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**Oration “Si ea quae justa” of Enea Silvio Piccolomini
(1438, Basel). Edited and translated by Michael von
Cotta-Schönberg. Final Version. 2024. (Collected
Orations of Pope Pius II; 4)**

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Oration “*Si ea quae justa*” of Enea Silvio Piccolomini (1438, Basel). Edited and translated by Michael von Cotta-Schönberg

Collected Orations of Pope Pius II; 4

Final Version

2024

Abstract

In 1438, the Council of Basel undertook to confer ecclesiastical offices and benefices instead of the pope, whom it had deposed. It therefore became necessary to establish proper procedures, especially for the appointment of bishops. The Council's Committee of Twelve, of which Enea Silvio Piccolomini was a frequent member, drafted a decree requiring commissioners to hear testimonies about candidates for episcopal office and to report back to the council under oath. As the recommendation met with resistance among the council fathers, Piccolomini undertook to defend the motion in an oration to a General Congregation. He was not successful, and the proposed decree was not passed.

Keywords

Enea Silvio Piccolomini; Aeneas Silvius Piccolomini; Aeneas Sylvius Piccolomini; Pope Pius II; Council of Basel; Council of Basle; Appointment of bishops; Provision of ecclesiastical benefices; Pope Eugene IV; Pope Eugenius IV; Renaissance orations; Renaissance oratory; Renaissance rhetorics; Papa Pio II; Papa Eugenio IV

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Table of contents

I. INTRODUCTION

1. Context
2. Themes
3. Authorship
4. Date, place, format, and audience
5. Text
 - 5.1. Manuscripts
 - 5.2. Editions
 - 5.3. Present edition
6. Sources
7. Bibliography
8. Sigla and abbreviations

II. TEXT AND TRANSLATION

1. Introduction [1-3]
2. Recommendation of the Twelve [4]
3. Arguments for and against the recommendation [5-18]
 - 3.1. Witnesses [12-13]
 - 3.2. Oaths [14-18]
4. Exaltedness of episcopal office [19-28]
 - 4.1. Bishops have the highest office [19]
 - 4.2. Bishops should be acceptable to the people [20]
 - 4.3. Bishops should be of tranquil mind [21-22]
 - 4.4. Bishops should have courage [23]
 - 4.5. Bishops should be just [24]
 - 4.6. Bishops have divine authority [25-28]
5. Conclusion: Careful selection of bishops [29-30]

I. INTRODUCTION

1. Context¹

The year 1438 was a momentous one in the history of the Church – and particularly in the century-long conflict between papalism and conciliarism. The beginning of the year saw the complete breakdown of relations between Pope Eugenius IV and the Council of Basel, from which there would be no return. The inalcitrance of the council on a number of vital issues led the pope to finally transfer it to Ferrara, where it opened on 8 January 1438. The majority of the council fathers remaining in Basel, however, rejected this transfer (and practical dissolution) of the council. Later in the same month, they defiantly suspended the pope, and in 1439, they deposed him. In those fateful days, it could not be known that it was the pope and the papacy that would eventually emerge as victors in this conflict.

Following the pope's dissolution (transfer) of the council, the papal party, including its president, Cardinal Guiliano Cesarini, left it and returned to the papal court. The cardinal offered horses and money to all who would leave with him, and Piccolomini must have been sorely tempted since by then he had lost his youthfully naive beliefs in the fairness, justice, and wisdom of the council fathers and had indeed written a scathing report on its dealings concerning the venue for the Reunion Council with the Greeks the year before.² But Piccolomini was not yet ready to give up the conciliarist teachings he had worked for so hard. Moreover, his relations with the papal court were strained, whereas his position at the council was quite strong. So he stayed in Basel, unwittingly laying the groundwork for a later diplomatic career at the imperial court and another, splendid, ecclesiastical career leading directly to the papal throne.

So, from the beginning of 1438, the council was no longer recognised by the pope, and one by one, the princes, too, withdrew their recognition. Thus, the council became a "rump council", continuing its debates and issuing decrees, and finally electing a counter-pope. As European support for the Council dwindled, it rapidly lost its authority but continued to function until 1449 when, after the death of Eugenius IV and the accession of Nicolaus V, it dissolved itself and the anti-pope abdicated.

Matters were not helped by the death of Emperor Sigismund on 9 December 1437. The absence, during those critical months, of the only secular authority capable of imposing some kind of compromise between the warring church leaders was keenly felt: Piccolomini himself had referred to it in his oration "*Quid est*" [3] to Albrecht II, which he wrote for the Milanese envoy in April 1438, attending the negotiations in Vienna concerning the imperial election. After the suspension of the pope – and possibly even earlier - the council quite logically took over the functions of the pope, including the very important function of providing ecclesiastical benefices and offices. However, certain appointments, like that of a bishop of Alessandria, appears to have been made under unfortunate circumstances, pointing to the need for establishing more rigorous procedures for

¹ See Haller. On the Council in Basel in general and its organisation, see Helmrath, and Compani-

on. On its conflict with Pope Eugenius IV, see Stieber

² Letter to Pietro da Noceto of 21 May 1437 (EPI, 1: 24).

appointing bishops.¹ It was in this context that the council's coordinating body, The Committee of Twelve, made a formal recommendation concerning the examination of the episcopal candidates' qualities and qualifications. Piccolomini personally, as a member of The Twelve, drafted the text, and as it met with some opposition among the council fathers, he undertook to defend it in a General Congregation, in the oration "*Si ea quae justa*".

Piccolomini's purpose with the oration was not fulfilled since the council fathers did not, in the General Congregation or later, approve the recommendation of The Twelve defended by him.

It is difficult to know how deeply Piccolomini was engaged in this matter. Haller believed that the humanist pathos employed in the speech rang hollow and that the speaker was not truly concerned about the issue.² There is, however, no evidence at all to prove that Piccolomini did not have strong personal convictions concerning this matter, and Haller's claim that Piccolomini never swam against the stream³ is patently unfair and untrue. One just has to think of the crusading project that he pursued for years, against the opposition of the European princes, the Italian powers, and a majority of the cardinals and the Curia, and his - sometimes quite independent - stance in a number of imperial affairs. In the oration itself, Piccolomini actually directly confronted quite an important dignitary, i.e., the envoy of that mighty prince, the King of Aragon, and he directly criticised a group of council fathers, a group strong enough to effectively resist the motion presented by The Twelve.

The oration was not commented upon by Piccolomini in his other works and letters, nor in his autobiographical *Commentarii*. Neither has it been discussed by his biographers nor studied in modern research monographs.

¹ Sudmann, p. 110: *Immerhin hat die vielleicht doch etwas vorschnelle Reaktion des Basler Konzils auf die Mailänder Anfrage dazu geführt, dass Enea Silvio Piccolomini – zu dieser Zeit noch in Basel – nach diesem Fall die*

Forderung erhoben hat, vor Bischofsernennungen durch das Konzil immer erst vereidigte Zeugen zu hören. See also p. 386-387. Since the Council made its appointment to the See of Alexandria in Summer 1438, the

initiative of the Twelve and Piccolomini's oration must have been delivered in Autumn or Winter 1438

² Haller, p. 85

³ Haller, p. 73

2. Themes

The main theme of the speech is the necessity for careful scrutiny of candidates for episcopal office.

The text of the motion, authored by Piccolomini, was:

As the Lord Pope, Eugenius, has been suspended for just reasons, not only the bestowal of benefices but also the provision of cathedral churches and other churches that would have been made by him have devolved upon this Holy Council. It is therefore necessary to avoid that what the pope was criticised for should be found in the council. Thus, only suitable persons should be given provision,¹ and they should excel not only in learning but also in the merits of life and in integrity so that they can profit the people entrusted to them both by words and by example. This should be observed in the provision of all offices, but especially in the appointment of bishops, since these must be above reproach and have other qualities required by the Apostle. Therefore, the prelates, who are now or will later be entrusted with episcopal nominations, should be invited to focus on this issue and diligently examine the reputation of the candidates so that they do not disregard their obligation to examine a number of witnesses concerning the merits of the respective candidates. And this obligation is laid upon the commissioners that, having made their report, they should send their votum, publicly and according to their oath to God and according to their own conscience, to the General Congregation so that others may be able to discuss the matter in the deputations, justly and freely under God. [Sect. 4]

The main points of the recommendation were that the commissioners entrusted with each case of an episcopal appointment should

- hear credible witnesses on the character and aptitude of the candidates for episcopal preferment, and
- take an oath that the preferred candidate had, to the best of their knowledge, the required qualities.

When The Twelve had approved the text, it was, as stipulated by the procedural rules of the council, sent to the four deputations for approval before it could be debated in a General Congregation. According to those same rules, it had to be approved by at least three of the four deputations² of the council before it could be passed on to the General Congregation. Three of the deputations approved it without any objection, among them the Deputation on Faith, to which Piccolomini himself belonged. However, in one of the deputations, the Deputation on Peace, it met with opposition and was not put to the vote. Had it been put to a vote and been defeated, it could still

¹ “Canonical provision” is a term signifying regular induction into a benefice (Catholic Encyclopedia)

² The four deputations were the deputation on peace, on reform, on faith, and on general matters

have been submitted to the General Congregation since it had obtained the necessary approvals by the three other deputations. But as it was not put to the vote, the procedure of hearing the deputations could not be considered completed, and therefore the whole matter was left in abeyance and could not be brought before the General Congregation. Whether refraining from putting the issue to the vote in the Deputation on Peace was actually a procedural ploy to obstruct the procedure is not known. At any rate, after a month, The Twelve, or at least Piccolomini, lost patience and raised the matter in the General Congregation, notwithstanding the fact that the fourth deputation had not yet voted on it.

The result was a disappointment for The Twelve and Piccolomini, but possibly not a big surprise. To most members of the council, it might have been a trivial matter, and it was not mentioned in the protocol of the council kept by Juan de Segovia.¹ At any rate, the energies of the Council would now be consumed by the matter of deposing the suspended pope and electing a new one.

An important subtheme of the oration is the exaltedness of the episcopal office and the qualities required in bishops. Piccolomini's focus is not on this theme as such, but he uses it to bolster his arguments for the careful scrutiny of candidates for the episcopacy: the more important and exalted the episcopacy is, the more candidates for that office ought to be scrutinised.

In his discussion of this issue, Piccolomini makes the following points:

- Bishops have the highest office in the Church
- Bishops should be acceptable to the people
- Bishops should be of tranquil mind
- Bishops should have courage
- Bishops should be just
- Bishops have divine authority

The texts used by Piccolomini describe the episcopal office as representing God directly, making it the fundamental ecclesiastical office on which all the others depend. He deals - not quite successfully - with the admittedly thorny problem of how both priests and bishops share the sacrament of priestly ordination, but the main point concerning the supremacy of the episcopal office is quite clear.

As in other orations of his, including the sermon on Saint Ambrose given in April 1438², the criticism of the clergy is quite unambiguous. Whether this was a safe theme, popular with the council fathers, as Haller thinks, or an expression of an ingrained anti-clerical strain in Piccolomini's cultural conditioning, is debatable. At any rate, it is a concern that remained with him throughout his life and one that he propounded even in the last orations he gave as pope.³

¹ Haller, p. 83.

² Oration "*Si quis me roget*" [2]

³ Oration "*Sextus agitur annus*"

[75]

3. Authorship

The one extant manuscript containing the oration does not mention Piccolomini as the author. Nonetheless, for a number of reasons, Haller does not hesitate to ascribe authorship to Piccolomini¹:

- The text in the manuscript directly accompanies the text of the Sermon on Saint Ambrose by Piccolomini, from April 1438, also without indication of author
- The author belonged to the Deputation of Faith, like Piccolomini
- The author was a member of the Twelve, like Piccolomini
- Certain particulars of style point to Piccolomini as its author
- Except Piccolomini, there was nobody left at the Council who could give a speech of this type

To these arguments may be added the following:

Firstly, the profile of sources is similar to the profile in Piccolomini's Sermon on Saint Ambrose, in April 1438, and especially the use of the same group of letters from Jerome.

