

The Shorter Appeal of Michael of Cesena, Extracted from the Longer Appeal

Translated from Gedeon Gál and David Flood, eds. (1996). *Nicolaus Minorita: Chronica. Documentation on Pope John XXII, Michael of Cesena and The Poverty of Christ with Summaries in English. A Source Book*. St. Bonaventure, NY: The Franciscan Institute, pp. 429–456

[The Chronicler's Introduction]

I have thought it worthwhile to include here the short appeal here because this abbreviated appeal was sent out to many parts of the globe, and appended to the doors of the greater Pisan church on the twelfth day of December of the same year [1328]; and it was solemnly read—and responded to by the named Lord John [XXII] by means of the constitution *Quia vir reprobus* (the tenor of which is included below). Truly, the tenor of this appeal is known to be as follows:

[The Abbreviated Appeal, Extracted from the Prolix Appeal]

In the name of the Father, the Son, and the Holy Spirit. Amen. In the year 1328 since the nativity of our Lord, Jesus Christ, in the eleventh indiction, in Pisa, in the home of the Friars Minor, the venerable and religious man, brother Michael of Cesena, Minister-General and doctor in the sacred page, established in the presence [and] under the testimony of venerable writings, genuine and honest persons, both under their testimony and writings of notaries, wishing a certain appeal or provocation on the thirteenth day of the last April—through the same brother Michael, Minister-General, in his own name and also in the name of the general chapter, of each and all of the brothers of the Order, from certain troubles (*gravaminibus*) for the same brother Michael, Minister-General, and the brothers and chapter, mindful of the things actually done by Lord John, who calls himself the XXIInd pope, ensconced in Avignon, in the present and under the testimony of brother Guido de Puppio, public notary of the Order, and other persons worthy of faith—to make public, and even make anew, and allege and even make public another [appeal] from those troubles introduced after and against the same appeal through the named Lord John and his agents or officials (or some of them) to the same brother Michael, Minister-General, and other brothers of the said Order (or

some one them, as will be described below), and from all other troubles which will be introduced in the future to the same [Michael] or the other of the two; [to do all this] in every way, right and form by which it can be done better *de iure*, he gave there, extended, presented, he extends and presents the *libellus* written below, /430/ and he said, protested, appealed, provoked and did just as it is contained in that *libellus*.

The tenor of that *libellus* is as follows:

I, brother Michael, Minister-General and servant of the Order of Friars Minor, noticing that a provision is found in the testimonies of the sacred gospel and page of divine law, and that true doctors of the holy Roman Church assert and define, and that all holy fathers, the founders of religions (*religiones*), affirm that the norm of living perfectly according to the gospel of Christ would be established in the three principal evangelical and apostolic counsels—namely in the abdication of the ownership¹ of all temporal things, in the renunciation of one's own will, and in the preservation of chastity. On this account, all religious, who wish to perfectly preserve these three evangelical counsels, vow to live in obedience, without property,² and in chastity. And as the canon testifies, these things are so essentially annexed to any perfect religion that the highest pontiff cannot concede a licence against them, as it is held in the abdication of ownership and the preservation of chastity in X. *De statu monachorum*, c. *Cum ad monasterium*, in fine.³ And concerning those three, they are held and noted⁴ in Hostiensis' *Summa* [on] X. *De regularibus et transeuntibus ad religionem*, *Ad quid tenatur*,⁵ and in the laws noted there. Indeed, in this observance of the three counsels, the concupiscence of the eyes, the concupiscence of the flesh, and the pride of life—from which three all sin derives its origin—are avoided.

In testimony to this fact, the blessed patriarch of the poor, Francis, proposed at the beginning of his rule (approved and confirmed by the holy Roman Church,

1. For the sake of consistency, I translate *proprietas* as 'ownership' except where the sense absolutely forbids it. This is a very restricted meaning of the term, which can also be used to mean 'property' (or even the 'property' of a thing), but usually Michael uses the word to mean something like 'proprietary ownership'. 2. 'Property' translates *proprium* here. This word cannot be translated consistently; in fact, the use of 'one's own' in the previous sentence also translates *proprium*, the normal literal meaning of the noun is 'a possession' or 'property', but the adjective is the source of the modern 'proper' in the sense of 'one's own' or 'particular'. 3. X 3.35.6. 4. Reading *habetur* and *notatur* for *habentur* and *notantur*. 5. Hostiensis (Henricus de Segusio), *Summa Hostiensis super titulis decretalium* (Lyons, 1542), ad X 3.31, *Ad quid teneatur* (fol. 173vb).

frequently and some time ago) these three counsels as things to be vowed as the foundations of a religion—saying, ‘The Rule and life of Friars Minor is this, namely to observe the holy gospel of our Lord, Jesus Christ, by living in obedience, without property, and in chastity.’

[The First Error]

But Lord John, who calls himself Pope John XXII, published and publicly promulgated three heretical constitutions, the first of which begins *Ad conditorem*, the second *Cum inter nonnullos*, and the third *Quia quorundam*. And in the one which begins *Ad conditorem canonum*, [John], intending to prove that the Friars /431/ Minor—who profess to live without property, according to the evangelical doctrine—are not to be considered ‘simple users’ with respect to things consumed by use, proposed as dogma the first error. He spoke in this way:

But as far as things that are consumed by use are concerned, it is clear enough from the subsequent [arguments] that those self-same brothers are not to be considered (mere) ‘users’. Indeed, to say that in things that are consumed by use a ‘use of right₁’ or ‘of fact’ can be established separate from the ownership or lordship⁶ of a thing, opposes law₁ and reason.⁷

And below:

In things consumable by use neither a right₁ of using nor a use of fact can be established or had separate from the ownership or lordship of the thing.⁸

These are his words, which are clearly heretical, since they clearly oppose sacred scripture and the sacred canons and definitions of the holy doctors, and even the determination of the holy Roman Church.

That these words oppose holy scripture is proved through the writings below.

6. ‘Lordship’ consistently translates *dominium*; in this context, both the Franciscans and John XXII usually mean it in the sense of proprietary lordship, not political dominion. 7. *Ad conditorem canonum* 85–88 (Jacqueline Tarrant, ed. (1983). *Extravagantes Iohannis XXII*. Monumenta iuris canonici, Series B: Corpus collectionum 6. Rome: Biblioteca apostolica vaticana, p. 236). This is the second of the two versions of this bull that John published. The first is edited in Gedeon Gál and David Flood, eds. (1996). *Nicolaus Minorita: Chronica. Documentation on Pope John XXII, Michael of Cesena and The Poverty of Christ with Summaries in English. A Source Book*. St. Bonaventure, NY: The Franciscan Institute, pp. 83–88. 8. *Ad conditorem canonum* 96–98 (Tarrant 1983, p. 237).

[1] First, through that which is read in the Acts of the Apostles, chapters two and four, since of the multitude of believers, it is said in Acts 2:44–46, *All who believed, even, were together and had all things common. They sold their possessions and resources,⁹ and divided them to everyone as each one had need.* And in Acts 4: 32, 34–35, *There was one heart and one soul for the multitude of believers; nor did any of them say that something which he possessed was his; but all things were common for them. For however many possessors of fields or homes there were, selling them, they offered the price of what they sold and put it at the feet of the apostles. And it was divided to everyone as each had need. And they broke bread near the homes, taking food with exultation.* These words are there. But the saints explain this word *suum* in this way: ‘“suum”, that is one’s own (*proprium*)’, as is clear in 12 q. 1 c., *Scimus*,¹⁰ c., *Nolo*,¹¹ c., *Non dicatis*,¹² and *Sic ergo*.¹³ And the *Glossa ordinaria* says, through Augustine at the beginning of his Rule, on the words *they had all things common*, ‘An indication of fraternal love is to possess all things and having nothing of one’s own.’¹⁴

On the basis of these words, it is openly implied that they had ownership of no temporal thing, neither a thing consumable by use,¹⁵ nor a thing not consumable by use. For they sold things not consumable by use, namely possessions, fields, homes, and resources (*Gloss*: that is, cattle), /432/ and retained them neither individually, nor in their community. But they held in common the things which the law₂ swears (in *Institutes*, *De usu fructu*, *Constituitur*¹⁶) are things consumable by use—namely, the monies taken for the price of sold things and bread, about which special mention is made there: *And it was divided to everyone as each had need, nor did anyone of them say that something which he possessed was his*, that is, one’s own, *but all things were common for them.* And thus each one of them had the use of things consumable by use without ownership or lordship—or separate from ownership and lordship. Therefore, the said assertion and doctrine contained in that constitution oppose divine scripture and destroys and confounds all religion that has a vow of the abdication of ownership of all temporal things, for according to it each religious would be considered a property-holder (*propriarius*) when he used things consumable by use.

