

William of Ockham

Eight Questions on the Power of the Pope



(... or, so far, Six Questions: 1, 2, 4-7)

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DISCLAIMER

Consider this translation provisional. I hope only minor revisions to the text of the translation (of what questions are included here) will be needed, but many details concerning the apparatus and so forth are likely to remain wanting for some time (and may change radically without warning). Criticism large and small is welcome.

If you choose to cite this translation, I recommend you use the gray paragraph numbers as these are much more likely to stay stable across revisions than the pagination. (E.g., §.1.12.80 refers to the first paragraph of the twelfth chapter of the first question, and the eightieth paragraph of the first question overall.) The document's version number should also be mentioned.

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PROLOGUE

- [1] A divine and holy pronouncement testifies that something holy should in no way be given to dogs, and pearls should not be cast before swine, lest, that is, the pearls be trampled by the swine and ones who throw and give them be torn apart by dogs. Thus, just like it is indicated by means of a certain argument probable from a contrary sense that pearls (namely, sane and just discussions) are not only to be withdrawn from the faithful, who ardently love justice and truth, because of the pigs and the dogs, but are even to be scattered¹ before those very same pigs and dogs—if there is a chance (*fieri potest*) that it might plausibly be assumed that they should not be shamefully trampled by those animals, nor that the ones who scattered them be perilously torn apart. *cf. Mt. 7:6*
- [2] On this account—since the following little work will perhaps come to the hands of my rivals (or so I hope), who, roused by hatred, will try to deform or drag to a perverse understanding even those things that, to them, seemed true, if were I to say it—I shall try to proceed in this way: so that, compelled by the manner of speaking to attend not to who spoke, but to what was said, they do not badly mangle the truth on account of their hatred towards me (unless a novel malice should vex them). For I shall wear the persona of one who recites; and I shall frequently discuss opposing opinions, not only those to which I am opposed, but also those to which I personally (*mente*) adhere; and, meanwhile, I shall compare [them] in the persona of other people by knowingly alleging for them tentatively or sophistically so that, once the allegations for each side are understood, a sincere lover of truth might have the opportunity of discerning true from false by means of the acumen of pure reason.

1. Reading *spargendas* for *spergendas*.

QUESTION ONE

CHAPTER I

A certain venerable man gave me eight questions, the solution of which [1] he humbly deigned to entreat of me. Not unaware of the ignorance of my own knowledge, however, I would have avoided not only the burden of solving them, but also the burden of discussing them for the moment, had I not desired to serve the one who had asked [this of me].¹ And so, having faith in this man, who often reveals to young boys things hidden from wise and prudent men, I shall treat of these very things by briefly debating them, so that at least occasionally I be able to profit others by exercising their innate capacities.

First, then, it is asked whether supreme spiritual power and supreme [2] secular power are so distinguished, by nature (*ex natura rei*) by opposition that they cannot formally and simultaneously fall to the same person. Regarding this question there are, or can be, contrary opinions.

[1] One of these opinions is that the two aforesaid powers cannot [3] fall simultaneously to the same person. It can be supported in this way for this [opinion]: Things that are divided by opposition are so distinguished by nature that they cannot fall simultaneously to the same person. But supreme spiritual power and supreme secular power are divided by opposition, for coercive human power is divided first into spiritual power and secular power. Therefore, spiritual power and secular power contained under them—namely supreme spiritual power and supreme secular power—are distinguished so much by nature that they cannot exist simultaneously in the same person.

Further, those powers, which correspond to the two heads of diverse [4] bodies cannot exist simultaneously in the same person, just as the same person cannot simultaneously be two heads of diverse bodies. However, supreme spiritual power and supreme secular power correspond to the two heads of diverse bodies—namely the emperor and the pope—who are the two heads of diverse bodies—namely of clerics and laymen—who ought to be distinct, just as can be gathered from the words of Jerome,

1. I have marked my additions by using [double brackets] to distinguish them from the editor's [additions to the Latin text]. This does not apply to the in-text enumerations I have supplied to help track places where Ockham lists various arguments for or against some proposition.

which are given in 12 q. 1 c. *Duo*,² as well as from other sacred canons. Therefore they cannot fall to the same person.

- [5] Again, by nature supreme secular power includes domination; hence, the emperor is lord of the world, and everyone possesses what he possesses by the right of emperors and kings: /17/ di. 8 c. *Quo iure*.³ But the supreme spiritual power, namely the papacy, excludes domination, just as every ecclesiastical prelacy, as blessed Peter witnesses, saying in his first letter, chapter five, to all the prelates of the Church: *Feed the flock of God which is among you*; and later: *And not like those dominating over the clergy, but like the form of fashioned flock in spirit*. Therefore, those two powers cannot fall to the same person.