Secondly, the occurrence of two maxims used in other orations by Piccolomini:

- *Ego faciam quod sacerdotis est; quod imperatoris est, faciat imperator. Prius est, ut animam mihi quam fidem eripat*, also used in his sermon on Saint Ambrose, "Si quis me roget" [2], of the same year, 1438
- *Nulla civitas est malorum hominum omnino vacua*, also used in his oration "Res Bohemicas" [28], of 1456

In conclusion, it appears to be quite certain that the oration "Si ea quae justa" is one of Piccolomini's orations.

4. Date, place, audience, and format

Haller gives the *terminus a quo* as 14 January 1438, the day when the council suspended the pope, which Piccolomini refers to in the oration (*cum propter suspensionem*). As *terminus ante quem*, he gives the date of the deposition of the pope, June 24, 1439.²

¹ Haller, pp. 82-83

² Haller, pp. 83-84

Piccolomini returned from Milan to Basel in March 1438 and could not easily have become a member of The Twelve and have worked on the matter of the bishops and given an oration on this matter before he left for Vienna in the middle of April, returning to Basel in June.

Moreover, the affair of the appointment of the Bishop of Alessandria, presumably one of the reasons the Twelve began to discuss the whole matter, took place in summer 1438, see above.

So, no exact date can be given for the oration, but Haller's conclusion that the most likely period was the period from November 1438 to March 1439 appears to be reasonable.

The place was Basel, and the venue was probably the cathedral, where many of the General Congregations of the council were held.

The audience consisted of the council fathers.

The format was an address to the council fathers by a junior but centrally placed member of the council.

5. Text¹

Like several other of Pius II's orations, the "*Si ea quae justa*" was not included in the Collected Orations of Pius II from 1462, possibly because the text was not available in the pope's files at the time or because of political considerations.²

5.1 Manuscripts

Presently, the oration is only known to be extant in one manuscript:

- **Roma / Biblioteca Apostolica Vaticana**
Palat. lat. 603, ff. 199r-204r³

¹ For the textual transmission of Pius II's, see COR, 1: ch. 5

² It might have been awkward to publish a conciliarist text on the

vital issue of the appointment of bishops as part of the official collection of the pope's orations

³ Digital version:
http://digi.ub.uni-heidelberg.de/diglit/bav_pal_lat_603/0428

5.2. Editions

It has been edited once:

- J. Haller: Eine Rede des Enea Silvio vor dem Concil zu Basel. In: *Quellen und Forschungen aus italienischer Archiven und Bibliotheken*, 3 (1900) 82-102

5.3. Present edition

For principles of edition (incl. orthography) and translation, see COR, 1: ch. 9-10.

Text:

The present edition is based on the Palat. lat.

Though the text was ably edited by Pez, it has – as a matter of principle – been re-collated for the present edition.

Pagination:

The pagination is from the manuscript.

6. Sources¹

In the oration “*Si ea quae justa*”, altogether 65 direct and indirect quotations from various sources have been identified:

Biblical	25
Classical	11
Patristic and mediaeval	27
Contemporary	2
All	65

¹ For an analysis of Piccolomini’s use of sources, see COR, 1: ch. 8

This table shows that the biblical and patristic quotations are by far the most frequent, while there are relatively few classical quotations. This is a very different picture from Piccolomini's first oration, the "*Audivi*" [1], from ca. two years before, where there was only one quotation from the bible and the fathers, but 30 from the classics.

Biblical sources

Old Testament

Chronicles, 1.	1	
Ecclesiasticus	1	
Kings, 3.	3	
All		5

New Testament

Matthew	6	
John	1	
Luke	2	
Corinthians, 1.	2	
Galatians	2	
Philippians		1
Timothy, 1.	4	
Titus	2	
All		20
All OT+NT		25

Classical sources

Cicero	6 ¹	
Gellius	2	
Justinianus: Corpus juris	1	
Terentius		1 ²
Vergilius	1 ³	
All		11

¹ De amicitia 1; Tusculanae disputationes 5

² Andria 1

³ Aeneis

Patristic and mediaeval sources

Ambrosius	1 ¹	
Coelestinus I	1	
Jeronimus	16 ²	
Lactantius		1 ³
Ps.Clementine writings	1	
Ps.Jeronimus	7	
All		27

Note the quotations from the Pseudo-clementine writings and from Ps.Hieronimus, which illustrate the problem of Renaissance (and mediaeval) authors using spurious sources but believing them to be authentic.

Contemporary sources

Bruni, L	1	
Decembrio, P.	1	
All		2

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Jeronimus: *Epistolae*

- *Sancti Eusebii Hieronymi Stridonensis presbyteri epistolae.* In: J.P. Migne: *Patrologiae Latinae Cursus Completus*, T. XXII, col. 326-1284. Paris, 1877

¹ Sermo contra Aux. de basilicis trad.

² Epistolae

³ Divinae institutiones

- St. Jerome: *Letters and Select Works*. (Nicene and Post-Nicene Fathers; Series 2, vol. 6) (Patristic Fathers; 29).¹

Piccolomini, Enea Silvio: *Epistolae*

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¹

<http://www.synaxis.org/cf/volume29/>

8. Sigla and abbreviations

V = Roma / Biblioteca Apostolica Vaticana /Palat. Lat. 603

HA = J. Haller: *Eine Rede des Enea Silvio vor dem Concil zu Basel*. In: Quellen und Forschungen aus italienischer Archiven und Bibliotheken 3 (1900) 82-102

Abbreviations

CO = Pius II: *Commentarii rerum memorabilium quae suis temporibus contigerunt* [1464]

HA = Eneas Silvius Piccolomini: *Historia Austrialis*. Teil 1: Einleitung von Martin Wagendorfer. 1. Redaktion ed. von Julia Knödler. Teil 2: 2./3, ed. Martin Wagendorfer. 2 vols. Hannover, 2009. (Monumenta Germaniae Historica. Scriptores Rerum Germanicarum. Nova Series; 24)

HB = Aeneas Silvius Piccolomini: *Historia Bohemica*. Herausg. J. Hejnic & H. Rothe. 2 vols. Köln, 2005. (Bausteine zur slavischen Philologie und Kulturgeschichte. Neue Folge. Reihe B; 20)

MA = Pius II: *Orationes politicae et ecclesiasticae*. Ed. Giovanni Domenico Mansi. 3 vols. Lucca: Benedini, 1755-1759

MPL = Migne, Jacques-Paul: *Patrologia latina*. 217 vols. 1841-1865

RTA = Deutsche Reichstagsakten

WO = *Der Briefwechsel des Eneas Silvius Piccolomini*. Hrsg. von Rudolf Wolkan. 3 vols. Wien, 1909-1918. (Fontes rerum Austriacarum, 2 / 61, 62, 67, 68)

Decretum = *Decretum magistri Gratiani*. Ed. Lipsiensis secunda. Eds. A.L. Richter & A. Friedberg. 2 vols. Leipzig, 1879

Epistolarium = Enee Silvii Piccolominei *Epistolarium Seculare*. Ed. A. van Heck. Città del Vaticano, 2007. (Studi e testi; 439)

Rainaldus = *Annales ecclesiastici ab anno MCXCVIII ubi Card. Baronius desinit*. Auct. Odoricus Raynaldus. Tom. XVIII-XIX. Roma: Varesius, 1659-1663

Reject = *Reject Aeneas, accept Pius : Selected letters of Aeneas Sylvius Piccolomini (Pope Pius II)*. Intr. and transl. by T.M. Isbicki et al. Washington, D.C., 2006

II. TEXT AND TRANSLATION

Oratio ad patres concilii Basiliensis

[1] {199r} Si ea, quae justa et honesta sunt, reverendissimi patres, aequo animo et laeta fronte omnes suscipere, inutiliter quidem et omnino incassum vestras nunc aures perstreperem. Sed *amara sunt*, teste Lactantio, *vitiosis ac male viventibus praecepta justitiae*, et *ita se habet natura*, inquit Jeronimus, *ut amara sit veritas, blanda vitia existimentur*. Ea de causa facete apud comicum scribitur, quia *obsequium amicos, veritas odium parit*. Sed quorsum haec tam longo repetita principio? Num ego imputare aliquid sacro concilio velim? Absit a me scelus hujusmodi, absit ut vestra opera ego vituperem, qui omnes principes et cunctos homines teneri arbitror oboedire vobis et sua submittere capita. Nec dubito veram esse Coelistini sententiam, quia *spiritus sancti testatur praesentiam congregatio sacerdotum*.

Oration to the Fathers of the Council of Basel

1. Introduction

[1] Reverend Fathers, if all calmly and gladly accepted what is just and decent, I should now be assaulting your ears uselessly and completely in vain. But, according to Lactantius,¹ *the precepts of justice are bitter to wicked men and malefactors.*² And Jerome³ says that *it is the nature of things that truth is bitter, whereas vices seem pleasant.*⁴ For this reason, the Comic Poet⁵ wittily writes that *complaisance makes friends and truthfulness is the mother of unpopularity.*⁶ But why this long beginning? Do I want to accuse the Sacred Council of anything? Far from me be the crime of criticising your actions, for I believe that all princes and all men are obliged to obey you and submit to you.⁷ And I do not doubt the truth of the words of Celestine⁸ that *an assembly of priests manifests the presence of the Holy Spirit.*⁹

¹ Lactantius, Lucius Caecilius Firmianus (ca. 240-ca. 320): Early Christian author

² Lactantius: *Divinae Institutiones*, 5, passim, especially c. 11: *quia gravis est et acerba justitia*

³ Jeronimus [Eusebius Sophronius Hieronymus] (ca. 347-420): Doctor of the Church. Saint

⁴ Jeronimus: *Epistola ad Marcellam* (40) 1. MPL, XXII; col. 473. Translation quoted after JL

⁵ Terentius Afer, Publius (195/185-159 BC): Roman author of comedies

⁶ Terentius: *Andria*, 68

⁷ "sua submittere capita"

⁸ Celestinus I (d. 432): Pope from 422 to his death

⁹ Celestinus I: *Epistola XVIII. B. Coelestini Papae I ad Synodum Ephesinam*. MPL, L, col. 504

[2] Scio tamen et illud, quoniam *nulla civitas est malorum hominum omnino vacua*, et cum Judas in apostolorum collegio fuerit, haud absurdum est, si etiam in hoc conventu permaximo et copiosissimo nonnulli esse dicantur impuri homines atque nefarii. Sed sua crimina illi viderint, meum non est de quopiam judicare. Illud autem doleo, illud ploro, illud quoque detestor, quia facilius impediri bonum quam prohiberi malum video, idque non sacro concilio, sed paucorum nequitiae ascribo. Video namque tam per XII viros quam per alios patres salubria saepe excogitata esse - ut vulgo dicimus - avisamenta, quae tamen in medium posita aut impediuntur omnino aut diutius negliguntur, idque mense praeterito, cum ego ex jussione vestra duodecemvir essem, factitatum perpendi.

[2] But I also know that *no city is completely free of evil people*,¹ and that Judas² belonged to the College of Apostles. Therefore, it is likely that also in this large and populous assembly there will be immoral and impious men. However, their offences are their own concern, and it is not my task to pass judgement on anybody. But this pains me, this I deplore and detest that it is easier to prevent good than to stop evil. I do not blame the Holy Council for this, but a few wicked men. For often the Committee of Twelve³ or other Fathers have devised and proposed worthy recommendations that were afterwards obstructed and ignored. This I experienced just last month when, at your command, I was one of The Twelve.