[2] Second, it is shown that the assertion opposes (*obviat*) divine scripture because Peter says in Matthew 19:27, *Behold we have left all and followed you.* But it cannot be understood that the apostles left all things so far as concerns use, for it

9. Resources translates *substantias*. 10. C. 12 q. 1 c. 9. 11. C. 12 q. 1 c. 10. 12. C. 12 q. 1 c. 11. 13. C. 12 q. 1 d.p.c. 27. 14. The text is not found in Augustine’s Rule; according to Gál and Flood 1996, 431 n. 3, it belongs to Bede, *Expositio Actuum apostolorum*, 2.44 (PL 92.951A; CCSL 121.23). 15. Reading *usu* for *usus*. 16. Inst. 2.4.2.

is agreed from sacred scripture that they used things consumable by use afterwards. Therefore, they left all things, both consumable by use and not consumable by use, with respect to lordship and ownership, as it is proved in 12 q. 1 *Dilectissimis*,¹⁷ for he who says ‘all things’ excepts none. And holy Gregory says on that *with the nets left behind*, ‘He has left much behind who retains nothing for himself, who has abandoned all of it, however so little [he had]’. To say, then, that the use of things consumable by use cannot be separated from ownership and lordship opposes sacred scripture. *cf. Mt. 4:20, 22; Mk. 1:18*

This is also confirmed: for, according to Augustine in the seventeenth book of *The City of God*, the apostles vowed the abdication of all things, at whose example the religious—who hold the pattern of the apostles, as it is said in 16 q. 1 *Ex auctoritate*¹⁸—vowed the abdication of all temporal things. But the apostles did not vow, nor do religious vow, the abdication of all things with respect to use; therefore the apostles vowed, and others vowed, the abdication of the lordship and ownership of all things consumable by use and not consumable by use. /433/

[3] Third it is shown that the assertion opposes (*repugnat*) divine scripture. For just as it is held in Numbers 18:25–32 and the last chapter of Leviticus, the lordship of the tenths, whether of the fruits *or of the produce of the earth*, which, it is agreed, are things consumable by use, was and are God’s. Similarly, the lordship of things of the Church are God’s, but the use of those things was and is for God’s ministers. Therefore, the use of things consumable by use can be separated from lordship, and the opposite of this clearly opposes (*obviat*) divine scripture. *Num. 18:25–32*
Lev. 27:30

[4] Fourth, it is shown that the assertion attacks the life of Christ and the apostles, for the perfection of poverty, just like the other perfections of the evangelical counsels, existed most perfectly in Christ and the apostles. And it is agreed that evangelical poverty excludes the ownership and lordship of things consumable by use, for it excludes the anxious care (*sollicitudinem*) which the ownership and lordship of things demands, just as the authorities adduced in the *Long Appeal* fully prove. But evangelical poverty does not exclude the use of things consumable by use, therefore the use of things can be separated from ownership and lordship of them.

[5] Fifth it is shown that that doctrine opposes (*repugnat*) the life of the apostles, for, with respect to the abdication of the ownership of temporal things, they were apostles recalled to the dignity of the first man, according to Remigius; and it is fully proven through the authorities and canons alleged in the *Long Appeal*. But the first man and his descendants, if they had existed,¹⁹ would have had the use

17. C. 12 q. 1 c. 2. 18. C. 16 q. 1 c. 24; cf. Augustine, *City of God* 17.4. 19. Reading *stetissent* for *stetisset*.

of things consumable by use without ownership and lordship of them, according to blessed Clement, and posited in 12 q. 1 *Dilectissimis*.²⁰ To say, then, that use cannot be separated from ownership and lordship in things consumable by use is to attack the life of the apostles and religious who imitate the apostles in the abdication of the ownership of all things.

Likewise, it is said in Luke 19:23 of the lord who gave his servants counted *Lk. 19:23* money that he said to his wicked servant: *Why did you not give my money at the bank, and I, arriving, might have exacted it with usury?* On the basis of this authority, it is clear that the servant actively had and could have use in the given money, and the lord the ownership of it. Hence, since the aforesaid law₂ attests that the money is of things consumable by use, it follows that this teaching contradicts the holy gospel.²¹ /434/

[6] Sixth it is shown that that assertion opposes and resists (*obivat et repugnat*) the determination of the holy Roman Church, for in the decretal which begins *Exiit qui seminat*,²² approved by the universal Church and confirmed in the Council of Vienna, it is defined that the Friars Minor have use of fact of things which they use, without any lordship and ownership. Concerning this use it is said in such a way: ‘which use, having merely the name not of right₁, but of fact; what is only of fact offers nothing of right₁ to the user in the using’. But it is manifest that the Friars Minor have use of fact of things consumable by use; therefore, in things consumable by use, use of fact cannot be separated from ownership and lordship. The allegations and authorities for the mentioned reasons are contained most perfectly in the *Long Appeal*. That same conclusion, namely that use of fact cannot be separated from ownership and lordship, is declared copiously in the same appeal through canonical and civil laws₁, and also through many examples, namely concerning the servant, the son of the family, religious, messengers of lords, and one having loaned (*accommodatam*) clothing—who have the use of things consumable without lordship and ownership of them.

[The Second Error]

The second error is described in that constitution, *Ad conditorem* in these words:

Again, neither simple use of fact, which is not a servitude and for which a right₁ of using does not belong, cannot be constituted or had

20. C. 12 q. 1 c. 2. 21. The text reads *pecuniam esse de rebus usu consumptibilibus*; the point is that money falls belongs to the category of consumables. 22. VI 5.12.3.

in such things, namely those consumable by use. For, since using some thing is properly nothing other than to receive the fruits of the thing or some other utility, in whole or in part, which can come from the thing, with the substance of it preserved, it remains that someone cannot use that thing from which—with its substance preserved—no utility can come; it is agreed things of this sort are not consumable by use. From which it is clear that neither use, which is a personal servitude, nor a right₁ of using, which²³ is not a servitude, but purely a personal right₁, nor the act of using itself without any right₁ can be established or had in things consumable by use, since whichever of the aforesaid demands that, from the thing itself, with the substance of it preserved, some utility from the thing can come to the one who has a right₁ of using or the who uses—which certainly cannot be found in things consumable by use.²⁴

And below:

Although in things consumable by use neither a right₁ of using nor using itself can be established or had, someone can nonetheless ab-use (*abuti*) them.²⁵ Ab-using, when it treats of things consumable by use, is taken for the consumption of the thing, /435/ which is opposed to what is using. Using, indeed, presupposes that the substance of the thing remains preserved with the use; but ab-using demands that the substance of the thing be consumed with an act of this sort, since ab-using in this matter can be said to nothing other than using against the nature of use.²⁶

These are his words.

From them it is apparent that the Lord John erroneously taught as dogma that neither use of fact nor the act of using can be had in things consumable by use, and that no one can use things consumable by use, though one can ab-use them by means of ab-use, which exists contrary to the nature of use. This teaching indeed clearly opposes sacred scripture. For in the last chapter of Leviticus it is said that *all tenths of the earth, wither of the produce or fruits of the trees, all are the Lord's.* Lev. 27:30 And in Numbers 18:24 it is said: *they will possess nothing else, content with the* Num. 18:24

23. Reading 'quod' for 'qui' as *Ad conditorem canonum* reads in Tarrant's 1983, p. 240 critical edition reads. 24. *Ad conditorem canonum* 126–138 (Tarrant 1983, pp. 239–40). 25. John XXII used the words *abusus* and *abuti* to talk about consumables because they can only be 'used up' or consumed. I have opted to half-translate the pope's term by 'ab-use', though as we shall see, Michael took the words to mean something like 'misuse'. 26. *Ad conditorem canonum* 144–150 (Tarrant 1983, pp. 240–41).

offering of the tenths, which I have separated for their uses and necessities. From this it is clear that the use in things consumable by use may be had by a statute of God. And wherever sacred scripture speaks about the use of things consumable by use, it is always clear that some can use things consumable by use, and that he happens to use them properly and truly, as in clear there in 1 Timothy 5:23: *Use a little wine*; and there in 2 Kings 13:18: *the virgin daughters of the king used clothes of this kind*; and in Numbers 18:13: *all the first-fruits which are brought to the Lord, shall fall to your uses.* And a little later: *but the flesh will fall to your use*; and there in Judges 19:19: *having bread and wine in my uses and and your servants*; and in the end of Deuteronomy and there in Josue 5:12: *Nor did they use further*, etc., and Leviticus 7:21: *in various uses*; and Esther 2:12 and Exodus 28:42–43

The same is also clear through the authorities of the saints, namely that of St Clement, 12 q. 1 *Dilectissimis*;²⁷ and that of St Augustine, and put in D. 41.²⁸ This is also proved more fully through civil and canon laws₁ in the *Long Appeal*, in which it is shown at length (*diffuse*) through reasons and law₂ as well that a use of things consumable by use, which is an act of using can exist, and that using these things properly occurs.