1 Petr. 5:2

1 Petr. 5:3

- [6] Moreover, by nature the same person cannot be father and son with respect to the same thing (*eiusdem*). However, he who discharges the duty of supreme spiritual power is a son of the Church—if he is a believer, as it is said in di. 96, *Si imperator*.⁴ If, on the other hand, he is faithless, he is neither a father nor a son of the Church. But the pope is a father of the universal Church. Therefore, those powers cannot fall to the same person.

- [7] Similarly, by nature the same man is not subject to his own self, nor can he be. But the emperor, also discharging the duty of supreme spiritual power, is subject to the inferior pope, since he submits the head to an inferior bishop, the pope: di. 63, *Valentinianus*.⁵ Therefore, those powers cannot fall to the same person.

CHAPTER II

- [8] [2] Another opinion is that, de facto, supreme spiritual power and supreme secular power do fall to the same person: namely, to the highest pontiff. Not that the same man, sc. the highest pontiff, is pope and layman, but that the pope is potent in supreme spiritual power and in as great or greater power with respect to both secular things and persons as the emperor has (or any other secular layman can with respect to these things). By this, it seems, they mean to say that those who claim that the pope has such a fullness of power in spiritual and temporal things that he can *do* things that are not expressly against divine law (nor against

2. C. 12 q. 1 c. 1 (1:676). 3. D. 8 c. 1 (1:12–13). 4. D. 96 c. 11 (1:338). 5. D. 63 c. 3 (1:235–36).

natural law; though they might be against the law (*iūs*) of nations, civil or canon law). [They think this is] so much so that, although the pope might sometimes sin—whether due to a corrupt intention, from affected ignorance (crass or affected), or from some other sort of cause—in doing or ordering some things, which by nature are indifferents and not against the law of God (to the observance of which Christians are bound in the New Law) and not against the law of nature, what he does still hold de facto, and that what he orders ought still to be done by others.

For many things must not be done, or rather cannot be done in [9] any way without sin, and yet, as canonical sanctions witness, they hold, *Extra, de regularibus et transeuntibus ad religionem, Ad / 18 / apostolicam*.⁶ Indeed, he who has a fullness of power in temporals has as much power over temporals as any layman has over some person or temporal thing. If, therefore, the pope has this sort of a fullness of power in temporals, supreme spiritual power falls to the pope—even though not a layman—such that he turly possesses the fact (*rem*) of secular power—even though he does not take a name of this sort for himself. Supreme spiritual power, moreover, falls to the pope. Thus, the two aforesaid powers fall to the same person as far as the matter is concerned.

It remains, therefore, to show according to the latter opinion that the [10] pope has a fullness of power of this kind in temporals. It seems to be able to be proven in many ways. [3] For Christ, in excepting nothing, neither as far as spirituals nor temporals are concenred, gave to blessed Peter and consequently his successors, as promised, a fullness of power, saying, as it is held in Matthew 16, *You are Peter*, etc.; and later, *Whatsoever you shall bind upon earth shall be bound also in heaven*, etc. Therefore, we also should not except anything from his power. The pope, therefore, has a fullness of power not only in spirituals, but even in temporals. This seems to be expressly the opinion of Innocent III, who says, as it is read in *Extra, de maiori- tate et obedientia, c. Solitae*:⁷ “The Lord said to Peter, and he said to the successors in Peter, *Whatsoever you shall bind upon earth shall be bound also in heaven*, etc.; he excepts nothing who says “Whatsoever you shall bind”; etc.

[4] Again, he has a fullness of power in temporals who, is estab- [11] lished by divine ordination, excepting nothing, over all peoples and kingdoms—or he has at least as much as any layman has. But a divine

Mt. 16:18

Mt. 16:19

6. X 3.3.1.16 (2:574–75). 7. X 1.33.6 § 6 (2:198).

ordination excepting nothing established the pope over all peoples and kingdoms; for if it was said immediately by God to a priest in the Old Law, in Jeremiah 1: *Behold! I have established you over all peoples and kingdoms*, by not distinguishing among these peoples and those, nor between these kingdoms and those, by that much more it must be believed that this was said to the highest priest in the New Law. Therefore, the pope also has such a fullness of power in temporals that he can *do* all things without any exception (that are not against divine law nor against natural law), as touched on above; for it was said to him in Jeremiah 1, *Behold! I have established you over the peoples and over the kingdoms in order to root up, destroy, scatter, build, and plant*. By these words, since no exception is added to them as far as acting or not acting is concerned, a fullness of power seems to have been conceded by God. And /19/ Innocent seems to assert this expressly in a certain decretal of his when he says,⁸ ‘The eternal pontifical authority (*pontificium*) of Christ is not to be believed to be of a lesser power, but of a far greater one, ordained in the most foundational (*fundatissima*) See of Peter under grace, than that ancient (*inveteratum*) one, which served the ancient laws temporally. And, even so, it was said by God to the man exercising the office of the pontiff of that time: “Behold! I have established you over the peoples and over the kingdoms in order to root and plant”, etc.’