¹ Leonardo Bruni: *Laudatio Florentiae Urbis* (ca. 1403-1404, recirculated 1434), ch. 51: *Nulla unquam civitas adeo bene morata aut instituta fuerit ut malorum hominum esset omnino vacua*. This passage was also quoted by Pier Candido Decembrio: *De laudibus Urbis Mediolanensis* (1436), p. 1021: *Verum tamen nulla civitas adeo bene morata aut instituta fuerit quae malorum hominum, ut ipse [L. Bruni] professus es, omnino careret*

² Judas Iscariot: the disciple who betrayed Jesus

³ The Council of Basel had as its members not only bishops and abbots but also doctors of theology, representatives of cathedral chapters, monks, and clerks of

inferior orders who constantly outnumbered the prelates. The Committee of Twelve was a very influential coordinating and supervising body, with rotating membership. Piccolomini was often a member of that body and sometimes chairman, and he was evidently on the Committee when the matter of the scrutiny of candidates for episcopal office was treated. Otherwise, the council fathers were members of one of the four deputations (deputationes): the Deputation on Faith (fidei), the Deputation on Peace (pacis), the Deputation of Reform (reformatorii), and the Deputation on General matters (pro communibus). Every decision made by three of these "deputa-

tions" received ratification for the sake of form in a General Congregation, and, if necessary, led to decrees promulgated in session. In the case of the scrutiny of candidates for episcopal nominations, it appears, from Piccolomini's oration, that whereas the three other deputations had approved the recommendation (avisamentum) of The Twelve, the Deputation on Faith had blocked it by not letting it be voted upon. See also Piccolomini's *De rebus Basiliae gestis commentarius*. In: Reject, p. 333. See also Decaluwe, ch. 7: *Conciliar bureaucracy*

[3] Scitis quia XII viri, tamquam in specula constituti, ex officio sibi credito investigare habent, quae sint in ecclesia reformanda, deputationesque sacras, ut provideant, commonere. Hi mense transacto avisamentum unum¹ inter alia sacris deputationibus obtulerunt, quod quia nonnulli calumniati sunt, visum est mihi pro honore virorum XII aliqua dicere, quae si forsitan illis ingrata fuerint, dicam ego pro extimatione mea, nec diffitebor vestro conspectui illius avisamenti inventorem et promotorem me extitisse. Illud tamen asseveraverim, quoniam alii fere omnes avisamentum ut sanctum et utile acceptarunt et, quod plus est, tres sacrae deputationes ipsum admiserunt solaque deputatio pacis non renuit, sed neglexit. Ideoque, si avisamentum huiusmodi nunc defendam, non solum meam ac XII virorum, sed totius fere concilii videbor causam suscepisse eritque mihi cum paucis et - sicuti opinor - non recte informatis magis amica quam contentiosa dissensio. Sed jam ad rem ipsam veniamus.

[4] Avisamentum huiusmodi fuit:

Cum propter suspensionem domini Eugenii papae justis de causis factam, non solum collatio beneficiorum, sed ecclesiarum tam cathedralium quam aliarum provisio, quae per ipsum fieri possent, {199v} ad hoc sacrum concilium sit devoluta, disponendum videtur, ne quod in papa reprehendebatur, in sacro concilio reperiat, ut scilicet personis idoneis provideatur, et qui non solum scientia, sed etiam vitae meritis et honestate praepolleant, ut possint tam verbo quam exemplo populis sibi commissis proficere, et cum hoc sit in omni provisione animadvertendum, praecipue tamen in promovendis episcopis est considerandum, cum et ipsi irreprehensibiles esse debeant et alia secundum apostolum habere requisita: eapropter exhortandi videntur praelati, quibus huiusmodi episcopales causae commissae sunt vel imposterum committentur, ut oculum ad hoc habeant et famam promovendi diligenter inquirant, ne, sicuti tenentur, omittant ex officio suo super meritis personae promovendae aliquos testes examinare mandeturque eis commissariis, ut facta relatione votum suum mediante juramento secundum Deum et conscientiam publice in generali congregatione mittant, ut alii sanctius et liberius secundum Deum deliberare in deputationibus valeant.

¹ aut novum V

[3] As you know, The Twelve have been appointed as overseers¹ and entrusted with the office of examining what needs to be reformed in the Church and inviting the Holy Deputations to address such matters. Last month, the Committee of Twelve sent a recommendation, among others, to the Holy Deputations that has been severely criticised by several people. I have therefore decided to speak in defence of the honour of the Twelve, but since this may not be welcome to them, I shall only present my personal opinion, admitting that it was I myself who wrote and advanced the recommendation. But I insist that almost all others accepted the recommendation as pious and useful, and, more importantly, that three of the Holy Deputations approved it. As for the Deputation on Peace, it did not outright reject the recommendation but simply ignored it. Therefore, in defending this recommendation today, I not only act on my own behalf but also on behalf of The Twelve and indeed on behalf of the whole Council. I intend to have a friendly rather than acrimonious debate with a few people who are not - as I believe - correctly informed about the matter.

And now we come to the matter at hand.

Recommendation of The Twelve

[4] This was the recommendation:

As the Lord Pope, Eugenius², has been suspended, for just reasons, not only the bestowal of benefices,³ but also the provision⁴ of cathedral churches and other churches that would have been made by him have devolved upon this Holy Council. It is important that the Council should not do what the pope has been criticised for. Therefore, only suitable persons should be given ecclesiastical office⁵, and they should excel not only in learning but also in merits of life and in integrity so that they may benefit the people entrusted to them, both by words and by example. This should be observed in the provision of all offices, but especially in the appointment of bishops, since these must be above reproach and have other qualities required by the Apostle.⁶ Therefore, those prelates who are now or will later be entrusted with episcopal nominations should be invited to have this in mind and to diligently examine the reputation of the candidates so that they do not disregard their obligation to question a number of witnesses concerning the merits of the respective candidates. And this obligation is laid upon the commissioners that, having made their report, they should keep their oath and publicly submit their votum, according to God and their own conscience, to the General Congregation so that others may be able to discuss the matter in the deputations, justly and freely under God.

¹ "in specula"

² Eugenius IV (1383-1447): Pope from 1431 to his death. Dissolved the Council of Basel in January 1438. The council, no longer re-

cognised by the pope, suspended him later in the same month and deposed him in June 1439

³ I.e., ecclesiastical offices of all kinds

⁴ Canonical Provision is a term signifying regular induction into a benefice (Catholic Encyclopedia)

⁵ "provisio"

⁶ 1. Timothy, 3, 2-3

[5] Audistis, optimi patres, avisamentum. Nunc quae ratio XII viros traxerit, et quid in adversum dicatur, animadvertite. Nec vos diu suspensos tenebo. Considerabant ipsi XII indecorum magno conventui vestro, quod aliqui hic fiant episcopi, qui nec litteris nec moribus polleant, et qui digitulis populi demonstrantur ad ignominiam, dicatque vulgus: “Ille vel ille est, quem sacra Basiliensis synodus creavit episcopum.” Neque enim vos fugit, quod apud summum pontificem non sine gravi discussione creantur episcopi, et quia tamen indigni quidam et inepti penitus promoventur, omnes Romanam curiam subsanamus. Quid si talia in vestro concilio fiant, quid si magis inepti per sanctum synodum quam per dominum apostolicum assumantur? Nonne clamabitur, quia *festucam in alienis magis quam trabem in vestris oculis attenditis?*

[6] Et cum sitis ad reformationem coacti, cavendum omnino est, ne videamini deformasse, quod quidem indubitanter eveniet, si tales episcopos ordinabitis, *quorum sermonem vituperent opera, ne forte, sicut Jeronimus ait, cum in ecclesia eorum quispiam loqui coeperit, tacitus quisque respondeat: cur haec ipse non facis? Non est facile stare loco Pauli et tenere gradum Petri¹ jam cum Christo regnantium.* Non parva res est episcopum esse, *nec omnes episcopi, ut idem Jeronimus inquit, episcopi sunt; attendis Petrum, sed et Judam considera.* Non est passim cuique hujusmodi dignitas committenda. Probet se unusquisque, et sic ad episcopatum accedat. *Episcopi* namque, si beato Clementi creditis in ea epistola, quam dicitur ad Jacobum fratrem domini conscripsisse, *vicem apostolorum tenent et reliquorum discipulorum presbyteri.*

¹ *em. HA; omit. V*

3. Arguments for and against the recommendation

[5] Excellent Fathers, you have heard the recommendation. Now hear the reasoning of the Committee of Twelve and what may be said against it. I shall not keep you in suspense for long. The Twelve considered that it would be highly improper for this great assembly to appoint bishops who were unsuitable both with regard to education and to personal qualities, and who might be scorned by the people, saying: "He and he were made bishops by the Holy Synod of Basel." You are aware that although the Supreme Pontiff does not appoint bishops without serious discussion, it sometimes happens that completely unworthy and unqualified persons are appointed – indeed, this is one of the reasons that we are now all endeavouring to reform the Roman Curia. But what if the same happens in your own council? What if the Holy Synod appoints more unqualified persons than the Apostolic Lord?¹ Will it not be said that you are more concerned about *the mote in another man's eye than about the beam in your own*?²

[6] Your task is to reform matters, so you must beware of making them worse. And this is what will undoubtedly happen if you ordain bishops *whose actions, as Jerome says, belie their words, so that when one such begins to speak in a church someone may mentally reply: 'Why do you not practice what you profess?'*³ *It is not easy to take the place of Paul and hold the office of Peter, both of whom now reign with Christ.*⁴ Being a bishop is not a small matter, and as the same Jerome said: *Not all bishops are bishops indeed; you consider Peter; mark Judas as well.*⁵ This dignity should not be bestowed on anyone carelessly. Let each one prove himself, and then he may become a bishop. For, if you believe the words of the blessed Clement⁶ in the letter he is said to have written to James⁷, the Lord's brother, then: *The Bishops hold the place of the apostles, and the priests hold the place of the other disciples.*⁸

¹ I.e., the pope

² Matthew, 7, 3

³ Jeronimus: *Epistola ad Nepotianum* (60), 7. MPL, XXII, col. 533. Translations quoted after JL

⁴ Jeronimus: *Epistola ad Heliodorum* (14), 9. MPL, XXII, col. 353.

See also Decretum Gratiani, C.2.7.29, col. 492

⁵ Jeronimus: *Epistola ad Heliodorum* (14), 9. MPL, XXII, col. 353

⁶ Clemens (d. 99): Pope from 92 to his death

⁷ This letter is not by Clement I but forms part of the Pseudo-Cle-

mentine Writings, a religious romance that purports to contain records made by Clement I, including materials on the the Apostle Peter

⁸ *Pseudo-Clementine Writings. The letter of Clement to the apostle James*, 30

[7] Apostolus ergo est qui episcopus est. Apostolum autem esse, quid aliud est quam unum ex illis fore, quibus apud Matthaeum dominus ait: *Amen dico vobis: quaecumque ligaveritis super terram, erunt ligata et in caelis, et quaecumque solveritis super terram, erunt soluta et in caelo.* Claves nempe regni caelorum suscipit, quisquis creatur episcopus peccantemque hominem *tradere potest Satanae in interitum {200r} carnis, ut spiritus salvus fiat.* Cujus rei¹ sublimitatem Jeronimus circumspiciens ad Heliodorum scribit in haec verba: *Quodsi te inquit ad eundem ordinem pia fratrum blandimenta sollicitant, gaudebo de ascensu, timebo de lapsu.* Intelligebat nempe, quid esset episcopum fore.

[8] At nos hodie sine delectu aliquo creamus episcopos priusque aliquos imperitorum magistros efficimus, quam ipsi doctorum discipuli umquam fuerint, nec cogitamus, quoniam detrimentum pecoris pastoris est ignorantia. Sed o infelicem hodie statum ecclesiae! O ignorantiam temporis! Rem facilem et ominino levissimam arbitramur episcopatum. Ac si liberis nostris quaerimus paedagogum, tum illum ornatum, tum bonis moribus et honestate pollentem exigimus, tum grammaticae atque rhetoricae peritissimum. In eo vero, qui non solum uni familiae, sed uni civitati infinitisque animabus praeficitur, nec litteras quaerimus, nec mores egregios. Omnes clamitant, quia *qui episcopatum desiderat, bonum opus desiderat. Est² ista,* inquit Jeronimus - libenter namque gravissimi viri testimoniis in hac re utor. Sed junge, quod sequitur: *Oportet autem hujusmodi inreprehensibilem esse, unius uxorem virum, sobrium, pudicum, prudentem, ornatum, hospitem, docibilem³, non vinolentum, non percursorem⁴, sed modestum.*

¹ em. HA; res V

² scimus est V; scimus Jeronimus

³ doctorem Vulgata

⁴ percussorem Vulgata

[7] So to be a bishop is to be an apostle. And to be an apostle is nothing else than being one of those to whom the Lord says, in Matthew: *Amen I say to you, whatsoever you shall bind upon earth, shall be bound also in heaven: and whatsoever you shall loose upon earth, shall be loosed also in heaven.*¹ For whoever is made bishop receives the keys of the Kingdom of Heaven and he may *deliver a sinner to Satan for the destruction of the flesh, that the spirit may be saved.*² Seeing the greatness in this, Jerome wrote to Heliodorus: *Should the entreaties of your brethren induce you to take orders, I shall rejoice that you are lifted up, and fear lest you be cast down.*³ For he really understood what it means to be a bishop.