Likewise, to say that there may be some things consumable by use and yet that using them does not occur involves a manifest contradiction, for if there are things consumable by use, using those things necessarily happens. Moreover, according to Augustine in the first book *On Christian Doctrine*, ‘ab-use is illicit use’ /436/

But according to the Apostle, who does not use food illicitly when he uses food with the action of the graces; therefore he did not ab-use food. Hence, by the same error it seems to follow that Christ and the apostles and the other holy men, every time they exercised the acts of eating and drinking and wearing clothes, they ab-used things of this kind. And whenever faithful Christians take up the sacrament of the body and blood of Jesus Christ under the species of bread and wine—which, it is obvious, are of things consumable by use,²⁹—they ab-used the species of the accidents—which to say or think is heretical and blasphemous. Nor does it work to say that ‘ab-using’ is taken for the consumption of a thing; first, because that it should be taken thus is proven by no reason or authority; second, because ab-using a thing univocally is always taken in a negative signification, just as is clear in Genesis 34:31, and in the last chapter of Esther and 1 Cor. 9:18, and in many other places. Similarly, that definition, which he gives about using is not its true definition, nor is it consonant with the definitions of the saints, which they

27. C. 12 q. 1 c. 2. 28. See especially D. 41 cc. 1, 3. 29. The construction is a little unclear: *quas fore de rebus usu consumptibilibus manifestum existit*. But the point again is that these sacraments are also consumables.

give about using. Moreover, [if] using them does not happen, ab-using them does not happen, for although using and ab-using are contraries, they are born to take place concerning the same thing. If, therefore, using things consumable by use does not occur, then ab-using them does not occur.

In addition, that assertion opposes the determination of the holy Roman Church, which often says in the decretal *Exiit*: In these things which ‘pertain to victual, clothing, and divine worship, as well as sapiental study, a necessary use of things is conceded to the brothers’. From which words it is clearly gathered that using things pertaining to victual and clothing occurs, which, it is agreed, are things consumable by use. The reasons and authorities, clearly proving the aforesaid [claims], are more fully explained in the *Long Appeal*.

[The Third Error]

The third error contained in that constitution *Ad conditorem* is described in these words:

Moreover, if simple use of fact without a right₁ of using could be had by someone, it is agreed that an act of using of this sort is not be considered just, since that would be a use for which a right₁ of using would not belong. However, such a use, namely a non-just one, pertains in no way to the state of perfection, nor adds anything to perfection, but is clearly known to oppose and detract from it.³⁰

And below, speaking about the use of fact conceded to the brothers, according to what is contained in the ordination of the decretal *Exiit*, he says the following:

Thus it follows /437/ that the use of fact of which the ordination speaks, it ought to be understood about such a use, which is just, that is, to which a right₁ of using belongs.³¹

He understands these words indeed to be about a civil and mundane right₁ of using, of which kind there is an individual³² right₁, for which an action is given in court, just as is clear in this constitution, and in the third constitution, which begins *Quia quorundam*, about which it will be said below, this is openly manifest.³³

But this opposes sacred scripture, Matthew 19:27, which, speaking of the apostles and their perfection, says: *Behold, we have left everything*. From which, according to catholic doctors, it is clear that they left behind a right₁ of action *Mt. 19:27*

30. *Ad conditorem canonum* 188–192 (Tarrant 1983, p. 245). 31. *Ad conditorem canonum* 204–206 (Tarrant 1983, p. 246).

in court, which does not stand with such a perfection of supererogation, for it connects one to sin (*implicat ad peccatum*), just as the Apostle proves in ¹ *Cor.* 6:7 saying: *Already indeed there is entirely a fault in you, for you have lawsuits between you.* And for that reason Christ enjoined upon the perfect that they not litigate nor contend in court: Matthew 5:25 and Luke 6:29.

Moreover, such an assertion also clearly opposes the definition of the holy Roman Church. Which is clear from many [reasons]. [1] First, because that decretal *Exiit* says that ‘in temporal things there is to consider ownership, possession, usufruct, right₁ of using, and simple use of fact. And [since] the life of mortals needs the last, as necessary, though it may lack the first, absolutely no profession can exist that excludes a use of necessary sustenance from itself’. From which words it is evidently clear that the life of mortals can licitly lack ownership, possession, usufruct, and right₁ of using, and be content with simple use of fact of things necessary for life, and thus a simple use of fact without any right₁ of using can be had according to a determination of the Church.

[2] Second, because it is implied in the same definition of the Church that ‘nor does it seem through this, that to have abdicated the ownership of use and lordship of every thing, is it proven that he has renounced simple use’. From which words, it is evidently clear that that profession of the Friars Minor has abdicated the individual right₁, and, consequently, a /438/ civil right₁ of using, which is an individual right₁. And thus they have simple use of fact without such a right₁ of using.

[3] Third, because the same decretal speaks thus: ‘Which use, I say, having only the name not of right₁ but only of fact, offers only what is of fact to the user in using, nothing of right₁’. From which words, it is clear that having a licit use without a right₁ of using occurs. Likewise, there was a licit use of fact in the state of innocence, in which a right₁ of using had not been introduced through civil laws₂. Therefore, a licit use of fact, about which that decretal speaks, can be separated from such a civil right₁ of using. Nor does it follow that a use can be separated from a right₁ of using because that use would be unjust, for it is one thing to have a right₁ of using and another to have a licence of using. And therefore, although a use without all right₁ and licence of using would be illicit, nevertheless a use without a right₁ of using, yet with a licence of using, is not illicit. And all the aforesaid are fully proven through reasons and laws₁ contained in the *Long Appeal*.

It is clear from the aforesaid that he errs when he says that the ordination

32. Here, ‘individual’, rather than ‘one’s own’, translates *proprium*. It is a personal, or exclusive, right, rather than a common, or shared, one. 33. See the [sixth error](#) on p. 16 below.

of lord Nicholas ought to be understood about a use for which a right₁ of using applies, for it ought not be understood of a use for which a right₁ of using applies, but of a use for which a licence of using applies.

[The Fourth Error]

The fourth error is expressed in these words:

Moreover, it is proved thus that simple use, that is, without a right₁ of using, cannot be had separate from ownership or lordship in a thing consumable by use: If, indeed, such a use could be had, it would be had either before the act itself, in the act itself, or after the completed act. But that this cannot occur is clear from this: that what is³⁴ not, cannot be had in any way. But it is clear that the act itself, before it is exercised, or while it is being exercised, or after it has been finished, is not in the nature of things; hence, it follows that it can scarcely be had. For although someone might have a faculty for exercising the act before the actual act, nevertheless the act itself does not exist in the nature of things through this fact, except in potency. But when the act is being done (*est in fieri*), it is still not in the nature of things, since 'being' signifies a completed thing, which being, although it is being done, it cannot convene with the act. For that which has passed away from the act that is being done already is not. But what is being done (*fit*)³⁵ is instantaneous or momentary, and it is such that it can be perceived more by the intellect than by experience (*sensu*). Still, after the completed act, although if something was produced from that deed, the thing itself may be had, /439/ but the deed itself, which has already ceased, is not had.³⁶

These are his words.

