>22</sup> Finally, canonical tradition, embodied in the norm of can. 212 of the 1983 Code. While the first section of the canon in question makes clear the duty to in “those things which the sacred pastors, inasmuch as they represent Christ, declare as teachers of the faith or establish as rulers of the Church,”<sup>23</sup> the third section declares the right and duty of the faithful “to manifest to the sacred pastors their opinion on matters which pertain to the good of the Church and to make their opinion known to the rest of the Christian faithful, without prejudice to the integrity of faith and morals, with reverence toward their pastors, and attentive to common advantage and the dignity of persons.”<sup>24</sup>

To conclude this too brief examination of the development of the notion of the fullness of power from the time of Pope Saint Leo the Great, it must be observed that the contribution of the medieval canonists constitutes a deepening of the understanding of the Church’s faith regarding Petrine Primacy. It, in no way, pretended to offer doctrinal novelty. Professor Watt summarizes the matter thus:

That the concept of ecclesiastical sovereignty expressed by this particular term had been formulated before Hostiensis wrote, is clear from Innocent III’s decretals and the early commentary thereon. Examination of the decretist background to early decretalist work makes it clear that no novelty of doctrinal essence was here involved. The decretals register a crystallization of terminology; sure mark of the maturity of the canonist understanding of the notion in question. The *Professio fidei* known to the Second Council of Lyons was but a more solemn acceptance of a position held generally much earlier, not least among canonists, expressed now with the help of a term which the canonists had made a technical one. In the form adopted at Lyons, *plenitudo potestatis* represented two things, both of which corresponded exactly to its canonistic history: the principle of jurisdictional primacy as such, in all

<sup>16</sup> Watt, p. 169.

<sup>17</sup> Watt, p. 169.

<sup>18</sup> Watt, p. 174.

<sup>19</sup> Watt, p. 173.

<sup>20</sup> Cf. can. 1404.

<sup>21</sup> Cf. Mt 18, 15-17.

<sup>22</sup> Cf. Gal 2, 11-21.

<sup>23</sup> “Quae sacri Pastores, utpote Christum representantes, tamquam fidei magistri declarant aut tamquam Ecclesiae rectores statuunt.” Can. 212, § 1. English translation:

<sup>24</sup> “... sententiam suam de his quae ad bonum Ecclesiae pertinent sacris Pastoribus manifestent eamque, salva fidei morumque integritate ac reverentia erga Pastores, attentisque communi utilitate et personarum dignitate, ceteris christifidelibus notam faciant.” Can. 212, § 3.

its judicial, legislative, administrative and magisterial aspects, and more narrowly, the principal that prelates derived their jurisdiction from the pope.

There was, however, a third level of interpretation of the term: the plenitude of power in its purest juristic form. This was the level at which the canonists were most deeply engaged, in that it concerned the practical applications of supreme authority and considered its relationship to law already in being and an *ordo iuris* already established. In short, a problem of developed legal theory, the concept of the power of the sovereign over law and the juridical order.

Progress was made with some simple distinctions about the nature of this power. The pope's jurisdiction was said to be exercised in a two-fold way. There was an exercise which had a recognized and regular place, established by existing law and translated into practice by existing procedures: his ordinary power. There was further his extraordinary power, inhering in him personally and alone, by which – manifestation *par excellence* of sovereign authority – existing law and established procedures might be suspended, abrogated, clarified, supplemented. This was the prerogative power of the pope *supra ius*; the plenitude of power seen in its most characteristic juristic form as the right to regulate established legal machinery. *Solutus a legibus*, the absolute ruler might redispense any of the mechanisms of law. In the doing thereof, the plenitude of power was deployed in its most practical form.

Once the *plenitudo officii* had been distinguished from the *plenitudo*

*potestatis* and the *potestas ordinaria* from the *potestas absoluta* (and with these distinctions Hostiensis seems to have made his most individual contribution to the common stock of canonist ideas on papal power), it followed logically that the circumstances in which this power was used *extra ordinarium cursum* should be examined.<sup>25</sup>

In fact, the deepening understanding of the fullness of power of the Roman Pontiff during the medieval period has led to the ongoing study of the primacy of Peter and his corollary power. Any discussion of the matter would be incomplete without taking into account the essential work accomplished by canonists during the Middle Ages.