[8] But today we appoint bishops without careful selection, and those who have never themselves been disciples of the learned we appoint as teachers of the unlearned. We do not consider how harmful the shepherd's ignorance is to his flock. Oh, the unhappy state of the Church today! Oh, the ignorance of the times!⁴ We think that the episcopate is an easy and light affair. When we require a teacher for our children, we want a reputable person with excellent personal qualities and integrity, and someone who is a specialist both in grammar and rhetoric. But in someone who is to be made the head not only of a family but of a city and of countless souls, we look neither for learning nor for excellent personal qualities. All proclaim that *if a man desires the office of a bishop, he desireth a good work.* "I know that," says Jerome - for in this matter I would rather use the testimony of a very serious person.⁵ But note what he adds: *Such a one must be blameless, the husband of one wife, vigilant, sober, chaste, of good behaviour, given to hospitality, apt to teach, not given to wine, no striker, but patient.*⁶

¹ Matthew, 16, 18. As a proper conciliarist, Piccolomini applies these words, said by Jesus to Peter, to all bishops

² 1. Corinthians, 5, 5

³ Jeronimus: *Epistola ad Heliodorum* (14), 8. MPL, XXII, col. 352

⁴ Note the rethorical figure of exclamation, of which Piccolomini was quite fond

⁵ Piccolomini shared his admiration of Saint Jerome with other

humanists: *The admiration of Italian humanists for Jerome is thus a single instance of a larger cultural phenomenon, the rediscovery and reevaluation of Christian antiquity, itself an integral part of the rediscovery and reevaluation of ancient arts and letters* (Rice, p. 85). The only work of Jerome used by Piccolomini in his orations (and only until 1452) was Jerome's Letters. Piccolomini had probably studied a volume

containing these letters in the possession of Archbishop Pizzolpasso, and he even made a collection of excerpts from it to be used in his own later work, still extant in a manuscript in the Vatican Library, the Chis. J.VII.251, ff. 260r-262v

⁶ Jeronimus: *Epistola ad Heliodorum* (14), 8. MPL, XXII, col. 352. After 1. Timothy 3, 1 ff

[9] Unum tamen in hoc loco non praeteribo, quoniam in his verbis de presbyteris apostolus loquebatur episcopatumque, ut saepe facit, pro presbyterato posuit. Namque cum ait ad Titum: *Hujus rei gratia reliqui¹ te Cretae, ut ea quae desunt corrigas et constituas per civitates presbyteros, quemadmodum tibi disposui. Si quis sine crimine est, unius uxoris vir, filios habens fideles, non in accusatione luxuriae aut non² subditos: oportet enim episcopum sine crimine esse, notum est, quia³ presbyterum vocavit episcopum. Et ut in hoc quoque Jeronimi auctoritate utamur, sic ille de gradibus sacerdotalibus inquit: *Philippi⁴ certe una Macedoniae civitas est, et cum ibi apostolus Paulus episcopis et diaconibus scribat⁵, quid omnino nisi eos qui sunt⁶ presbyteri episcopos vocat?* Quae auctoritas valde confundit eos, qui negant inferiores presbyteros cum episcopis, sicut nunc agimus, judicari. Expresse enim inquit Jeronimus, quia *presbyteri sacerdotum*, id est episcoporum, *interesse concilio debent.**

¹ *em.* HA; reliqui qui V

² *em.* HA; deis V [*sic!*]

³ *em.* HA; qui V

⁴ *em.* HA; Philippus V

⁵ scripsit Pseudo-Jeronimus

⁶ praesunt Pseudo-Jeronimus

[9] One thing I shall not pass over: here the Apostle spoke about priests, and, as he often did, he used the terms “bishop” and “priest” interchangeably. For it is clear that he called the priest a bishop in this passage from his letter to Titus: *For this cause I left thee in Crete: that thou shouldest set in order the things that are wanting and shouldest ordain priests in every city, as I also appointed thee: If any be without crime, the husband of one wife, having faithful children, not accused of riot or unruly. For a bishop must be without crime.*¹ And - so as to use the authority of Jerome on this issue, too - this is what he wrote about the degrees of priesthood: *Philippi*² *is a city in Macedonia, and when the Apostle Paul writes to the bishops and deacons there, it is clear that he calls the priests there bishops.*³ This authoritative statement greatly embarrasses those who deny that the lower order of the priests should sit in judgement together with the bishops, as we practice it now.⁴ For Jerome says expressly that *presbyters should participate in the council of priests, i.e., bishops.*⁵

¹ Titus, 1, 5-7. Quoted by Pseudo-Jerome, 6. MPL, XXX, col. 157

² Philippi: city in eastern Macedonia, established by Philip II of Macedon in 356 BC. One of the Pauline letters, i.e., the Philippians, is addressed to the Christian community in Philippi

³ Philippians, 1, 1: *Paulus et Timotheus, servi Jesu Christi, omnibus sanctis in Christo Jesu, qui sunt*

Philippis, cum episcopis et diaconibus. Quoted by Pseudo-Jeronimus, 6. MPL, XXX, col. 157

⁴ Here Piccolomini refers to the question whether simple priests or only bishops should be members of an ecumenical council or have a vote in the deliberations. At the Council of Basel, the proportion of members who were not bishops was unusually high, so

high that the opponents of the council used this fact to criticise the validity of its decisions. Piccolomini himself was by then a full member of the council but not a bishop or even a priest, so he had a personal interest in the issue

⁵ Pseudo-Jeronimus, 6. MPL, XXX, col. 157

[10] Sed ut ad propositum redeam, si ibi apostolus tam multa in presbyteris requirit, quid in episcopis creditis eum requisivisse? Scitum est illud, quia cui plus *creditur, plus ab eo exigitur*. Ac nobis hodie non sufficit priores illos ecclesiae ordines confundisse, supremum etiam episcopalem evertere festinamus. Respicite ad fossarios, hostiarios, atque lectores! Quae nunc horum ordinum existimatio est? Venio ad subdiaconos atque levitas. Nonne is etiam ordo contemnitur? Plus tamen de presbyterali doluerim, in quo gradu, licet sit ille sublimis, tales interdum poni videmus, ut non solum officium, sed ornamenta quoque officii vituperentur. Nam neque claudos neque {200v} parte membrorum carentes neque, quod pejus est, genus aliquod hominum a sacerdotio rejicimus et nonnumquam tales ad mensam domini et ad conficiendum sacratissimum Christi corpus admittimus, quos esse nobiscum in epulis nullo modo pateremur. Ideoque cum isti ordines jam paene ceciderunt ex indiscreta cujuslibet admissione, videbatur XII viris circa supremum ordinem providendum, ne gradum quoque hujusmodi, hoc est episcopalem, penitus destruamus, quod quidem omnino fiet, nisi major in creandis episcopis discussio fiat. Ea de causa necessarium putaverunt advisamentum, quod supra retulimus, vestris offerre conspectibus.

[10] But, turning back to the matter at hand, if here the Apostle demanded so much from the priests, what do you think he required from the bishops? It is known that ***to whom they have committed much, of him they will demand the more.***¹ It appears, however, that today we have not just brought disorder into the lower clerical orders;² no, we are also hastening to overthrow the highest, episcopal, order. Look at the gravediggers, the gatekeepers, and the readers: how are these orders esteemed today? And coming to the subdeacons and the deacons: is their order not despised, too?³ The priestly order, however, pains me even more, for though this order is exalted, we sometimes see such persons placed in it who shame not only the office itself but even its ornaments. For we do not keep cripples and amputees and, what is worse, a certain kind of people⁴ away from the priesthood, and sometimes we admit to the table of the Lord and the making of the Holy Body of Christ such people as we would not at all suffer to join us for meals. As these clerical orders have almost been destroyed because of the indiscriminate admittance of everybody to them, The Twelve have found that steps must be taken concerning the highest order, lest the episcopal dignity be completely destroyed, for that is what will happen if there is no serious examination before bishops are appointed. Therefore, The Twelve have considered it necessary to submit the aforementioned recommendation to you.

¹ Luke, 12, 48

² In Pseudo-Jeronimus, the seven holy orders (minor and major) are the gravediggers, the doorkeepers, the lectors, the subdeacons, the deacons, the priests, and the bishops. In the later Church, the seven holy orders are the door-

keepers, the lectors, the exorcists, the acolytes, the subdeacons, the deacons, and the priests (with bishops). There has evidently been a development concerning the lower orders, which Piccolomini considers problematic

³ Note the device of the rhetorical question, which Piccolomini used quite often

⁴ The meaning is unclear: Piccolomini omits to say what kind of people he is talking about, possibly because his audience would be quite aware of it

[11] Cujus avisamenti duae praecipuae fuerunt partes: altera ut testes in episcopalibus causis audiendi ex officio quoque commissariorum examinentur, altera ut facta relatione in auditorio generali votum suum medio juramento commissarii emittant, ne scilicet ordo iste episcopalis videretur contemni, neve in sacro concilio vituperare aliquis promotos et promoventes posset. Nec hoc sufficere XII viri in tanta re putaverunt, sed esse obicem quemdam in effrenatis quorundam ambitionibus, qui dignitatem episcopalem non solum poscere, sed etiam emere audent. Sed *inimicus*, inquit¹ apostolus Paulus, *vobis factus sum verum dicens; et quoniam salvatoris dura videbantur eloquia, plurimi discipulorum retrorsum abierunt*. Unde non mirum est, si et ipsi XII viri vitiiis detrahentes et ambitionibus aliquorum obstantes complures offenderint, qui nolentes se emendare avisamento resistunt, ipsum tamquam ineptum et omnino inutile rejiciunt. Existimo tamen aliquos fore, quos recta intentio, parum tamen examinata, in avisamentum armaverit. Nec enim omnes reprehendo, qui contra XII viros senserunt, sed tantum quos neque ratio neque bonitas, sed sola movit ambitio. Utcumque est, tamen tam istis quam illis est respondendum: illis ut melius informati veritatem cognoscant, et istis ut hoc proelio victi moliri deinceps talia erubescant. Ceterum tempus est, ut ipsos audiamus.

¹ dicit HA

[11] The recommendation has two main parts: one says that in episcopal cases, the commissioners should be obliged to personally examine the witnesses to be heard. The other says that upon their report to the General Congregation, the commissioners should give their *votum* under oath. The purpose is that the episcopal order should not be seen as unimportant and that nobody in the Holy Council may blame those who promote a case or those whose case is promoted. In view of the importance of the matter, The Twelve actually considered this measure insufficient, but they still believe that it would function as a barrier to the frenetic ambitions of those who not only demand the episcopal dignity but who even have the temerity to buy it.¹ *Am I then become your enemy, because I tell you the truth,*² says the Apostle Paul. *And since many of the disciples found the sayings of the Saviour to be hard, they went away.*³ Therefore, it is not to be wondered that The Twelve, in countering vice and obstructing the ambitions of some people, have offended many who do not wish to amend their ways⁴ and therefore oppose the recommendation, rejecting it as unsuitable and completely useless. I do believe, however, that some well-intentioned people are against the recommendation because they have not yet considered it sufficiently. And I do not criticise all those who disagree with The Twelve, but only those who are moved neither by reason nor by goodness, but only by ambition. Both groups should have a reply, though: the first one⁵ so that, having become better informed, they may know the truth of the matter; and the second one⁶ so that, having been defeated in this battle, they will be too ashamed to continue their struggle.

Now it is time to hear their arguments.