Included in them is the dictum and the reason for the dictum. The dictum, namely that simple use, that is, without a right₁ of using, cannot be had separate from ownership and lordship in a thing consumable by use. Which, it is agreed, is heretical through the reasons introduced in the [first](#) and [third errors](#). The reason of the dictum, however, destroys the deeds (*gesta*) of Christ and the apostles, which sacred scripture witnesses that they did, as well as the deeds of the faithful—for if

34. 'Is, that is, in an existential sense. 35. The editors add 'in the present,' which matches what we have in Tarrant's edition of the text. 36. *Ad conditorem canonum* 168–187 (Tarrant 1983, pp. 243–45).

that reason were to conclude,³⁷ it would follow that Christ neither ate, nor drank, nor preached, nor washed the feet of the disciples, for it will be said through the same reason: if he did something of those things, either before the act, or after the act, or in the act itself, according to the the said division. Not before the act, for before the act no one of them existed,³⁸ for before the act of eating, drinking, preaching, etc., he did not eat, drink, nor preached, etc. And not after the act, for he exercised no one of them after the act. And not in the act itself, for the part of them, which had passed away already was not, [and] the part which was to come did not yet exist; but that which was in the instant, was not something of them in act, but potency—which is perceived more by the intellect than experience, for eating and drinking, etc., are not in the instant but in time.

Similarly, all deeds of Christ were not in an instant but in time. Therefore, if that reason concludes, it follows that, concerning the things which sacred scripture witnesses him to have done, Christ [actually] did nothing corporeally in this world. And in the same way it follows about all the apostles and all the other saints—which to say or think is heretical and insane. Hence, to that sophistical argument, one should not otherwise respond, unless, just as it is responded in *Physics* 4³⁹ to the sophistical arguments proving that neither time nor motion exists, for this sophistical argument is the same with them.

Moreover, through that argument it would follow in the same way that a use of things consumable by use cannot be conjoined with ownership and lordship, just like it cannot be separated. For if it can be conjoined with ownership and lordship, then such an act of using can be had. But this is not possible according to that argument, for neither before the act, nor in the act itself, nor after the completed act. /440/ Moreover, if that argument were to conclude, it would equally conclude about things not consumable by use: that using them does not occur (for neither before the act, nor in the act itself, nor after the completed act). And the aforesaid inconsistencies that follow from the the said error are explained more fully in the *Long Appeal* with arguments and proofs (*allegationibus*).

From the aforesaid as well as other things noted in the [first](#) and [third](#) heresy, it is clear that what he adds after the aforesaid is heretical, saying:

Moreover, if a use could be established in things consumable by use, it could be called 'simple' in no way, nor could a use of this kind be said to be separated from the ownership or lordship of the thing, since,

37. By 'conclude', Michael means something like 'conclude truly'; we tend to think that an argument always 'concludes', regardless of whether the conclusion is true or false, but that is not the idea here: hence the contrary to fact conditional, 'if it *were to conclude* (but it does not)'. 38. Reading *nullus istorum fuit* for *nullum istorum fuit*. 39. *Physics* 4.18.217^b32–218^a8.

through that use—that is, the act of using—in the act itself and with that act a thing of this sort is consumed and exercised on the substance of that thing; and such a use cannot exist without the consumption of the thing. Hence it is clear that such a use can be called neither simple, nor separate, from lordship.⁴⁰

These are his words, which, as it was shown above, oppose sacred scripture and also the determination of the Church, through which it is clear that the Friars Minor have a use of things consumable and not consumable by use without lordship and ownership. And he assumes a false point in his argument when he says that through such a use—that is, an act of using—in the act itself and with that act a thing of this sort is consumed, understanding that it is fully (*ultimate*) consumed immediately in that act and with that act. For it is evident that clothes are not fully and completely consumed immediately with the first act of using, just as even bread is not completely consumed immediately in the beginning of an act. And just as it is not unreasonable (*inconueniens*) that a lord have the lordship of an eating servant, so it is not unreasonable that he have lordship of the food or bread existing in the mouth of a servant.

[The Fifth Error]

The fifth error is taken from the words of his constitution, *Ad conditorem*, when, wishing to prove that the reservation of lordship made by the Church of the things in which the Friars Minor have simple use of fact does not profit, but hinders the brothers, he speaks with these words:

Indeed, the reservation of lordship mentioned above—on account of which the brothers would be able to say that they are poorer than if were to obtain those things with that thing [i.e., lordship] they say they lack—benefits those brothers in no way so far as concerns the state of perfection.⁴¹

And below:

For a lacking of such lordship, denuded of the thing in the present and denuded of hope for any advantage in the future, does not make the person not holding [the lordship] poorer.⁴²

And below:

40. *Ad conditorem canonum* 208–215 (Tarrant 1983, pp. 246–47). 41. This is a conflation of *Ad conditorem canonum* 43–45 and 58–60 (Tarrant 1983, pp. 232–34). 42. *Ad conditorem canonum* 80–84 (Tarrant 1983, pp. 235–36).

Having no desire in /441/ the future that, under the pretext or cloak of such a verbal, naked, and enigmatic lordship, they proceed to furnish the foment of so great an evil from as great a simulation of this kind, we enact, etc.⁴³

These are his words.

From them it is clearly evident that this heretic dogmatizes that a lacking of such lordship, denuded of all temporal advantage, does not pertain to the state of perfection, nor make the one who does not have it any poorer; and that such lordship denuded of all temporal advantage exists as a verbal, enigmatic, and simulated thing. Which error, indeed, opposes and resists sacred scripture, evangelical and apostolic doctrine, and the holy Roman Church. For, as it was shown above from divine scripture, the apostles and the perfect men following them relinquished ownership and lordship of all temporal things due to a counsel of Christ, content with the use of things necessary for sustaining human life (which is not licit to renounce).

But it is agreed that lordship, which the apostles relinquished due to Christ's counsel in all the temporal things of which they had use, was denuded of all temporal advantage, namely of useful use—just as, as evangelical history relates, is clearly evident in the nets, the ownership and lordship of which they relinquished, with the use retained. For, in Christ's counsel, given about the temporal things which were to be renounced, the abdication of the ownership and lordship of those things is included, and not the use, as it is shown above. If, therefore, the lacking of such lordship does not pertain to perfection, nor make the one who does not have it any poorer—as the heretic taught as a dogma—, it follows that Christ assigned a simulated and fallacious doctrine by counselling that those who wished to attain perfection leave all temporal things with respect to ownership and lordship. And it would follow that Augustine and Jerome, the doctors of the Church, and the other holy fathers, the founders of religions, who, wishing to follow the counsel of Christ, have professed the abdication of ownership and lordship of all temporal things, have erred.

Moreover, sacred scripture, in the last chapter of Leviticus, says: *All tenths of the earth, whether of the produce or fruits of the trees, are the Lord's, and are sanctified for him.* And in Numbers 18:23–24, speaking of the perfection of the Levites, it says: *They will possess nothing else, content with the offerings of the tenths, which I have separated into their uses and necessities.* 'Into uses', he said, not 'into lordship'. From which [passage in] sacred scripture, it is clear that the lordship of

43. *Ad conditorem canonum* 251–255 (Tarrant 1983, pp. 250–51).

all /442/ tenths, whether of the fruits⁴⁴ or of the produce of the earth, which are agreed to be things consumable by use, is God's, and the use his ministers'. And it is clear that such lordship is God's, denuded of all temporal advantage. Therefore, according to this heretical teaching, lordship of this sort must be considered verbal, simulated, and enigmatic. But to say or think this is heretical and insane.

Moreover, the Roman Church teaches in the sacred canons that the lordship is God's, or his mystic body, which is the Church, and both the use and dispensation of them belongs to the prelates of the Church. And Augustine says in his book *On the Resources of the Church*⁴⁵ that those things which are conferred upon the Church are God's, and that those same things, whether they be clothing or other vessels, are for the use of his ministers. Even Roman pontiffs, who have existed until now, have preserved and retained the lordship for the Church in the temporal things consumable and not consumable by use that are offered, given, or granted to the Friars Minor—with only the use of simple fact left for those brothers. These pontiffs, defining that the lacking of such lordship is meritorious, holy, and perfect, and that Christ and the apostles, showing the path of perfection, taught the abdication of this sort of lordship; and that the retention or reservation of such lordship, denuded of all temporal advantage, with the concession of use made for the poor, is not unfruitful for the lord, since it is meritorious for eternal things and opportune for the profession of the poor; and that it is esteemed the more useful the more it exchanges temporal things for eternal ones, just as is evidently clear in the determination and definition of the Church in the mentioned decretal, *Exiit qui seminat*, approved by the General Council in Vienna, as it was said above.