### Plenitudo Potestatis in the Magisterium

The term, fullness of power, was received into the definition of papal primacy at the First Vatican Council in 1870. Chapter Four of the Dogmatic Constitution *Pastor aeternus*, on the Church of Christ, promulgated on July 18, 1870, reads:

Furthermore, with the approval of the Second Council of Lyon, the Greeks professed that “the holy Roman Church possesses the supreme and full primacy and authority over the universal Catholic Church, which she recognizes in truth and humility to have received with fullness of power from the Lord himself in blessed Peter, the prince or head of the apostles, of whom the Roman pontiff is the successor. And, as she is bound above all to defend the truth of the faith, so too, if any questions should arise regarding the faith, they must be decided by her judgment.”<sup>26</sup>

The dogmatic definition makes it clear that the fullness of power of the Roman Pontiff is necessary if the Apostolic Faith is to be safeguarded and promoted in the universal Church.

Later on in the same chapter of *Pastor aeternus*, the Council Fathers declare:

For the Holy Spirit was not promised to the successors of Peter that they

<sup>25</sup> Watt, pp. 172-173.

<sup>26</sup> “Approbante vero Lugdunensi Concilio secundo Graeci professi sunt: ‘Sanctam Romanam Ecclesiam summum et plenum primatum et principatum super universam Ecclesiam catholicam obtinere, quem se ab ipso Domino in beato Petro Apostolorum principe sive vertice, cuius Romanus Pontifex est successor, cum potestatis plenitudine recepisse veraciter et humiliter recognoscit; et sicut prae ceteris tenetur fidei

veritatem defendere, sic et, si quae de fide subortae fuerint quaestiones, suo debent iudicio definiri.’” Heinrich Denzinger, *Compendium of Creeds, Definitions, and Declarations on Matters of Faith and Morals*, ed. Peter Hünermann with Helmut Hoping, English edition ed. Robert Fastiggi and Anne Englund Nash, 43<sup>rd</sup> ed. (San Francisco: Ignatius Press, 2012), p. 614, n. 3067. [Denzinger].

might disclose a new doctrine by his revelation, but rather that, with his assistance, they might reverently guard and faithfully explain the revelation or deposit of faith that was handed down through the apostles. Indeed, it was this apostolic doctrine that all the Fathers held and the holy orthodox Doctors revered and followed, fully realizing that this See of St. Peter always remains untainted by any error, according to the divine promise of our Lord and Savior made to the prince of his disciples: "But I have prayed for you that your faith may not fail; and when you have turned again, strengthen your brethren"[*Lk* 22:32].

Now this charism of truth and of never-failing faith was conferred upon Peter and his successors in this chair in order that they might perform their supreme office for the salvation of all; that by them the whole flock of Christ might be kept away from the poisonous bait of error and be nourished by the food of heavenly doctrine; that, the occasion of schism being removed, the whole Church might be preserved as one and, resting on her foundation, might stand firm against the gates of hell.<sup>27</sup>

Following the constant understanding of the Church down the centuries, the Council Fathers taught that Petrine Primacy and the corollary fullness of power of the Roman Pontiff, instituted by Christ in His constitution of the Church as His Mystical Body, are directed exclusively to the salvation of souls by the safeguarding and promoting of the solid doctrine and sound discipline, handed down in an unbroken line by means of Apostolic Tradition.

Chapter 22 of the Dogmatic Constitution *Lumen Gentium* of the Second Vatican Ecumenical Council likewise used the term, fullness of power. Describing the relationship of the College of Bishops to the Roman Pontiff, the Council Fathers declare:

But the college or body of bishops has no authority unless it is understood together with the Roman pontiff, the successor of Peter as its head. The pope's power of primacy over all, both pastors and faithful, remains whole and intact. In virtue of his office, that is, as vicar of Christ and pastor of the whole Church, the Roman pontiff has full, supreme, and universal power over the Church. And he is always free to exercise this power. The order of bishops, which succeeds to the college of apostles and gives this apostolic body continued existence, is also the subject of supreme and full power over the universal Church, provided we understand this body together with its head, the Roman pontiff, and never without this head. This power can be exercised only with the consent of the Roman pontiff. For our Lord placed Simon alone as the rock and the bearer of the keys of the Church [*cf. Mt* 16:18-19] and made him shepherd of the whole flock; it is evident, however, that the power of binding and loosing, which was given to Peter [*Mt* 16:19], was granted also to the college of apostles, joined with its head [*cf. Mt* 18:18; 28:16-20].<sup>28</sup>

The distinct office of the Roman Pontiff with respect to the College of Bishops and indeed to the universal Church is described in the following number of *Lumen Gentium* with these words: "The Roman pontiff, as the successor of Peter, is the perpetual and visible principle and foundation for the unity of the multiplicity of both the bishops and the faithful."<sup>29</sup>

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<sup>27</sup> Denzinger, p. 615, nos. 3070-3071.