¹ Thus committing the sin of simony

² Galatians, 4, 16

³ Jeronimus: *Epistola ad Marcellam* (40), 1. MPL, XXII, col. 473. Cf. John, 6, 61, 67

⁴ Cf. Jeronimus: *Epistola ad Marcellam* (40), 1. MPL, XXII, col. 473

⁵ I.e., those who are not moved by ambition

⁶ I.e., those who are moved by ambition

[12] Primam avisamenti partem ideo damnant, quoniam nihil afferat novi, jurisque fore vetusti asserunt, ut ex officio testes in episcopalibus causis interrogentur. Quis istud negat? An ideo laceramur, quia veterem legem cupimus innovari? Quis nescit Constantiensis concilii decretum esse, quod incipit *Frequens*? At¹ id vos quoque, reverendissimi patres, innovavistis. Toletanum decretum est, ne qui strepere aut tumultum facere in sacris congregationibus audeant. Num istud etiam in vestris sessionibus est repetitum? Qui nobis detrahit, et vobis detrahit, sanctissimi patres. Praetereo symbolum fidei in magna Nicaena synodo editum, quam multa ex post concilia repetierint. Evolvite digestorum pandectorumque codices, aspiciate decretales epistolas: errore hujusmodi, si {201r} error est aliquis, omnia plena invenietis! Quid - obsecro - est quod novas quotidie membranas tingimus? Cur tot leges ad humani generis salutem perscribimus? Sufficerent nobis, quae scripta sunt, et utinam antiquorum leges observaremus! *Si vis ad vitam ingredi*, ait dominus, *serva mandata*. Atque - ut circumscriptius loquar - unico praecepto lex tota impletur: *Omne quod tibi fieri nolueris, alio ne feceris*. Quid igitur dietim novae constitutiones emergunt? Nempe ut novis legibus custodiantur antiquae.

¹ *em.* HA; ad V

3.1. Witnesses

[12] The first part of the recommendation¹ they reject because it brings nothing new but simply reaffirms the old law stipulating that in episcopal cases witnesses must be heard. But who refutes that? Are we being chastised because we want to uphold an old law? All know that the decree *Frequens* was passed by the Council of Konstanz, but, Reverend Fathers, this decree you have yourselves renewed.²

A decree from the synod of Toledo says that nobody should have the temerity to make noise or disturbance in the sacred congregations. Has this decree not been repeatedly read in your own sessions? So, Holy Fathers, those who criticise us, criticise you, too!

I pass over that the confession of faith issued by the great Synod of Nicaea has been repeated afterwards by many councils.

If you leaf through the digests and the pandects and look at the decretals, you will find that they are all full of this same mistake, if mistake it is. Why indeed - I ask - do we fill new parchments every day? Why do we write so many laws for the good of mankind? Wouldn't you think that those that have already been written would suffice, and ought we not simply observe the laws of the ancients? The Lord says: *If thou wilt enter into life, keep the commandments.*³ And to be more concise, the whole law is fulfilled in one command: *Whatsoever you would not want men to do to you, you should not do to them.*⁴ So, why is it that new constitutions appear daily? For this one and only reason that old laws must be preserved by new ones.

¹ I.e., "in episcopal cases, the commissioners should hear and examine witnesses *ex officio*"

² The decree *Frequens* was not reissued in Basel, but only read in the first session (Haller, p. 92, n. 2)

³ Matthew, 19, 17

⁴ A somewhat free rendition of Matthew, 7, 12: *All things therefore whatsoever you would that men should do to you, do you also to them (omnia ergo quaecumque*

vultis ut faciant vobis homines et vos facite eis)

[13] Nec latebat XII viros legem esse de testibus - ut aemuli garriunt - veterem, sed stare illam in medio librorum mutam atque elinguem nec aliquos circa eam respicere. Videbant creari episcopos nec alios examinari testes, nisi¹ quos² promovendus ipse produxisset³. Quo factum est, ut aliqui ita puri et mundi probati sint, ut sola miracula ad sanctitatem deforent. Nescio, an conscientiae vestrae sic de illis existimaverint. Mihi videtur eo miseriarum ecclesiam devenisse, ut ridiculos magis quam veros pastores conspiciamus. Nec sine dolore referre possum, quod in facie universalis ecclesiae cum risu ac joco creentur, ubi fuissent oculi nostri uberibus lacrimis irrigandi. Sed malum hujusmodi nihil aliud peperit quam lex illa de testibus oblitterata et omnino abjecta. Quam si XII viri nunc cupiant renovari, videte an juste in ora quorumdam tamquam reprehendendi ceciderint! Sed clamat apostolus, quia *si hominibus placere vellem, Christi servus non essem*.

¹ *em. HA; omit. V*

² *em. HA; quis V*

³ *produxit HA*

[13] Contrary to the blatherings of the critics, The Twelve were not ignorant of the old law concerning witnesses, but it is sitting there in old books, mute and without speech, and nobody pays any attention to it. They saw that bishops are appointed without witnesses being examined other than those whom the candidate himself produces. Some candidates have actually been shown to be so pure and unblemished that only miracles were needed for them to be saints! I do not know whether, in conscience, you really thought thus about these men. But I think that the misery of the Church has come to a point where we see ridiculous rather than true pastors. It pains me to report that, before the Universal Church, our pastors are appointed with laughter and jokes when our eyes should be filled with tears. This wicked state of affairs has come about precisely because the old law on witnesses has been forgotten and thrown away. If The Twelve want to uphold it now, consider whether it is fair to criticise them for it. But the Apostle says that *If I yet pleased men, I should not be the servant of Christ.*¹

¹ Galatians, 1, 10

[14] Adversarii tamen hac prima congressione devicti aliud pugnae genus instituunt et una cervice abscissa in morem hydrae aliam erigunt. Quid respondebis, inquit, mihi ad jusjurandum? Dignumne tibi videtur juramento astringi commissarios? Hoc si fiat, nullus erit episcopus. Quis namque jurare velit istum vel illum episcopatu dignum existere? Unus profecto in nostra deputatione fidei gravi et firmo judicio pater juramentum hujusmodi refellebat - elemosinarium dico et oratorem serenissimi regis Aragonum¹, cui quantum ipse tribuam non facile dixerim - sed extimo, quia nihil praemeditatum haberet. Tanta est enim illius viri praestantia, ut nihil ab eo appensate dictum non verum aut non rectum putem. At in re subitanea doctissimi saepe viri falluntur, ut fortissimos quosque milites subita bella conturbant et ante cogunt fugere quam arma capessere. Referam tamen, quod ipse vir insignis contra jusjurandum adducebat. Fuisse conterraneum suum dixit, qui asserenti Petro de Luna sive - ut ipse² ait - Benedicto XIII., ideo se diutinam ecclesiarum ferre vacationem, quod nullum episcopatu nosceret dignum. "Arbitrabar, o summe pontifex," retulit, "usque in hanc diem sapientem te fore, nunc vero stultissimum omnium judico, qui {201v} alios quaeris homines quam saecula nostra producant."³ Laudabat elemosinarius facetum hominis dictum timebatque, ne dato commissariis juramento alios Benedictos efficeremus nec quemquam inveniremus, quem jurare idoneum commissarii vellent. Sed fuit forsitan Benedictus nimis extremus nimiumque, ut ajunt, vivendi normam restringebat, nesciens quia populi⁴ omnem exsuperantiam virtutis oderunt.

¹ *em. HA; Araganum V*

² *em. HA; ipsi V*

³ *em. HA; producat V*

⁴ *em. HA; populus V*

3.2. Oaths

[14] Having been defeated in the first engagement, our adversaries now begin another kind of fight, and like the Hydra¹ they grow a new head for each one cut off. “What will you answer me,” they say, “concerning the issue of the oath? Do you really think it is proper to obligate the commissioners by means of an oath? If that happens, then there will be no bishops, for who will have the courage to swear that this or that man is worthy of becoming a bishop?” Indeed, in our Deputation on Faith,² there was one Father,³ a man who is otherwise of solid and firm discernment, who spoke against the oath in this way (I am talking about the almoner and the orator of His Serene Highness, the King of Aragon,⁴ and cannot say how much I owe him). But I believe that he was taken unprepared, for this man is so admirable that everything that he says upon reflection I consider to be true and right. But when things happen suddenly, even the most learned men make mistakes, just like the strongest soldiers caught in sudden combat are forced to flee before they can get their weapons. But I shall tell you what this distinguished man said against the oath. Once Pedro de Luna - or Benedict XIII as he called himself⁵ - said that he would accept a diocese being left vacant as long as there was no one worthy of becoming its bishop. Then a compatriot of our almoner answered him: “Supreme Pontiff, until now I thought that you were a wise man, but now I consider you to be the greatest fool of all since you want other men than our time brings forth.” The almoner praised the facetious remark made by this man and expressed the fear that if we forced the commissioners to take an oath, then we would create other Benedicts, and we should find nobody whom the commissioners would swear were suitable. But maybe Benedict was too extreme and too severe when it came to standards of behaviour and disregarded the fact that people hate all excesses of virtue.

¹ The Lernaean Hydra: an ancient serpent-like water monster with several heads (Greek mythology). When you cut off one head, as Hercules did, more heads would grow out

² Confirmation that the author of the oration was also a member of the Deputation of Faith

³ Bernhardus Serra, cf. Helmuth, p. 241

⁴ Alfonso V the Magnanimous (1396-1458): King of Aragon and Sicily from 1416 to his death. At the time, he opposed, together with the Duke of Milan, Pope Eugenius IV and therefore favoured the Council of Basel. However, he did not recognise the deposition

of the pope, with whom he was getting reconciled

⁵ Benedict XIII: antipope. He was one of the three popes deposed by the Council of Constance in 1417. He continued to consider himself pope, residing in the Kingdom of Aragon until his death in 1423

[15] Namque, sicut Romanus orator inquit, *Aristides*, graecus philosophus, *ob eam causam expulsus est patria, quod praeter modum justus esset. Philosophorum quoque sententia est*, ut Jeronimus noster scribit, *moderatas esse virtutes, et excedentes modum atque mensuram inter vitia reputari*. Unde et unus de VII sapientibus *ne quid*¹, ait, *nimis*. Quod tam celebre factum est, ut comico quoque versu expressum sit. At non illa XII virorum mens fuit. Non enim de diis, sed de hominibus sciebant esse assumendos episcopos. Et sicuti Cicero in eo, qui est *De amicitia* libro, sapientes illos, qui Romae fuerunt, non ad exactam philosophiae disciplinam metitur, sic nos episcopos nostri temporis non ad apostoli normam omnino redigimus, sed utimur pinqui Minerva. Nec enim Phoenicem in Arabiae desertis vestigamus². Sufficit nobis plus boni quam mali in episcopis apparere, quamquam quis prohibet, nunc etiam servandas esse leges apostoli.

[16] “Num jus ipsum divinum semper viride est et semper loquitur?” En justa excusatio erit: ideo indignum recipio, quia nescio dignum! *Quasi vero*, inquit³ Jeronimus, *Deo deficiant sacerdotes*. Heu nimium timidi, qui cum Elia clamatis: *Prophetas tuos occiderunt et altaria tua suffoderunt, et ego relictus sum solus*. Audite responsum domini ad eum: *Reliqui mihi*, inquit, *VII millia virorum, qui*⁴ *non curvaverunt*⁵ *genua sua ante Baal*. Ne credamus, sicut alii stulte putant, ad unicam vetulam posse redigi fidem, quia *vobiscum sum*, dixit dominus, *usque ad consummationem saeculi*, ususque est non singulari verbo, sed plurali, sciens quoniam semper essent in fide complures. Vana est igitur illa et deridenda penitus excusatio: propter penuriam hominum suscipiamus indignos, ideoque jurare nolumus, quia necessum sit perjurare⁶.

¹ *em.* HA; ne quid : nequit V

² investigamus HA

³ *em.* HA; inquit V

⁴ *em.* HA; que V

⁵ *em.* HA; corruaverunt V

⁶ *em.*; projurare V

[15] For as the Roman Orator¹ says, the Greek philosopher *Aristides*² was banished from his country because he was too just.³ And as our Jerome writes, *The philosophers believe that virtues are moderates and that carried to the extreme they become vices*.⁴ And one of the seven wise men⁵ says: *Nothing in excess*. This saying became so famous that the Comic Poet⁶ used it in one of his verses.⁷ But this was not the intention of The Twelve, for they knew that bishops are not picked from among the gods but from men. And as Cicero says in his book *De Amicitia*, *the wise men who were in Rome were not measured by the exact standard of philosophy*.⁸ Similarly, today we no longer form bishops after the standards of the apostle. Instead, we use the Fat Minerva,⁹ and we are not looking for Phoenix in the Arabian deserts.¹⁰ It is sufficient that there is more good than bad in our bishops. However, who would forbid anyone to follow the laws of the Apostle even today?