On the basis of the aforesaid error, then, it follows that the catholic Church erred in these matters, and, consequently, that error violently clashes with the article of faith 'the one, holy, catholic, and apostolic Church', under which it is maintained that the catholic Church cannot err in faith and morals. Hence the mentioned doctrine should rightly be considered heretical. First, because it contradicts sacred scripture, through which the articles of the catholic faith are proven. Second, because it imposes an error upon the catholic Church, and manifestly opposes and resists both its teaching and its determinations or /443/ definitions. And his article is more clearly described (*continetur*) very extensively in the *Long Appeal*.

44. The editors add 'of the trees'. 45. As the editors note, this oft-repeated reference should be to Julian Pomerius' *On the Contemplative Life (De vita contemplativa)*.

[The Sixth Error]

The sixth error is taken up in that statute, *Cum inter*, in which he pronounced or declared that it must henceforth be considered heretical to affirm that the Lord, Jesus Christ, and his apostles did not have some things individually or in common. Additionally, he pronounced that it would be considered heretical to affirm that a neither right₁ of using, nor one of selling or donating or of acquiring other things from them belonged to Christ and his apostles in the things which sacred scripture witnesses that they had.⁴⁶ It is clear from many things indeed that he understood these claims to be about having and belonging by a right₁ of civil and mundane ownership and lordship, through which it is contended and litigated in court.

[1] First, because in that statute, *Quia quorundam*, he expressly contests the opinion of those who assert

that the abdication of right₁ to the ownership of any sort of thing, and to the use of it—through which the one using it thus can contend or litigate in court in some sort of way for a use of this sort⁴⁷—is meritorious and holy, preserved by Christ in himself, and imposed upon the apostles, and preserved by them under a vow.⁴⁸

And he pertinaciously asserts in the same statute that Christ neither observed this sort of expropriation of all right₁ to the ownership of any sort of thing, nor imposed it upon the apostles, nor even was it received by them under a vow—adding evangelical or apostolic history does not teach of an expropriation of this sort, but makes (as he claims) the contrary point more clearly.

[2] Second, because in that statute, *Cum inter*, he evidently includes that Christ and the apostles had a right₁ of selling, donating, and acquiring other things from them in the things which sacred scripture witnesses that they had⁴⁹—which right₁, it is clear, had been introduced by human law₁.⁵⁰

[3] Third, because in that statute, *Ad conditorem*, he asserts and expressly dogmatizes that a use of right₁ or of fact in things consumable by use cannot be separated from ownership or lordship, nor be established or had without ownership or lordship⁵¹—which right₁ of ownership, as the canon testifies, exists

46. This is a fair summary of *Cum inter nonnullos* (Tarrant 1983, pp. 255–57). 47. *Quia quorundam mentes* 261–262 (Tarrant 1983, p. 279). 48. *Quia quorundam mentes* 255–258 (Tarrant 1983, p. 278). 49. Cf. *Cum inter nonnullos* 14–19 (Tarrant 1983, p. 256). 50. Both the last clause of this sentence and that of the next could be rendered, ‘because the right₁ . . .’; however, since John never made a causal claim of this sort, I do not think this is what Michael meant either. 51. See the second quotation of *Ad conditorem canonum* in Error One, on p. 3 above. It is not quite an accurate quotation.

introduced by civil and mundane law₁. Hence, since sacred scripture witnesses or expressly supposes that some one of them had nourishment and clothing, it follows, according to him, that Christ and the apostles had civil and mundane ownership and lordship, not only in common, but even individually, of the things which sacred scripture witnesses that they had.

[4] Fourth, because he most openly declared that he understood it [in this way] in many other claims about such a right₁ of having. /444/

[5] Fifth, because it was not called back into doubt, nor was it ever doubted, whether Christ and the apostles had temporal things in use, or with respect to use, but only whether they had those things with respect to ownership.

[6] Sixth, because he recalled, while the question was pending, the sentence of excommunication introduced in the decretal *Exiit qui seminat* for this: that anyone could freely say that they had them with respect to ownership—against those who asserted the opposite of that which is defined in the decretal. And concerning that revocation, he published a special statute that begins *Quia nonnumquam*.⁵²

From which it is clearly revealed that he has fallen into two heresies. First is because he understood that Christ and the apostles had ownership and lordship of temporal things not only in common but even individually. But this dictum destroys and confounds all religion that, wishing to follow the teaching and apostolic life, vows to life without anything of one's own (and, as the canon attests, holds the figure of the apostles on this point); makes every religious individual property-holders even, transgressors of their vows as a result, and manifestly resists evangelical and apostolic teaching, the holy Roman Church, the Church of all the doctors, holy fathers, and founders of religions.

Second is because he declared that the determination and definition of the holy Roman Church, placed and inserted in the previously mentioned *Exiit*, is to be considered heretical henceforth. In which decretal, the holy Roman Church itself defines in these words:

We say that the abdication of the ownership of all things for God's sake, both individually and in common, is meritorious and holy—which even Christ, showing the way of perfection, taught by word and confirmed by example, and which the first founders of the Church Militant, just as they had drank from the source, distributed among those wishing to live perfectly in the path (*alveos*) of their teaching and life.

52. Edited in Tarrant 1983, pp. 217–21. A translation available can be found at <http://individual.utoronto.ca/jwrobinson>.

These words [are found] there. Hence, as the canon attests, the Church cannot neither deviate from the correct faith and tradition of apostolic doctrine nor err, and this is reduced, as it is said, to the article of faith, ‘the one, holy, and catholic Church,’ it follows that the heretic violently clashes with this very article of faith.

And evangelical or apostolic history does not contradict the mentioned definition as this heretic asserts, but rather harmonizes and /445/ alludes [to it]. For when blessed Peter simply and absolutely responded on his own and all the apostles, demonstrating the way of an assumed⁵³ perfection, *Behold, we have left everything*, as evangelical history bears witness, the dictum should generally be taken simply and absolutely when it is by no means found from the preceding and following words that it should be taken in another sense. And since it is more perfectly thought that they left behind both [types of] ownership, namely singular ownership and the collegial ownership of a special college than that they only left behind the former, it follows that the above-mentioned authority ought to be understood wholly and perfectly about both modes of leaving behind, namely both individually and in common (which is more perfect). Nor is what is said in the *Acts of the Apostles*—that all things were common for them—discerned to resist these [claims], for just as is clear in that same passage, it speaks of the general and universal community of believers, and not of the special community or college of the apostles. For those common things were not of the special community of the apostles, but of the general and universal community of the faithful or believers. The previously alleged *capitulum* of holy Clement, posited in 12 q. 1 *Dilectissimis*,⁵⁴ clearly proves this when it speaks thus:

The common life is necessary for all, especially those who desire to fight irreprehensibly for God, and who wish to imitate the life of the apostles and their disciples. For the use of all things that are in this world ought to be common, but, through iniquity, one person said that this was his own and another that that was his own; and in such a way a division was made among mortals. And just as air cannot be divided, nor the splendour of the sun, so the remaining things, which were given to men to have ought not be divided, but all should be held in common. With the custom of that practice retained, the apostles and their disciples, as it was said, lived a common life all together with us and with you.

These [words are found] there. From which it is clear that those things which are read [of] in the *Acts of the Apostles* were common, were the common things of

53. ‘Assumed’ in the sense of ‘taken up,’ not, say, ‘assumed for the sake of an argument.’ 54. C. 12 q. 1 c. 2.

the general and universal community of believers or faithful, and not of the special community or college of the apostles. For if the apostles, who were included in that multitude of believers as the nobler portion of that multitude, had had some things appropriated to their own special college, it is agreed that those things would not have been common to the whole multitude of believers, for what is of a part is not of the whole. And since no one had anything of one's own in that multitude, it follows that the apostles, who were of that multitude like a part /446/ of them, did not have anything of their own individually or in the special college of the apostles themselves.