<sup>28</sup> "Collegium autem seu corpus Episcoporum auctoritatem non habet, nisi simul cum Pontifice Romano, successore Petri, ut capite eius intellegatur, huiusque integer manente potestate Primatus in omnes sive Pastores sive fideles. Romanus enim Pontifex habet in Ecclesiam, vi muneris sui, Vicarii scilicet Christi et totius Ecclesiae Pastoris, plenam, supremam et universalem potestatem, quam semper libere exercere valet. Ordo autem Episcoporum, qui collegio Apostolorum in magisterio et regimine pastoralis succedit, immo in quo corpus apostolicum continuo perseverat, una cum Capite suo Romano Pontifice, et numquam sine hoc Capite subiecutum quoque

supremae ac plenae potestatis in universam Ecclesiam existit, quae quidem potestas non nisi consentiente Romano Pontifice exerceri potest. Dominus unum Simonem ut petram et cavigerum Ecclesiae posuit [*cf. Mt* 16:18-19], eumque Pastorem totius sui gregis constituit [*cf. Io* 21: 15-19]; illud autem ligandi ac solvendi munus, quod Petro datum est [*Mt* 16:19], collegio quoque Apostolorum, suo Capiti coniuncto, tributum esse constat [*Mt* 18:18; 28:16-20]." Denzinger, pp. 880-881, no. 4146.

<sup>29</sup> "Romanus Pontifex, ac successor Petri, est unitatis, tum Episcoporum tum fidelium multitudinis, perpetuum ac visibile principium et fundamentum." Denzinger, p. 881, no. 23.

In an earlier part of the same Dogmatic Constitution, the Council Fathers explain:

This sacred synod, following in the steps of the First Vatican Council, teaches and declares with it that Jesus Christ, the eternal pastor, set up the holy Church by entrusting the apostles with their mission as he himself had been sent by the Father (cf. Jn. 20:21). He willed that their successors, the bishops namely, should be the shepherds in his Church until the end of the world. In order that the episcopate itself, however, might be one and undivided he put Peter at the head of the other apostles, and in him he set up a lasting and visible source and foundation of the unity both of faith and of communion.<sup>30</sup>

On the occasion of a symposium, entitled The Primacy of the Successor of Peter, organized by the Congregation for the Doctrine of the Faith from December 2<sup>nd</sup> to 4<sup>th</sup> of 1996, the Congregation published certain considerations regarding the subject of the Petrine Office and the power conferred upon it.

Regarding the relationship of the Petrine Office to the office of Bishop, the document declared:

All Bishops are subjects of the care of all the Churches (*sollicitudo omnium Ecclesiarum*) inasmuch as they are members of the Episcopal College which succeeds to the college of the Apostles, of which the extraordinary figure of Saint Paul was a member. This universal dimension of their episcopè (oversight) is inseparable from the particular dimension relative to the offices entrusted to them. In the case of the Bishop of Rome – Vicar of Christ in the proper manner of Peter as Head of the College of Bishops – , the care of all the Churches acquires a particular force because it is accompanied by full and supreme power in the Church: a truly episcopal power, not only supreme, full and universal, but also immediate, over all, both pastors and other faithful. The ministry of the Successor of Peter, therefore, is not a service which reaches each particular Church from outside, but is inscribed in the heart of every particular Church, in which “the

Church of Christ is truly present and acts”, and by this carries in itself the opening to the ministry of unity. This interiority of the ministry of the Bishop of Rome to each particular Church is also an expression of the mutual interiority between the universal Church and the particular Church.<sup>31</sup>

The Petrine Office is therefore in its proper essence and in its exercise different from offices of civil government.