[16] “But divine law itself does not always flourish, and it does not always speak.”¹¹ That is really a wonderful excuse: I must approve an unworthy [candidate] because I do not know anyone who is worthy! *As if God, says Jerome, would be lacking in priests!*¹² They are very timid who cry with Elias: *Lord, they have slain thy prophets, they have dug down thy altars. And I am left alone*.¹³ Hear the Lord’s answer to him: *I have left me seven thousand men that have not bowed their knees to Baal*.¹⁴ Let us not think, as some foolish people do, that Faith can be reduced to one little old woman, because *I am with you*¹⁵ all days, says the Lord, *even to the consummation of the world*.¹⁶ And he did not use “you” in the singular but in the plural, knowing that there will always be many who have faith. So, it is an empty and ridiculous excuse that “the scarcity of suitable persons makes it necessary to accept unworthy persons as bishops, and therefore we will not swear they are worthy, for that would be perjury.”

¹ Cicero, Marcus Tullius (106-43 BCE): Roman statesman and author

² Aristides (530-468 BCE): Athenian statesman, at some time banished in connection with a political conflict

³ Cicero: *Tusculanae disputationes*, 5.36.105

⁴ Jeronimus: *Epistola ad Demetriadem* (30), 11. MPL, XXII, col. 1116

⁵ Title given by ancient Greeks to a group of philosophers from the 7th and 6th century BC

⁶ Terentius

⁷ Terentius: *Andria*, 61

⁸ Cicero: *De Amicitia*, 5.18, freely rendered

⁹ Pinguis minerva: classical expression denoting a falling short of the high standards of Minerva (Athena), goddess of wisdom, sense and reflection

¹⁰ The mythological bird, Phoenix, is sometimes used as an image of the exceptional man

¹¹ The objection here is that even divine law in the sense of canon law may sometimes become obsolete or fall into disuse

¹² Pseudo-Jeronimus, 7. MPL, XXX, col. 160

¹³ 3. Kings, 19, 10, 14

¹⁴ 3. Kings, 19, 18

¹⁵ vobiscum, in the plural

¹⁶ Matthew, 28, 20

[17] Nec enim, si diligenter investigemus, in tantum defecit mundus, ut sceleratis hominibus ecclesias penitus oporteret commendare. Quod si verum esset, vacare potius ecclesias cum Benedicto velim, quam non pastoribus, sed lupis oves committere. Sed dicet adversarius meus: “Da mihi hominem sine crimine!” Cui respondebo, quia non jurant commissarii hominem sine macula fore. Juramentum est, quia pensatis omnibus aut committendam {202r} esse nominato viro ecclesiam putant aut nullatenus committendam. Quis hoc juramentum impugnet, quis hic resistat¹? Juramus omnes incorporati solum Deum et conscientiam in quovis negotio sequi. Jurati sunt iudices vestri, jurati sunt collatores, jurati omnes, quos emittitis oratores, jurati etiam litterarum vestrarum scriptores. Ac commissarii, qui causas episcopales examinant, non jurabunt? An non tritum est illud, quia ubi majus periculum est, ibi cautius est agendum? Quid - obsecro - majus est quam gratos pastores suis gregibus ordinare? An vultis in tanto dignitatis fastigio simoniae locum patere? At non sic Caesarum sanxit auctoritas – libet mihi etiam in hoc negotio saecularem adducere legem, cujus aurea verba et omni religioso viro dignissima referre in hoc loco constitui, ut qui nimium duos sacros canones arbitrantur², per saeculares codices erubescant. *Nemo gradum sacerdotii, ait Augustus³, pretii venalitate meretur⁴; quantum quisque mereatur, non quantum dare sufficiat extimetur. Profecto enim quis locus tutus, quae causa⁵ poterit esse excusata, si veneranda Dei templa pecuniis expugnentur? Quem murum integritati aut vallum fidei providebimus, si “auri sacra fames” veneranda templa proserpit⁶? Quid denique cautum esse poterit aut securum, si sanctitas incorrupta corrumpitur?*

[18] De episcopis loquitur imperator, ideoque paulo post subjicit: *Ita castus et humilis nostris temporibus eligatur episcopus, ut locorum quocumque perveniat, omnia vitae propriae integritate purificet. Non pretio, sed precibus ordinetur antistes. In tantum ab ambitu debet esse sepositus, ut quaeratur cogendus, rogatus recedat, invitatus effugiat⁷. Sola illi suffragetur necessitas excusandi. Profecto enim indignus est sacerdotio, nisi fuerit ordinatus invitus.* Quid hoc textu clarius expectatis vobis? Possum afferre ad propositum aptius? An hic brevibus verbis depictum⁸ quodammodo episcopum cernitis? Certe non haec tempore Pauli lex prodiit, sed multis postea saeculis emanavit, siquidem jus ipsum codicis Justiniani tempore collectum fuit, quem diu post Constantinum Magnum imperasse non ignoramus.

¹ em. HA; resistatur V

² em. HA; arbitrant V

³ em. HA; Augustinus V

⁴ mercetur em. HA

⁵ em. HA; terra V

⁶ em. HA; proserpitur V

⁷ em. HA; effugia V

⁸ em. HA; depidum V

[17] If we examine the matter carefully, the world has not come to the point where it is necessary to entrust the churches to wicked people. If that were true, I would side with Benedict and say, "Let the churches be vacant; do entrust them to wolves instead of shepherds." Here my opponent will object, "But who is without sin?" I will answer him that the commissioners are not required to swear that the candidate is without blemish. The oath will be that, everything considered, the church should be given to the nominee or not. Who would find fault with this oath; who would oppose it? When we become members of the council, we all swear to follow only God and our conscience in all matters. Your judges have sworn an oath; your *collatores* have sworn an oath; all those whom you send as your orators have sworn an oath, even those who write your letters have sworn an oath. But the commissioners who examine the episcopal cases should not swear? Is it not a common truth that the greater the danger, the greater the caution? What - I ask you - could be more important than appointing pastors who are acceptable to their flocks?

Or do you wish that in this great office there should be room for simony? But that has not been sanctioned by the authority of the emperors – I take the liberty of referring also to a secular law in this matter, and I have decided to quote it here, for its words are golden and worthy to be used in this context by any religious person, so that those who think that the holy canons¹ are too severe will blush when they hear what is said in the secular lawbooks: *No one, says the emperor, shall purchase a rank of priesthood by bribes; he shall be judged not by what he can pay, but by what he deserves. Surely, what place could be safe, what cause defended, if the venerable temples of God are captured by money? What bulwark for integrity or what protection of the Faith can we provide if the "accursed hunger for gold"² corrupts the holy temples? What, finally, may be protected or safe if uncorrupted holiness is corrupted?"*

[18] The emperor is speaking about bishops, and a little later he adds: *So let an unpolluted and humble man be chosen as bishop so that wherever he goes the spotlessness of his own life will purify all. Let him be ordained, not by money, but by prayers. He should be so far removed from corrupt sollicitation that he will be sought out, in order to be forced; who when asked, will turn back, when invited, will flee. To such a person, necessity only shall be ground of excuse. And surely he is unworthy of the priesthood, unless he is ordained unwillingly.*³ Could you ask for anything clearer than this text? Could I quote anything more relevant to the matter at hand? Do you not see how the bishop is described in these few words? This law certainly does not date back to the time of Paul, but was passed centuries later, for the law digest in question was prepared at the time of Justinian⁴ who, as we know, reigned long after Constantine the Great.⁵

¹ i.e., canon law

² Virgil: *Aeneis*, 3, 57

³ Emperors Leo and Anthemius to Armisius, Pretorian Prefect. In: Codex Justinianus, 1.3.30-31, De episcopis et clericis. Transl. quoted after Fred H. Blume: *Anno-*

tated Justinian Code. Edited by Timothy Kearsly. 2nd edition. 1.3.30(31)

⁴ Justinianus I (born c. 482, emperor 527, died 565): Byzantine emperor. Commissioned the codification of Roman law, the

Corpus Juris Civilis, which is still the basis of civil law in many modern states.

⁵ Constantinus I (c. 272-337): Roman Emperor from 306 to his death

[19] Quo tempore - licet non parum refriguisset caritas, et forsitan non meliores homines illud haberet saeculum quam nostrum - episcopus tamen ad normam requirebatur apostoli. Nec profecto mirum. Sciebat namque Augustus, quam magna esset episcopi dignitas, de cuius sublimitate et excellentia - si pauca pro captu nostro dixerimus - intelligant omnes, quia non vana neque indigna res foret ligare {202v} commissarios juramento. Quod ut brevissime faciam. Non me pudebit iterum atque iterum ad Jeronimum revertisse, cuius ad Heliodorum suum pauca haec, sed praegnantia verba leguntur: *Prudenterque Ennius ait:*

*plebs in hoc regi antestat loco:
licet lacrimare plebi, regi honeste non licet.*

Ut regi, sic episcopo, immo minus episcopo quam regi; ille enim nolentibus praeest, iste volentibus. Quae verba si quis diligenter evolvat, magnum mysterium intra se habent. Aequiperat namque regiae dignitati atque praefert episcopalem, et quod ille inter laicos est, idem vult esse inter clericos episcopum.

[20] Ostendit exinde, quoniam gratus populo episcopus esse debet. Nec enim aliter potest praeesse¹ volentibus, ideoque sanctissime mos eligendi pastorem extitit introductus, quoniam nemo sibi ingratum eligit. Eapropter cavere² commissarii debent, ne pastorem ingratum populo tribuant. Quod si secus efficiant, sciant se non episcopum, sed dominum atque tyrannum creare et omnino adversus praeceptum Christi venientem, qui ait apostolis suis: *Reges gentium dominantur eorum, et qui potestatem habent, domini vocantur. Vos autem non sic, sed qui major est vestrum, fiat sicut puer, et qui princeps est vestrum, fiat sicut minister.*

¹ prodesse HA

² em. HA; caveri V

4. Exaltedness of episcopal office

4.1. Bishops have the highest office

[19] At that time,¹ charity had not yet grown cold, but maybe men were not better than they are now. Be that as it may, they required bishops in keeping with the standard of the apostle. And by no means surprisingly so! For the emperor knew that the dignity of the bishop is great. For the sake of our own understanding, I shall say a few words about the exaltedness and excellence of this dignity so that all may understand that it is neither unimportant nor unworthy to bind the commissioners by an oath. I shall do that very briefly. I am not ashamed to return to Jerome again and again: a few but significant words that he wrote to his Heliodorus are relevant in this context: *Ennius wisely says:*

*The mob has one advantage o'er its king:
For it may weep while tears for him are shame.*

*If a king may not weep, neither may a bishop; indeed a bishop has still less license than a king. For the king rules over unwilling subjects, the bishop over willing ones.*² If you consider these words carefully, they contain a great mystery, for he puts the episcopal dignity on the same level as the royal dignity and even gives preference to the episcopal one, and he wants the bishop to have the same status among clerics that the king has among laypeople.

4.2. Bishops should be acceptable to the people

[20] Jerome goes on to show that a bishop should be acceptable to the people, for he can only be of benefit to people who want him.³ Therefore, the custom of electing the shepherd was introduced, and most properly so, for nobody chooses somebody he does not want. Therefore, the commissioners should take care not to give a shepherd to people who do not want him. If they do otherwise, they should know that they are appointing a lord and a tyrant, not a bishop – in complete defiance of the precept of Christ, who says to his apostles, *The kings of the Gentiles lord it over them; and they that have power over them are called lords.*⁴ *But you not so: but he that is the greater among you, let him become as the younger: and he that is the leader, as he that serveth.*⁵

¹ I.e., at the time of Justinian

² Jeronimus: *Epistola ad Heliodorum* (60), 14. MPL, XXII, col. 598

³ Jeronimus: *Epistola ad Heliodorum* (60), 14. MPL, XXII, col. 598

⁴ The bible text used by Piccolomini has "domini" instead of the usual "benefici" (beneficent)

⁵ Luke, 22, 25-26

[21] Tertium est quod doctor illustris inter sua verba Jeronimus cursim et quasi aliud agens inseruit, quia non tantum plorare, verum etiam *lacrimare episcopum* prohibet. Quod licet aliqui floccifaciant¹, ego in hoc verbo permagnum latere mysterium cerno. Vult namque huiusmodi hominem, qui episcopus sit, lacrimas ignorare. At quid aliud est carere lacrimis, quam omni carere turbatione? Abesse vero turbationem quietum indicat animum, nec quietus cujusquam animus esse potest, nisi prudenter et honeste viventis. Qui ergo illacrimabilem poscit episcopum, quid aliud flagitat quam sapientiae studiis esse deditum? *Sapientia enim*, ut inquit Cicero, *semper eo contenta est, quod adest, nec eam umquam sui poenitet*. Ideoque sola est quae auferre potest episcopo lacrimas. Episcopus ergo nec divitiarum amissionem, nec famae perditionem, nec propinquorum mortem, nec exilium, nec carcerem, nec vincula, nec vulnera, nec se ipsum morti traditum honeste poterit deplorare.