Nor does it excuse the said heretic that he says in his statute *Quia quorundam*⁵⁵ that Christ even had the purse with respect to ownership in condescending to the weak, for, as he says, if Christ had had only simple use of fact of the purse, it would be said in vain that Christ himself had had the purse in the persona of the weak. For it is not true that Christ condescended to the weak because it was introduced through iniquity, namely by appropriating some temporal things to one's self (whence divisions among men were born and there is litigation in court), and which implicates him in sin, since Christ himself, as it is read in John, speaking of himself, says: *For the prince of this world and he has nothing against me*—which the *Ordinary Gloss* explaining, says: ‘The Lord did not want to have what he might lose. He came poor in order to not have what the Devil might take away.’ But if Christ had a purse with respect to ownership, the prince of this age, who was the principle of all iniquity, would have had in it that which he could take away and that which he could lose. Hence he did not condescend to the weak by having ownership of the purse, but with respect to the act of provision for the future. For the weak, in order to provide for themselves in the future, anxiously (*sollicite*) gathered and conserved temporal things so that they not lack them in the future. And that Christ did not have ownership of the purse, Jerome proves on that verse of Matthew 17:24, *From whom do the kings of the earth receive tribute?* Jo. 14:30 etc., speaking in this way: ‘The Lord was of such poverty that he did not have the wherewithal to pay the tribute. Judas had the common things in the purse, but he thought it wicked to spend the things of the poor for their own uses.’ From this it is clear that Christ did not have the purse as far as ownership is concerned, but with respect to dispensation. Augustine also implied this, and it is placed in the mentioned *Causa* 12, which speaks thus:⁵⁶ ‘The Lord had a purse, preserving the offerings from the faithful; he distributed it both for their own needs and for other indigents. At that time the form of ecclesiastical money was first instituted.’ Mt. 17:24

55. *Quia quorundam mentes* (Tarrant 1983, pp. 257–87). 56. C. 12 q. 1 c. 17.

But it is agreed according to the teaching of Church handed down in the sacred canons that the pope, who holds the place of Christ on earth, and the bishops, who succeeded in the place of the apostles do not have ownership but dispensation of the ecclesiastical money, which bears the form of the purse. /447/ For, as the same Augustine witnesses, and as it is put in *Causa* 23 q. 7 *Quod autem*,⁵⁷ those things are not ours but belong to the poor, whom we look after (*procuracionem gerimus*); we do not claim ownership for ourselves by means of a damnable usurpation.

Moreover, given that (without prejudice) Christ, by condescending to the poor, had ownership of the purse as well, he could not be excused some other way by this from his heretical determination. For when he pronounced the proposition or assertion, which regularly contains catholic truth defined in the decretal *Exiit*, namely to assert that Christ and the apostles did not have anything by right,¹ of ownership individually and in common was to be considered heretical, he is to be considered a heretic. Granted that, in the case excepted from the rule, namely that in condescending to the poor, that Christ and the apostles had had ownership of the purse, since the exception does not annul the rule, but rather confirms it (besides the excepted case)—which he reproves and condemns as heretical. From this fact he condems himself, since some time ago, before the selfsame statute, he had published otherwise; the subject-matter of the question having arisen in his presence among the brothers of the Order over certain words contained in the decretals *Exiit qui seminat* and *Exivi de paradiso*, he himself pronounced the decretals to be salubriously edited, solid, lucid, and arranged with much maturity—just as it is clearly revealed in the constitution published by him that begins *Quia quorundam*. And the aforesaid [claims] are diffusely proven and shown by means of the authorities and canons of sacred scripture in the *Long Appeal*.

[The Seventh Error]

The seventh error is that he called into doubt, or denied, that Christ forbade the apostles to carry money when he sent them to preach, asserting that the apostles, after the return from preaching, carried money;⁵⁸ and that the evangelical truth and apostolic dicta bears witness to this. This error obviously resists sacred scripture and the opinions of the holy doctors of the Church, as it is clear there in Matthew

Mt. 10:5, *He sent these twelve, commanding and saying to them: [...] Do not carry gold*

Mt. 10:9 *or silver; nor money in your belts.* And there in Mark 6:8, *And he forbade them*

Mk. 6:8

57. C. 23 q. 7 c. 3. 58. Cf. *Quia quorundam mentes* 141–148 (Tarrant 1983, p. 269).

from taking anything on the road: not a sack, nor bronze in their belt. And there in Luke 9:3, *You shall carry nothing on the road: neither a belt, nor money.* And the doctors of the Church assert /448/ that the apostles, restrained by a precept of this sort, did not even carry the money after the return from preaching. Lk. 9:3

Hence Augustine in his book *On the Miracles of Sacred Scripture* speaks in the following way: ‘On the excuse of alms and the profession of poverty, Peter said to the paralysed man: “Arise and walk”, preserving that precept of the Master, *Do not wish to possess gold or silver.*’ Augustine [said] these [words]. And Ambrose, on that verse, *you shall take nothing on the road*, speaks in this way: ‘The apostle Peter, executor of the dominical sentence, showing the Lord’s precepts were not emitted in a vacuum, since it was asked of the poor man that some of the money be spent upon him, said: *I do not have gold and silver.* And yet Peter did not both boast of this—that he had no gold or silver—, and that he preserved the Lord’s command, who commanded *Do not wish to possess gold*, etc.’ Ambrose [said] these [words]. Lk. 9:3

And the *Ordinary Gloss* on that verse in Acts 3:6, *Silver and gold is not mine*, speaks in this way: ‘Mindful of that precept *Do not wish to possess gold* etc., they did not conceal the money that was put at the feet of the apostles, but in order to relinquish their patrimony, they reserved it for the use of the poor.’ The *Gloss* [says] these [words]. cf. Lk. 9:3

And on that verse of Acts 4:36–37, *Joseph sold the field and put the price at the feet of the apostles*, the *Ordinary Gloss* speaks in this way: ‘He proves it ought to be deserted (*destituendum*) because he avoided touching [it]; and he teaches that the gold, which he put under the feet of the apostles, is to be trampled upon.’ These [words are found] there. From which authorities it is evidently clear that the apostle Peter, not only after the return from preaching that Christ sent them on, but even after the resurrection, at a time when he was not going to preach in deed, but ascending into the temple for an oration (as it is said in Acts 3)—he, bound by Christ’s precept, did not carry money. And, consequently, that the apostles were forbidden simply and absolutely to carry money under the restriction of that command, not only when they went to preach. And Chrysostom, on that verse of John, *For certain ones thought that Judas had the purse because Jesus had said to him: buy those things that are necessary*, speaks in this way: ‘Evidently none of the apostles carried money; but through that which he says here, he secretly implies that certain women nourished him from their own resources. But he who ordered them to not carry no belt, no bronze, had a purse /449/ for the ministry of the needy, so that you learn that it was very necessary for a poor man and one crucified to the world to carry out the great responsibility of this role.’ Chrysostom [said] these [words]. Other doctors of the Church also assert and prove this, just as it is maintained in the *Long Appeal* on the basis of their authorities, which are Act. 3:6

Mt. 10:9

Act. 3:6

Act. 4:36–37

Jo. 13:29

omitted here for the sake of brevity.

[The Eighth Error]

The eighth error is that the same heretic, thinking badly about the keys of the Church, calls into doubt or denies in the heretical statute *Quia quorundam* that the key of knowledge would be a key of the catholic Church, especially when he recites contrary and diverse opinions on this issue, and does not affirm and assert that there is a key of knowledge in the Church.⁵⁹ Rather, he seems to lean towards the side that there is not key of knowledge in the Church when he says that

the Saviour seems to have expressly thought this in the promise of the keys made to blessed Peter, since he added immediately after that promise:⁶⁰ *Whatever you shall bind on earth will be bound also in heaven*, etc.—without mention of knowledge.⁶¹

These are his words, which contradict sacred scripture and the opinions of the holy doctors of the Church. This is clear in Luke 11:52, where the Saviour says, *Woe to you skilled in the laws, who have carried the key of knowledge. You have not entered, and you have prohibited those who do enter.* And Rabanus, explaining that verse of Matthew, *And I shall give you the keys of the kingdom of the heavens*, he speaks in this way: ‘But the keys of the kingdom of the heavens name that very discretion and power; power, by which he may bind or loose; discretion, by which he may discern worthy and unworthy men.’ Rabanus [said] these [words]. And so it is said in the *Decretum*, D. 20:⁶² ‘In the business which is to be defined not only knowledge, but even power, is necessary. Hence Christ, about to say to Peter *whatever you shall bind upon earth*, etc., first gave him the keys of the kingdom of the heavens, giving him in the one the knowledge of discerning between leper and leper; giving him in the second the power of ejecting some from the Church, or receiving some.’ These [words are found] there. From these it is clearly proven that the key of knowledge is one key in the Church, distinct from the key of power, and that contradicting it is manifestly opposing divine scripture and the catholic teaching of the Church. And on this matter it is more fully discussed (*continetur*) in the *Long Appeal*. /450/

59. Cf. *Quia quorundam mentes* 13–84 (Tarrant 1983, pp. 258–64). 60. Matthew 16:19 reads: ‘And I shall give to thee the keys of the kingdom of the heavens. And whatever you will bind upon earth will be bound also in heaven; and whatever you will loose upon earth will be loosed also in heaven.’ Thus, ‘after that promise’ refers to the giving of the keys. 61. *Quia quorundam mentes* 81–84 (Tarrant 1983, p. 264). 62. D. 20 d.a.c. 1, pars 2.