The document of the Congregation goes on to explain how the **Roman Pontiff carries out his office as a service, that is, in obedience to Christ:**

The Roman Pontiff is – as are all the faithful – submitted to the Word of God, to the Catholic faith and is the guarantee of the obedience of the church and, in this sense, is the servant of the servants (*servus servorum*). He does not decide according to his own will, but gives voice to the will of the Lord who speaks to man in the Scriptures lived and interpreted by the Tradition; in other terms, the *episcopè* of the Primate has the limits which flow from divine law and the inviolable divine constitution of the Church contained in Revelation. The Successor of Peter is the rock who, contrary to arbitrariness and conformism, guarantees a rigorous fidelity to the Word of God: the martyrological character of his Primacy follows from this.<sup>32</sup>

The fullness of power of the Roman Pontiff cannot be properly understood and exercised except as obedience to the grace of Christ the Head and Shepherd of the flock in every time and place.

#### **Canonical Legislation**

The fullness of the power of the Roman Pontiff is expressed in can. 218 of the 1917 Code of Canon Law, which reads:

The Roman Pontiff, who is the successor of St. Peter in the primacy, possesses not only a primacy of honor, but supreme and full power of jurisdiction in the entire Church in matters which belong to faith and morals as well as in those which

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<sup>30</sup> LG, no. 18.

<sup>31</sup> Communicationes 30 (1998), 210-211, n. 6.

<sup>32</sup> Communicationes 30 (1998), 212, n. 7.

pertain to discipline and the government of the Church throughout the world.

This power is truly episcopal, ordinary and immediate over all and each of the churches and over all and each of the pastors and the faithful, and is independent of every human authority.<sup>33</sup>

What is important to note initially is that the fullness of power is required by the primacy of the Roman Pontiff, which is not merely honorary but substantial, that is, it is required for the fulfillment of the supreme, ordinary, full and universal responsibility of safeguarding the rule of faith (*regula fidei*) and the rule of law (*regula iuris*).

Can. 331 of the 1983 Code of Canon Law contains substantially the same legislation. It reads:

The bishop of the Roman Church, in whom continues the office given by the Lord uniquely to Peter, the first of the Apostles, and to be transmitted to his successors, is the head of the college of bishops, the Vicar of Christ, and the pastor of the universal Church on earth. By virtue of his office he possesses supreme, full, immediate, and universal ordinary power in the Church, which he is always able to exercise freely.<sup>34</sup>

The power of the Roman Pontiff is understood from the adjectives which modify it.

It is ordinary because it is stably connected to the office of primacy by Christ Himself. It is part of the *ius divinum*. It is a divine disposition.<sup>35</sup> It is supreme, that is the highest authority within the hierarchy and not subordinated to any other human power, while it remains always subordinate to Christ

alive in the Church through the Tradition guarded and transmitted by the rule of faith and the rule of law. It is full in that it is equipped with all the faculties contained in the sacred power to teach, to sanctify and to govern. It is thus connected with the exercise of the infallible magisterium and with the authentic non-infallible magisterium (cann. 749 § 1, and 752), with legislative and judicial power, and with the moderation of the liturgical life and divine worship of the universal Church. It is immediate, that is, it may be exercised over the faithful and their pastors wherever and without condition, and it is universal, that is, it extends to the entire ecclesial community, to all the faithful, to the particular Churches and their congregations, and to all of the matters which are subject to the jurisdiction and responsibility of the Church.

What is evident in the canonical legislation is that “the Pope does not exercise the power connected to his office when he acts as a private person or simple member of the faithful.”<sup>36</sup> Evidently, too, given the supreme character of the fullness of power entrusted to the Roman Pontiff, he does not have an absolute power in the contemporary political sense and, therefore, is held to listen to Christ and to His Mystical Body the Church. In the words of the considerations offered by the Congregation for the Doctrine of the Faith in 1998:

To listen to the voice of the Churches is, in fact, a proper characteristic of the ministry of unity, also a consequence of the unity of the episcopal Body and of the *sensus fidei* of the entire People of God; and this bond appears substantially endowed with greater force and certainty than juridical instances – a moreover inadmissible hypothesis because of lack of foundation – to which the Roman Pontiff would have to respond. The final and binding responsibility of the Roman Pontiff finds its best guarantee, on the one hand, in its insertion in the Tradition and in fraternal communion

<sup>33</sup> “Can. 218. - § 1. Romanus Pontifex, Beati Petri in primate Successor, habet non solum primatum honoris, sed supremam et plenam potestatem iurisdictionis in universam Ecclesiam tum in rebus quae ad fidem et mores, tum in iis quae ad disciplinam et regimen Ecclesiae per totum orbem diffusae pertinent.