[22] Laudatissimus est Hercules inter veteres ejusque opera divinis poetarum carminibus celebrantur. Perfectiorem tamen episcopum volo, quam ille fuerit. Non decent² episcopum illae voces: *O ante victrices³ manus, o pectora, o⁴ terga, o lacertorum⁵ tori*, quibus deflare illum Sophocles introducit. Indignus est, quem imitetur sacerdos, apud Hesiodum clamitans Prometheus: *Titanum soboles socia vestri {203r} sanguinis generata caelo, aspiciate religatum asperis junctumque saxis! Saturnius me sic fixit Jupiter*. Nolo his lacrimis madidum esse episcopum, Anaxagoram illi praebeo imitandum, quem ferunt nuntiata morte filii dixisse: *Sciebam me genuisse mortalem*. Sit ejus vultus Socratico similis, quem ferunt uxorem ejus Xantippem numquam vidisse mutatum. Oileum⁶ nolo sequatur, qui cum *Thelamonem de morte Ajacis⁷ filii consolatus fuisset, interitum proprii⁸ nati patienter ferre nescivit; de cujus mutata mente sic apud Sophoclen⁹ dicitur: Nec vero tanta praeditus sapientia quisquam est, qui aliorum aerumnam dictis allevans non idem cum fortuna mutata impetum convertit clade, ut subita frangatur sua ut illa ad alios dicta et praecepta excidant*.

¹ *em.* HA; flectifaciant cod.

² *em.* HA; decens V

³ *em.* HA; indrices V

⁴ *em.* HA; et V

⁵ *em.* HA; sacerdotum V

⁶ *em.* HA; Orleum V

⁷ *em.* HA; Axaxis V

⁸ *em.* HA; pii *em.* HA

⁹ *em.* HA; Sophoden V

4.3. Bishops should be of tranquil mind

[21] Thirdly, the illustrious Doctor, Jerome, in passing and as if speaking about something else, forbids the *bishop* not only to lament¹ but even to *shed tears*.^{2 3} Though some may scoff at this, I myself see a very great mystery in these words. For Jerome wants the man who is a bishop to be without tears. But what is being without tears other than being free of any disturbance? The absence of disturbance indicates a tranquil mind, and a mind can only be tranquil if it lives prudently and decently.⁴ Requiring a bishop to be without tears is the same as wanting him to be engaged in the occupations of wisdom. As Cicero says, *wisdom is always contented with its present lot and is never self-repentant*.⁵ Therefore, wisdom is the only thing that may remove the tears from a bishop. So, a bishop may not, with decency, cry over the loss of riches, the loss of reputation, the death of relatives, exile, imprisonment, chains, wounds, or even his own death.

[22] Among the ancients, Hercules is highly praised, and his achievements are celebrated in the divine songs of the poets. But I want the bishop to be more perfect than him. These words do not befit a bishop: *O once victorious hands, o breast, o back, o muscles of my arms*,⁶ with which Sophocles begins his lament over him. And Prometheus is not worthy of being imitated by a priest, when he cries, in Hesiod⁷: *Offspring of Titans, linked in blood to ours, children of Heaven, see bound to rugged cliffs a prisoner... Jupiter, Saturn's son, thus nailed me here*.⁸ I do not want the bishop's face to be moist with such tears. On the contrary, I bid him to imitate Anaxagoras: when he was informed about the death of his son, he reportedly said: *I knew that I had sired a mortal*.⁹ Let his face be like Socrates', whom they say that Xantippe, his wife, never saw changed. Let the bishop not follow Oileus, who *consoled Telamon about the death of his son, Ajax*, but was unable to bear the death of his own son with equanimity. Thus says Sophocles about his change of mind:

*And there is none of wisdom so possessed,
Who with mild words has soothed another's woes
But does not, when a turn of fortune comes,
Fall broken by his own calamity.
So words, for others wise, his own need fail.*¹⁰

¹ "plorare"

² "lacrimare"

³ Jeronimus: *Epistola ad Heliodorum* (60), 14. MPL, XXII, col. 599

⁴ This is a major theme in Piccolomini's orations "Si quis me roget" [2] of 1438 and "Non est apud me dubium" [6] of 1445

⁵ Cicero: *Tusculanae disputationes*, 5.18.54: *Sapientia enim sem-*

per eo contenta est, quod adest, nec eam umquam sui poenitet

⁶ Cicero: *Tusculanae disputationes*, 2.9.21-22

⁷ Erroneously for Aischylos

⁸ Cicero: *Tusculanae disputationes*, 2.10, 23: *... vinctumque saxis. Saturnius me sic infixit Jupiter*

⁹ Quoted by Jeronimus: *Epistola ad Heliodorum* (60), 5. MPL, XXII, col. 592

¹⁰ Cicero: *Tusculanae disputationes*, 3.29.71: *Telamonem ... de morte Ajacis filii consolatus esset, interitum ... commutata mente etc.*

[23] *Ac sacerdotis Christi os, mens sensusque concordent, quia magister omnium Jesus facere primum coepit ac deinde docere. Et apostoli praeceptum est, ne aliis praedicans ipse inveniatur reprobus. Nimis enim delicatus magister est, qui pleno ventre de jejuniis disputat. Taceo de mansuetudine atque humilitate, qua pollere oportet episcopos. Namque, ut ad Jeronimum redeam, illud etiam – dico - clamat ipse, ut episcopi sacerdotes esse se sciant, non dominos, honorent clericos quasi clericos, ut eis a clericis quasi episcopis honor deferatur. Scitum¹ est illud oratoris Domitii: “Cur ego² te, inquit, habeam ut principem, cum tu me non habeas ut senatorem?” Quod Aaron et filios ejus, hoc esse episcopum et presbyteros noverimus. Cordatum quoque ac³ magni animi oportere episcopum fore quis ambigit, ne vota principum populorumque sequens disciplinam postponat ecclesiae? Habere semper in memoria atque in pectore illud Ambrosii Mediolanensis episcopi debent: *Ego faciam, inquit ille ad Theodosium, quod sacerdotis est; quod imperatoris est, faciat imperator; prius est, ut animam mihi quam fidem eripiat.* Meminerit episcopus, quoniam iudex est, et scriptum legimus: *Noli quaerere fieri iudex, nisi valeas virtute irrumpere iniquitatem, ut⁴ extimescas faciem potentum et ponas scandalum in agilitate⁵ tua.**

[24] At Chrysippus, notissimae famae philosophus, ut est in Agellio *Noctium Atticarum, iudicem, inquit, qui justitiae antistes est, oportet esse gravem, sanctum, severum, incorruptum, inadulabilem, contraque⁶ improbos nocentesque, immisericordem atque inexorabilem erectumque⁷ et arduum ac potentem vi et majestate aequitatis veritatis⁸ terrificum.* Non debet apud episcopum *pluris esse matrona nobilis atque dives, quam pauper et mendica mulier aut vidua maritali auxilio destituta. Alienum esse a personis omnium sese iudicet, nec injustitiam pauperis in iudicio defendat, nec gratiae divitum contra indigentes assistat.* Rumusculos vulgi nullatenus aucupetur, ne Dei offensam cum populorum laude permutet, *aut si haec non potest facere, cognitionem respuat causarum solaque sibi lectione et oratione contentus existat, sciens quia neminem diligit dominus nisi eum, qui cum sapientia ambulat.*

¹ em. HA; certum V

² em. HA; omit. V

³ et HA

⁴ ne forte Vulgata

⁵ aequitate Vulgata

⁶ em. HA; qui V

⁷ em. HA; rectumque V

⁸ em. HA; veritatisque Gellius

4.4. Bishops should have courage

[23] *In a priest of Christ, mouth, mind and senses should be at one,*¹ for Jesus, the teacher to all, first acted first and taught afterwards. And a precept of the Apostle says, *Lest perhaps, when I have preached to others, I myself should become a castaway,*² like a lover of dainties ... who, with his stomach full, lectures on fasting.³ I shall pass over the mildness and humility that bishops should have in abundance. I return to Jerome, who says that *bishops should know themselves to be priests, not lords. Let them render to the clergy the honour which is their due that the clergy may offer to them the respect which belongs to bishops. There is a witty saying of the orator Domitius which is relevant here: 'Why I am to recognise you as the leader of the Senate when you will not recognise my rights as a private member?'* We should recognise that a bishop and his presbyters are like Aaron and his sons.⁴ All know that a bishop should be courageous and spirited, lest he follow the wishes of the princes and the people and prefer them to the norms of the Church. And in his mind and heart, he should always keep the words of Bishop Ambrose of Milan,⁵ who said to Theodosius⁶: *I shall do what a priest should do. Let the emperor do what an emperor should do. He will take my life before he takes my faith.*⁷ Let the bishop remember that he is a judge and that it is written: *Seek not to be made a judge, unless thou have strength enough to extirpate iniquities: lest thou fear the person of the powerful, and lay a stumblingblock for thy integrity.*⁸

4.5. Bishops should be just

[24] In his *Noctes Atticae*, Gellius⁹ quotes the famous philosopher Chrysippus as saying: *The judge, who is the priest of justice, ought to be dignified, holy, austere, incorruptible, not susceptible to flattery, pitiless and inexorable towards the wicked and guilty, vigorous, lofty and powerful, terrible by reason of the force and majesty of equity and truth.*¹⁰ The bishop should not have greater regard for a noble and rich matron than for a poor beggarwoman or a widow without the assistance of a husband. He must consider himself to be a stranger to all others and he should not favour the rich over the poor.¹¹ He should not seek to be in the public eye but should be concerned about not offending God rather than about being popular. *Or if he is not able to do that he should avoid taking on legal cases and instead be content with reading and prayer, knowing that the Lord loves no one more than he who walks in wisdom.*¹²

¹ Jeronimus: *Epistola ad Nepotianum* (52), 7. MPL, XXII, col. 533

² 1. Corinthians, 9, 27

³ Jeronimus: *Epistola ad Nepotianum* (52), 7. MPL, XXII, col. 533

⁴ *Ibid.*

⁵ Ambrosius, Aurelius (340-397): Archbishop of Milan. Doctor of the Church. Saint

⁶ Theodosius I [Flavius Theodosius Augustus] (347-393): Roman Emperor from 379 to his death

⁷ Ambrosius: *Sermo contra Auxentium de basilicis tradendis*, 18. Piccolomini also used this passage in his oration "*Si quis me roget*" [2] of 1438, sect. 29

⁸ Ecclesiasticus, 7, 6

⁹ Gellius, Aulus (c.125-180): Roman author and grammarian

¹⁰ Gellius: *Noctes atticae*, 14.4.3

¹¹ Pseudo-Jeronimus, *Introd.* MPL, XXX, col. 150

¹² *Ibid.*

[25] Ostendi quodammodo faciem ipsam et qualitatem episcoporum quos, uti cernitis, mundos esse ac sine criminibus oportet. Quod si quis arduum putat nimiumque difficile, meminerit – obsecro - quod supra dixi, vicem apostolorum tenere episcopos, ut apud Jeronimum scribitur: *Episcopi et presbyteri habeant in exemplum apostolos et apostolicos viros, quorum honorem possidentes habere nitantur et meritum.* At nunc majus aliquid dicam, nec putaverim me errare Jeronimi nostri verba sequentem. Audite – obsecro - admirabile verbum, praebeat mihi aures, si quis hic est sanctae synodi adversarius, attende, qui prohibes plenarias indulgentias sacrum concilium dare! *De hoc officio, inquit Jeronimus, amplius disputare non est necesse, quoniam quidquid in clericis consecratum esse praedixi, episcopum solum habere manifestum est; in illis esse partes et membra virtutum, in episcopo plenitudinem divinitatis corporaliter habitare. Atque ita est, ut in episcopo dominum, in presbyteris apostolos, qui et ipsi sunt, recognoscas.* En auctoritatem auream! Jeronimus iste est ad Damasum de gradibus sacerdotalibus.