[The Ninth Error]

The ninth error is that he dogmatizes in that statute *Quia quorundam* that the high pontiff can, in things that pertain to faith and morals revoke the definitions and dicta of his predecessors, and establish the contrary of that which is decreed in them.⁶³ This error expressly resists and opposes the teaching of the holy fathers, the sacred canons, and the catholic faith, just as is clear through that which we read in the *Decretum, Causa 25, c. Contra statuta patrum*,⁶⁴ *c. Si ea destruerem*,⁶⁵ and this can be found in many other *capitula*, and D. 15 *Sicut sancti*;⁶⁶ and X., *De statu monachorum, Cum ad monasterium*, at the end.⁶⁷ The destruction of the whole faith and authority of the Church would follow from this error, for it would follow that every Roman pontiff could revoke and destroy everything defined in faith and morals by his predecessors. And thus the whole authority of the Church would vacillate and be unstable and weak in faith and morals. Hence that teaching is to be judged heretical, for it clearly clashes with the article of faith, ‘the one, holy, catholic, and apostolic Church. And if a mistake (*erratum*) were conceded in the decretal *Exiit* on the teaching and life of Christ and the apostles and in the approval of the status and *Rule* of the Friars Minor, and in the Council of Vienna (which approved the decretal),⁶⁸ it would follow that the whole Church had erred in the faith: [1] by defining wrongly about the life and teaching of Christ and his apostles; [2] by approving in morals the state, which, according to the opinion of the aforesaid heretic, is illicit and simulated, and founded in a teaching contrary to the evangelical truth; and [3] by approving of holy Francis and the others saints of the Order of Friars Minor (who ended their days in a profession of this sort of life and teaching) as saints, and solemnly inscribing them in the catalogue of saints.

[Conclusion]

The aforesaid lord John has also fallen into many other errors and heresies, which are explained more fully and seriously in the *Long Appeal*, and are most effectively proven to be wrong by means of both the reasons and proofs of divine and human law;¹ but here they are omitted for the sake of brevity.

And so, I, brother Michael, Minister-General of the said Order, attending that the knowledge emerges manifest that the lord John published three heretical

63. This is a contentious claim for Michael to make. Compare the remarks in *Quia quorundam mentes* 13–84 and 284–345 (Tarrant 1983, pp. 258–64, 280–85). 64. C. 25 q. 1 c. 7. 65. C. 25 q. 2 c. 4. 66. D. 15 c. 2. 67. X 3.35.6. 68. This was subsequently codified in *Clem.* 5.11.1.

constitutions, send them out publicly through the whole world, and even commanded them to be read and taught in the schools (*studiis generalibus*)—so much so that it can /451/ be denied by no equivocation. And that, although brother Bonagratia of Bergamo, procurator of the Order, first appealed to the holy Roman Church against the heresies dogmatized in the constitution *Ad conditorem* in the procuratorial name on both my behalf and the Order's. Subsequently, the most serene lord, king of the Romans, lord Louis legitimately and solemnly appealed from the heresies contained and dogmatized in the constitutions, *Ad conditorem* and *Cum inter nonnullos*; yet lord John did not wish to be corrected, nor did he permit a General Council to be convened on the aforesaid issues—just as the lord king insistently requested in his appeal—but he chose and entirely wished to remain pertinaciously in his errors and heresies, and as much as he could and can, he strove and stives to pertinaciously defend them. And that he himself, even after he made the heretical constitution, which begins *Quia quorundam* (in which he repeated the heresies, and inserted many other heresies in it, as it is said earlier), against the mentioned appeals for the defense of his heresies contained in the two constitutions *Ad conditorem* and *Cum inter nonnullos*, and he publicly promulgated it and send it through the diverse regions of the world. And it is known that, after all the aforesaid, he sent and incessantly sends through the world many other letters in which he commands, *de facto* and with rash daring, that the mentioned lord Louis, emperor, be denounced an excommunicate and heretic because the selfsame lord Louis he professed evangelical and apostolic truth in his appeal, which the holy Roman Church taught and teaches, and because he contradicted the heresies of the lord John, which oppose the same truth and faith; and that he himself persecuted, and persecutes daily, all professors of the truth and those who resist his errors—just as emerges notorious and manifest. From this, it is clear that the selfsame lord John was and is a pertinacious, notorious, and manifest heretic.

And attending that according to the laws¹ and canonical sanctions, since the pope has manifestly collapsed into heresy, he is excommunicated, damned, and deprived by that same right¹ and fact from all ecclesiastical dignity, power, authority, and jurisdiction, by means of the sentence of the sacred General Council of the catholic Church placed in X. *De haereticis, c. Excommunicamus*,⁶⁹ which excommunicates and damns every heresy, all heretics, and the believers, defenders, and supporters of heretical /452/; and what is held and noted in the *Decretum*, 24 q. 1,⁷⁰ that because the pope is fallen into a condemned heresy, he involves himself in the same condemnation—and in this case the pope has fallen into the canon of

69. X 5.7.13. 70. C. 24 q. 1 c. 1.

the broad sentence by that same law₁. Nor does that rule, “an equal cannot loose or bind an equal”, oppose [this claim], for a heretical pope is less than any catholic whatsoever. And because every heresy is damned today through the mentioned Council of the universal Church, so much so that in the same *Causa* it is noted indistinctly today, “someone who either follows an old and condemned heresy, or fashions a new one, is excommunicated”; and it is noted very well in the *Summa* of the lord Hostiensis, *De haereticis, Qualiter devitetur*.⁷¹ which is also said in this way in the same *Causa* and question:⁷² “it is clearly agreed that he who draws back from the integrity of the faith has not power of cursing or blessing. Inasmuch as he is the superior, he is unable even to curse a catholic man; (he cannot pass sentence) upon a alien from the faith as someone equal to him”.⁷³ And in the same *Causa*:⁷⁴ “We say that all heretics have no power and right₁”.⁷⁵ And thus someone [who] begins to preach something publicly against the faith can neither throw him out nor damn him: for one already struck down cannot throw anyone out. And all catholic men are bound to withdraw from a fellowship with that heretic.’ Hence it is read in D. 19:⁷⁶ ‘Pope Anastasius II, a Roman by nationality, [and who] lived in the time of king Theodoric, and at that time many clerics removed themselves from his fellowship because he had fellowship with Photinus, who had fellowship with Achatius, and who secretly wanted to recall Achatius, but could not; he was struck with divine judgement.’ And such a heretical pope must not be called ‘apostolic’, but, properly speaking, ‘apostatic’. Nor must one wait to be accused or damned through man, for he is already damned, as it was said, through the opinion of the canon; and manifest and notorious things do not need the clamour of an accuser or denouncer. And he is considered a manifest heretic who publicly preaches or professes anything against the faith: X. *De verborum significatione, Super quibusdam*.⁷⁷

Nor does it help that some, ignorant of the law₁, are believed (*perhibentur*) to say that a heretical pope is to be obeyed and given obedience by everyone until he is removed from the papacy, for this dictum expressly resists the teaching of the catholic Church, as it clearly evident through those things which are held and /453/ and noted in the text and gloss of the previously alleged *Anastasius*, D. 19,⁷⁸ in the text and gloss of 16, the final q., c. *Sane*,⁷⁹ in the text and ordinary gloss of 25 q. 1 c. *Quae ad perpetuam*;⁸⁰ and through that which is noted in 24 q. 1,

71. Hostiensis, *Summa*, *De haereticis, Qualiter devitetur*. 72. C. 24 q. 1 c. q. 4. 73. The angle brackets represent additions of the editors. 74. C. 24 q. 1 c. 31. 75. The editors punctuate the remainder of this and the following sentence as part of the quotation, which is not the case. It is possible though unlikely (I have not checked) that this is all part of a longer Hostiensis quotation. 76. D. 19 c. 9. 77. X 5.40.26. 78. D. 19 c. 9. 79. C. 16 q. 7 c. 15. 80. C. 25 q. 1 c. 3.

near the beginning,⁸¹ and in *Si autem*,⁸² and in the gloss to 2 q. 7 c. *Sacerdotes*.⁸³ But the laws₁ that speak of not withdrawing from the obedience of a prelate until he is removed by the Church do not speak about (*in*) a manifest heretic who has publicly established some things against the faith—like the heretic mentioned above has done—, but they speak about an otherwise criminal prelate from whom one must not withdraw before the time of the sentence, as is clear through that which is read and noted in 8 q. 4 c. *Nonne*,⁸⁴ and it is noted by Hostiensis in his *Summa*, *De cohabitatione clericorum et mulierum*, *Quid sit notorium*, at the line *Ut autem*.⁸⁵ For the Church tolerates no heretic, but excommunicates and damns all, as is clear in X, *De haereticis*, c. *Ad abolendam*,⁸⁶ and c. *Excommunicamus itaque*,⁸⁷ and c. *Excommunicamus et anathematizamus*;⁸⁸ and it is noted in the same *Causa* 24 q. 1,⁸⁹ and it is maintained more fully in the proofs placed in the *Long Appeal*.