§ 2. Haec potestas est vere episcopalis, ordinaria et immediate tum in omnes et singulas ecclesias, tum in omnes et singulos pastores et fidelis a quavis humana auctoritate independens.” English translation: John A. Abbo and Jerome D. Hannan, *The Sacred Canons: A Concise Presentation of the Current Disciplinary Norms of the Church* (St. Louis, MO: B. Herder Book Co., 1952), Volume 1, p. 281.

<sup>34</sup> “Can. 331 Ecclesiae Romanae Episcopus, in quo permanet munus a Domino singulariter Petro, primo Apostolorum,

concessum et successoribus eius transmittendum, Collegii Episcoporum est caput, Vicarius Christi atque universae Ecclesiae his in terris Pastor; qui ideo vi muneris sui suprema, plena, immediata et universali in Ecclesia gaudet ordinaria potestate, quam semper libere exercere valet.” English translation: Canon Law Society of America, *Code of Canon Law: Latin-English Translation*, New English Translation, Washington, D.C.: Canon Law Society of America, 1998. [Hereafter, *CLSA*].

<sup>35</sup> Cf. cann. 131 § 1, and 145 § ; and Nota Explicativa Praevia of *Lumen Gentium*.

<sup>36</sup> Eduardo Molano, “Potestad del Romano Pontifice,” *Diccionario General de Derecho Conónico*, Vol. VI (Cizur Menor [Navarra]: Editorial Aranzadi, SA, 2012), p. 304.

and, on the other hand in the assistance of the Holy Spirit Who governs the Church.<sup>37</sup>

As one canonist comments on the fullness of the power of the Pope:

Without doubt, the end and the mission of the Church indicate well articulated limits which are not of easy juridical formulation. But, if we would wish juridical formulations, we could say that these limits are those that the divine law, natural and positive, establishes.

Above all, the Pope has to exercise his power in communion with the whole Church (c. 333, § 2). Wherefore, these limits stand in relationship with the communion in the faith, in the Sacraments and in ecclesiastical governance (can. 205). The Pope has to respect the deposit of the faith – he holds the authority to express the Credo in a more adequate manner but he cannot act contrary to the faith – , he has to respect all and each of the Sacraments – he cannot suppress nor add anything that goes against the substance of the Sacraments – , and, finally, he has to respect the ecclesial rule of divine institution (he cannot prescind from the episcopate and has to share with the College of Bishops the exercise of the full and supreme power).<sup>38</sup>

## Conclusion

It is my hope that these reflections which are initial in character and require much further elaboration will help you to understand the necessity and the subtlety of the fullness of the power of the Roman Pontiff for the safeguarding and promoting of the good of the universal Church. According to Sacred Scripture and Sacred Tradition, the Successor to Saint Peter has power which is universal, ordinary and immediate over all the faithful. He is the supreme judge of the faithful, over whom there is no higher human authority, not even an ecumenical council. To the Pope belongs the power and authority to define doctrines and to condemn errors, to make and repeal laws, to act as judge in all matters of faith and moral, to decree and inflict punishment, to appoint and, if need be, to remove pastors. Because this power is from God Himself, it is limited as such by natural and divine law, which are expressions of the

eternal and unchangeable truth and goodness that come from God, are fully revealed in Christ, and have been handed on in the Church throughout time. Therefore, any expression of doctrine or law or practice that is not in conformity with Divine Revelation, as contained in Sacred Scripture and the Church's Tradition cannot be an authentic exercise of the Apostolic or Petrine ministry and must be rejected by the faithful. As Saint Paul declared: "There are some who trouble you and want to pervert the gospel of Christ. But if we, or an angel from heaven, should preach to you a gospel contrary to that which we preached to you, let him be anathema."<sup>39</sup>

As devout Catholics and servants of the Church's discipline, we must in all things teach and defend the fullness of the power with which Christ has endowed His Vicar on earth. At the same time, we must teach and defend that power within the teaching and defense of the Church as the Mystical Body of Christ, as an organic body of divine origin and divine life. I conclude with the words of Gratian in his *Decretals*:

Let no mortal being have the audacity to reprimand a Pope on account of his faults, for he whose duty it is to judge all other men cannot be judged by anybody, unless he should be called to task for having deviated from the faith.<sup>40</sup>

Raymond Leo Cardinal BURKE

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<sup>37</sup> Communicationes, 213.

<sup>38</sup> Molano, p. 306.

<sup>39</sup> Gal 1, 8.

<sup>40</sup> Gratian, *Decretals*, 1a, dist. 40, c. 6, *Si papa*; ex Gestis Bonifacii martyris.