[26] Jeronimo fidem, non mihi adhibete! Nec enim semel ut per errorem ex ore suo hoc excidit, iterum replicat sic dicens: *Ideo in fossariis spiritus prophetarum prophetis subjectus est¹, in ostiariis doctores, in lectoribus prophetae, in subdiaconis² angeli, qui interpretantur, in diaconis³ archangelis, in presbyteris apostoli, in episcopis Deus.* Imperitissimi concilii hostes ista non legerant aut tam clari doctoris auctoritate postposita ad injuriam sanctae synodi, in qua non unus, sed plures episcopi sunt, suam rabiem contulerunt. Deum igitur - ut est dictum - nobis episcopi repraesentant, ut agnoscamus nullum esse hominum genus, nullam terram, nullam gentem, quae non his propter Deum jubeatur servire. Ob quas causas omni studio est enitendum, ut tales ordinentur episcopi, qui fidem teneant, dominum praedicent, salutem annuntient, ac pro nobis orare non dedignentur. *Sint, opto, inquit Jeronimus, si possint meliores patribus suis, erudiant semetipsos, castigant atque benedicant, electionem in opere compleant, {204r} et opus in electione multiplicent. Ne faciant irritam gratiam Dei.*

¹ em. HA; subjecti sunt V

² em.; subdiaconibus V

³ em.; diaconibus V

4.6. Bishops have divine authority

[25] I have now shown what the character and quality of bishops should be. As you see, they should be pure and without crime. If anyone thinks that this is harsh and too difficult, then let him remember - I pray - what I said above concerning the bishops holding the place of the apostles. As written by Jerome: *Let the bishops and presbyters take for their examples the apostles and their companions; as they hold the rank which these once held, let them endeavour to exhibit the same excellencies.*¹ But now I shall say something else that is important, and as I follow the words of our Jerome, I believe that I am not in error. Hear - I ask you - this admirable passage, and if an adversary of this Holy Synod is present who thinks that a Holy Council cannot issue plenary indulgencies, then let him pay attention.² For Jerome says, *It is not necessary to discuss this office*³ *further, for it is clear that the bishop in himself has all that which has been consecrated in clerics, as I have said above. In the clerics are the parts and members of the virtues, but in the bishop the divine plenitude is present corporeally. And therefore you should recognise the Lord*⁴ *in the bishop, the apostles in the priests, for they are them!*⁵ Oh, golden authority! This is what Jerome says to Damasus⁶ concerning the degrees of priesthood.

[26] Heed Jerome, do not heed me! For he does not say this only once, as if by error, nay he repeats himself, saying: *Thus, in the gravediggers is the spirit of the prophets, the ostiaries represent the doctors of the Church, the lectors the prophets, the subdeacons the angels, the deacons the archangels, the priests the apostles, and the bishops represent God.*⁷ This the uneducated enemies of the council have not read, or else they have decided to ignore the authority of this famous doctor of the Church in order to give free rein to their rabid opposition to the council where there are not just one but many bishops. Since - as we have said - the bishops represent God, we must acknowledge that every race, every country, every people⁸ is commanded to serve them because of God. Therefore, we must by all means endeavour only to ordain such bishops who are true to the Faith, who preach the Lord, who announce salvation, and who do not disdain to pray for us. *I wish for them, Jerome says, to be better than their fathers, to educate themselves, to chastise and to bless, achieve the work they were elected to do and to let their achievements grow manifold, so that they will not provoke the merciful God.*"

¹ Jeronimus: *Epistola ad Paulinum* (58), 5. MPL, XXII, col. 581. This passage was also used by Piccolomini in his oration "*Si quis me roget*" [2] of 1438, sect. 14

² A major bone of contention between Pope Eugenius IV and the Council of Basel had been whether the pope or the council had the authority to issue in-

dulgences. Piccolomini here sides with the council

³ I.e., the episcopal office

⁴ I.e., Jesus Christ

⁵ Pseudo-Jeronimus, 7. MPL, XXX, col. 158

⁶ The Pseudo-Jerome letter was not addressed to Pope Damasus, who was in fact a correspondent of Jerome, but it may have been

so in the text available to Piccolomini

⁷ Pseudo-Jeronimus, 7. MPL, XXX, col. 159. Pseudo-Jerome here lists the 7 Holy Orders according to a system used in the early Church and since modified

⁸ Note the rhetorical device of repetition (anaphora), which Piccolomini used frequently

[27] Cavendum quoque est, ne novi homines ad dignitatem hujusmodi assumantur, qui libros ignorent, ecclesiasticam consuetudinem nesciant, et prius doctores gentium dici velint, quam didicerint esse discipuli. *Concurrunt enim ad ecclesiam populi de sacerdote novo aliquid audituri; quale tunc erit – obsecro - patres, iudicium de episcopo, cum interrogatus nihil dixerit ac meliores se laicos scientiae agnitione vel vitae integritate intra ecclesiam reppererit? Non sine causa scriptum est, ut nemini cito imponantur manus, et ut probentur primo et sic ministrent sine crimine constituti.*

[28] Altissima est haec dignitas episcopalis, supremus ordo auctoritasque praecipua, ad cuius rei cognitionem plenissimam ultimo loco et in calce sermonis nostri Jeronimum jam vobis familiarem benigne accipite: *Septimus autem, inquit ipse, in his dispensationibus episcopalis est ordo, qui et primus et perfectus¹ in cunctis est, qui omnipotentia domini et Christi donatur, ex quo processus omnium gloriarum et plenitudo virtutum est, ex quo omnia, et per quem omnia, et cuius omnia. Ipse enim ordinat sacerdotes, ipse levitas, ipse subdiaconos, ipse lectores, ipse ostiarios, ipse fossarios, ipse arundinem tenens metitur Jerusalem. Ipse fabricae Dei praeest, ipse quid unusquisque facere debeat ostendit, ipse damnat, ipse recipit, ipse ligat, ipse solvit, ipse claves regni caelorum habet, ipse thronum Dei reserat et claudit, supra se nihil habens. Si humilis et bonus sit, perfectus, ut scriptum est, si observans omnia, si hospitalis, si sine crimine, si habens testimonium bonum, si unius mulieris vir, id est si sua tantum carne contentus est, alicubi corporis illecebram non quaerat, filios habens subditos in castitate, in sobrietate, quia peccare in operibus non debet, qui in lectione perfectus est, hujus sacerdotalis vestis perfecta Dei gloria est, ad hunc pertinet totum, quia ipse² Christus Christorum, id est sanctus sanctorum, et episcopus animarum. Scriptum est: ‘Nolite tangere Christos meos et in prophetis meis nolite malignari.’ Huic summa a cunctis clericis atque omni populo deferenda reverentia est.*

[29] Ex quibus Jeronimi verbis non solum habemus, quanta sit dignitas, sed aperte monemur, quia³ non omnes sine delectu creare debemus episcopos. Quae res praecipue XII viros ad dandum supradictum avisamentum movit, ut scilicet commissariorum juramentum ambitiones multorum postulantium {204v} refrenaret, nec tam larga pateret ad episcopatum via. Quod monitum utrum recte sacra illa et praestantissimis patribus referta deputatio pacis non dicam impedierit, neque enim suffragia petita sunt, sed utrum bene neglexerit ipsa videat. Fecerunt XII viri, quod ad eos pertinuit. Monstrarunt vobis vulnera, quibus esset medendum. Ea si putrescere sinitis, non culpa eorum est, sed illorum, quos supra retuli paucorum impediendum.

¹ em. HA; profectus V

² est add. V

³ em. HA; qui V

[27] We must also take care not to grant this dignity to new men and to those who neglect books, who do not know the customs of the Church, and who would like to be called teachers of the people before they have even learned to be students themselves. *For many people flock to the church to hear something from a new priest.*¹ Fathers - I ask - *what will they think about a bishop who is able to say nothing when being asked a question,*² and who, in his own church, finds laypeople with better education and greater integrity of life? With good reason, it is written that *you should not impose hands lightly upon any man,*³ and *let them first be proved: and so let them minister, having no crime.*⁴

[28] Exalted is the episcopal office. It is the highest order, of eminent authority. So that you may understand this completely, I ask you to listen kindly, here at the end of our speech, to Jerome, who is by now quite familiar to you: *The seventh order is the episcopal order that is first and perfect in all regards. It is bestowed through the omnipotence of Our Lord and Christ, from whom comes all glory and the plenitude of virtue. From him are all things, through him are all things, and his are all things. For the bishop ordains priests, levites⁵, subdeacons, lectors, gatekeepers, and gravediggers, he holds the measuring stick and measures Jerusalem. He is in charge of God's works⁶; he shows what everybody should do; he condemns; he accepts; he binds; he looses;⁷ he has the keys to the Kingdom of Heaven; he opens and closes the access to God's throne; he has nothing above him. If he is humble, good, and perfect, as is written, if he fulfills his religious duties, if he is given to hospitality, if he is without crime, if he has a good reputation, if he is the husband of one wife, being content with the flesh of his own and not seeking bodily allurements anywhere else, if he has his children in subjection with all chastity and sobriety⁸ – for he should not be sinning in his works - and if he is accomplished in reading, then his priestly vestments reflect the perfect glory of God, and everything belongs to him. For he is the Christ of Christs, the saint of saints, and the bishop of souls. It is written: Touch not my anointed: and do no evil to my prophets.⁹ To him all clerics and the whole people owe reverence.*¹⁰

5. Conclusion: Careful selection of bishops

[29] From these words of Jerome, we see not only how great the episcopal dignity is, but we are also clearly admonished to appoint bishops through careful selection. For this reason, The Twelve moved the aforesaid recommendation so that the oath of the commissioners would restrain the ambitions of the many candidates and the road to the episcopacy be not so broad. The Holy Deputation on Peace, composed of eminent Fathers, must itself consider whether it has done right in neglecting this recommendation (I do not say that they blocked it since they did not vote on it). For their part, The Twelve have fulfilled their own obligation and shown the wounds, which should be healed. If you let them fester, it is not the fault of The Twelve but of those few aforementioned persons opposing the measure.

¹ Pseudo-Jeronimus, 7. MPL, XXX, col. 160

² *Ibid.*

³ 1. Timothy, 5, 22: *manus cito nemini imposueris*

⁴ 1. Timothy, 3, 10

⁵ I.e., deacons

⁶ "fabrica"

⁷ Matthew, 16, 19

⁸ Cf. 1. Timothy, 3, 2-4

⁹ 1. Chronicles, 16, 22

¹⁰ Pseudo-Jeronimus, 7. MPL, XXX, col. 158

[30] Nunc vero illud tantum commoneo, ut si non placet avisamentum nec jurare commissarios vultis, ad minus provideatis, ne peiores vestrae quam domini Eugenii aut alterius papae promotiones dijudicentur, neve in episcopis vestris accidat, quod Romae quondam in consulibus evenit, ubi cum *Ventidius* quidam *Bassus*, qui curandis mulis solitus fuerat judicare, ad consularem dignitatem pervenisset, ita Romanus populus aegre tulit, ut vulgo per vias urbis, sicut Agellius refert, *versiculi praescriberentur: Concurrite omnes augures, haruspices¹! Portentum inusitatum conflatum est recens. Nam mulas, qui fricabat, consul factus est.*

¹ *em.*; auruspices V

[30] In case you do not approve the recommendation or wish the commissioners to take an oath, I urge you to at least ensure that your appointments may not be considered inferior to those made by Lord Eugenius or any other pope. May that not happen to your bishops, which once happened to the consuls in Rome: when a certain Ventidius *Bassus*,¹ *who had made a living* as a muleteer, gained consular office, the Roman populace took it so ill that, according to Gellius, *these verses were posted everywhere about the streets of the City: Assemble, soothsayers and augurs all! A portent strange has taken place. For he who curried mules is consul now.*²

¹ Publius Ventidius Bassus: Roman general, protégé of Julius Caesar. His family was from Picenum. He

was captured during the Social War and brought to Rome, where

he worked as a muleteer before he joined the army

² Gellius, 15.4.3