Indeed, to pertinaciously assert that a pope or other heretical prelate must be obeyed until removed from the prelature is heretical, for it contradicts sacred Scripture, saying in the last chapter to Titus, *Avoid a heretical man after the first and second correction*, and the teaching of the Church in 24 q. 3 c. *Dixit Apostolus*,⁹⁰ and in the mentioned laws₁. It is agreed, however, that the said heretic, after and against the interposed appeals against the heresies dogmatized by him in the constitutions *Ad conditorem* and *Cum inter*, he made and published the constitution *Quia quorundam*, in which he resists the contents against the mentioned appeals and pertinaciously strives to defend his heresies, additionally adds others, as it is said, and contests, and judges and condemns as heretical, the truth of the faith, which the holy Roman Church has taught and teaches thus far, expressed in the mentioned appeals. Hence it is clear that he is an incorrigible and pertinacious heretic. And if it were not licit to withdraw from the obedience and fellowship of such a heretic until he be removed [from the papacy], the whole catholic faith would be put in grave danger, for all catholics would be compelled to support a manifest heretic.

And,⁹¹ additionally noting that the said /454/ lord John asserted and pronounced [1] that the profession of catholic faith, which the whole Order of the Friars Minor made in the general chapter of the Order celebrated at Perugia, and sent out with clear letters to all Christ's faithful according to the form that the universal Church professes about the poverty of Christ and the apostles in the

81. C. 24 q. 1 d.a.c. 1. 82. C. 24 q. 1 d.p.c. 4. 83. C. 2 q. 7 c. 51. 84. C. 8 q. 4 c. 1. 85. Hostiensis, *Summa* ad X 3.2. 86. X 5.7.9. 87. X 5.7.9. 88. X 5.7.15. 89. C. 24 q. 1 c. 1. 90. C. 24 q. 3 c. 29. 91. According to the editors, one manuscript ends here with the following: 'And I, the aforesaid Michael, attending etc., as above, at the end of the *Greater Appeal*, right to the end.' (The conclusions of the two appeals are quite similar.)

oft-mentioned decretal, *Exiit*, is heretical; and [2] that the catholic Church damns and excommunicates all who assert or determine on the abdication of ownership, both individually and in common, which Christ and the apostles taught by word and example, otherwise than is defined in the decretal, *Exiit qui seminat*, [§] *Porro*; and [3] that the the very same lord John defined the opposite of it, determined in many ways, and pronounced it <heretical>;⁹² and [4] that, although I solemnly appealed from his pronouncement with the zeal of faith and for the same Order [when] I was living in Avignon, he nevertheless persecuted me and the brothers under me—and he continuously persecutes to death because we profess the evangelical and apostolic truth that the holy mother Church has taught; and [5] that afterwards the same lord John made several processes *de facto* and caused to be made from false [and] fabricated causes, both against the appeal against me and against my allies, the English brother William of Ockham, master in the sacred page, and brother Bonagrata, and many other brothers of the order; and [6] that he established the lord brother Bertrand de la Turre as a *de facto* vicar of the Order (since he could not do so *de iure*), who sent through the world letters of little truth (*litteras minus veras*), and in prejudice of the faith and the order.

And⁹³ fearing from truthlike causes and reasons that other troubles would be tried and befall me, my allies, other brothers of the Order subject to me, and the Order, I, the aforesaid brother Michael, Minister-General and servant of the Order, in my own name, in the name of the brothers William and Bonagrata, and in the name of all of those of the Order, and in the name and place of each and every brother of the Order who adhere and wish to adhere to me, and even in the name of all catholic and faithful christians who wish to confess the catholic faith and holy gospel, and to observe it firmly to the end, I therefore say, pronounce and denounce that the processes made and the ones to be made by the aforesaid lord John, a notorious and manifest heretic, Bertrand, and whichever agent, official, or messenger /455/ of them or some one of them, or through some other person, ecclesiastical or secular, by their or someone else's mandate or ordinary or delegated authority, to have been or to be null and of of no strength or moment. And in how much they have proceeded *de facto*, or they come to be from these [people], I, thinking that I, in my own name, and the mentioned people adhering and wishing to adhere to me would be enormously troubled, I challenge and appeal

92. The editors added *haereticam*; however, it is possible to read 'opposite' (*oppositum*) as the object of all three verbs—viz, John 'defined, determined in numerous ways, and pronounced the opposite of it'. 93. I have followed the editors' paragraphing here, but the sense makes it clear that this is a continuation of the already long sentence of the last paragraph. The basic structure of the whole sentence reads, 'I noting these six things ... and fearing ... I therefore ...'

from the processes made and the ones to be made by anyone of them against (*in*) these writings to the holy Roman Church, catholic and apostolic.

And I subject myself, the aforementioned brothers, the Order, and each and every one adhering and wishing to adhere to me to the protection and defense of the holy Roman Church. And I protest, God willing, God helping, and with blessed Francis offering help, to pursue to the end and conclude the aforesaid defense of the holy catholic faith, state of the Order, and *Rule* of our most blessed father, Francis. And I submit myself and my writings to the correction and emendation of the holy Roman Church, protesting that I strongly hold and wish to observe perpetually that faith that the holy Roman Church holds and observes, who, with the Lord arranging [everything], is mother and master of all the faithful.

Religious men⁹⁴—the brothers Francis of Marchia, doctor in the sacred page, William Ockham of England, master in the sacred page, Bonagratia of Bergamo, skilled in both laws,⁹⁵ Beregar de Mari de Ianua, Gisalbertus, minister of the province of Mediolanensis, James Blanci, one-time minister of Janua, readers in the sacred page, Bindus, custodian of Pisa, John de Castro Plebis, reader at Pisa, Ubaldinus of Bologna, John de Florentia, reader at Viterbo, Francis, reader at Cortona, Landus of Ponte, visitor of the ladies of St Claire, and many other noble brothers—adhere to this appeal and intemperate provocation, and approve it.

The aforesaid things were made and enacted in Pisa, in the home of the brothers Minor, in the office of the Minister-General, AD 1328, the 11th, September 18th, with witnesses present, honourable men called and asked for, the lords Fasciolus de Casulis, vicar of Pisa, Veglius of Pistoria, Raynerius of Prato, Nicholas of Prato, judges in /456/ Pisa, and the public notaries written below, who were asked to prepare a public document on the aforesaid matters, namely the legal-clerks Ser Berto de Spian, Ser James Leopardi de vico Pisano, and the notaries, brothers Guido de Puppio, Andrea Martini de Montecchio, Michael of Bologna, and many others.

94. This paragraph, found in one of the MSS., was written in a different hand. 95. That is, canon and civil, or Roman, law.

A Note on Translation

Michael's Latin is generally quite limpid, so there is little need to provide a long story about the principles that guided my translation other than that I have aimed at providing as literal a translation as English allows, not least because scholastic Latin generally aimed for clarity of expression over rhetorical polish. However, as certain key terms were in many ways the focus of the controversy between Pope John XXII and the Michaelists, I have thought it worthwhile to provide a list of the words I have used for these terms.⁹⁶

<i>abusus</i>	ab-use
<i>competere</i>	to apply; to belong
<i>dominium</i>	lordship
<i>in singulari</i>	individually
<i>in speciali</i>	individually
<i>ius</i>	right ₁ ; law ₁
<i>lex</i>	law ₂
<i>proprietas</i>	ownership
<i>proprietaryus</i>	property-holder
<i>usuarius</i>	(mere) user

96. Except, that is, where noted.