Jer. 1:10

Jer. 1:10

Jer. 1:10

[12]

[5] Further, he who has to judge secular things without any exception,⁹ has a fullness of power in secular and temporal things. But the pope has to judge without any exception. For the Apostle in 1 Corinthians 6 says, not distinguishing nor excepting on behalf of spiritual prelates and especially on behalf on the highest pontiff: *Do you not know that we shall judge angels? How much more shall we judge secular things?* Therefore, the pope has a fullness of power in secular things. The aforesaid Innocent seems to confirm this in this thing, speaking where *he had spoken* earlier,¹⁰ ‘If, as the Doctor showed that this sort of a fullness of power of the people is not to be restrained, saying *Do you not know that we shall judge angels? How much more shall we judge secular things*. Surely [he explained] the power given to them over the angels extended also

1 Cor. 6:3

8. Innocent IV(?), *Eger cui lenia*, ed. Herde, 518–19. 9. By ‘habet iudicare’, Ockham presumably means ‘has the power to judge’, or, less likely, ‘has the duty to judge’. Henceforth I silently translate the text in the first way. 10. Innocent IV(?), *Eger cui lenia*, ed. Herde, 518.

to temporals, so that lesser things are understood to be under them, to which greater things are subordinate?’

[6] Likewise, that the pope is superior to the emperor with respect to temporals, and, by a similar reason, exercising some sort of secular power, and, consequently, some try to prove in many ways that with respect to the matter, supreme secular power falls to the pope.¹¹ For both in the Old Testament among the Jews and among the gentiles and pagans, pontifical authority is preferred to royal power and kings confer honour in pontifical things (*honorem pontificibus detulerunt*), to which they were subjected. Hence Samuel anointed Saul as a king and conferred all the power that he had; and afterwards, having reprov'd Saul, Saul established David as king. Alexander the Great¹² also /20/ showed reverence to Iaddo, pontiff of the Jews; and Totila, king of the Vandals, withdrew from the mandate of Leo, pope of Italy, which he had begun to destroy. And emperors were devoted—namely Constantine, Justinian, and Charlemagne above the others—they were devoted and subject to the Church. Therefore the emperor is inferior to the pope, even with respect to temporal power.

cf. 1 Sm. 15:1–9

cf. 1 Sm. 16:13

[7] Moreover, Christ was not only a priest, but even supreme king, having a fullness of power in temporals. But the whole of all Christ's jurisdiction was conceded to his vicar; therefore the pope has such a temporal fullness of power in temporals that neither the emperor nor anyone else has any jurisdiction in temporals except from the pope. Therefore supreme secular power falls to the pope so far as this matter is concerned. Hence Innocent IV says, where [he was cited] earlier, that when the emperor receives a crown from the highest pontiff, he receives a sword in a sheath; the emperor, unsheathing and brandishing it, indicates that he has all power from the pope.¹³

[8] Further, ‘just as the soul is related to the body, so spiritual things are related to temporal or corporal things’;¹⁴ but the soul uses the body like an instrument; therefore, exercising secular power only like an instrument, and, consequently supreme secular power falls in this matter to the one on whom supreme spiritual power falls.

[9] Again, with respect to this thing, supreme secular or secular power falls on he who is freed from all secular laws and whose laws do not refuse to imitate other laws of lay or secular men. But the pope is

11. Cf. Ptolemy of Lucca, *Determinatio compendiosa* 5, ed. Krammer, 12–15. 12. Cf. Peter Comestor, *Historia ecclesiastica*, Esther 4 (PL 198:1496–97). 13. Innocent IV(?), *Eger cui lenia*, ed. Herde, 523. 14. Ptolemy of Lucca, *Determ. comp.* 7, ed. Krammer, 18.

freed from all positive laws and his laws scarcely refuse to imitate all the other laws because imperial laws, which are supreme among secular laws, do not refuse to imitate the sacred canons, as the sacred canons affirm: *de iudiciis*, c. *Clericis*.¹⁵ Therefore, supreme secular power falls to the pope.

- [17] [10] Moreover, he exercises supreme secular power so far as concerns this thing whom the whole body (*universitas*) of spiritual and secular men ought to obey in all things without exception. But the whole body of the spiritual and secular faithful ought to obey the pope in all things as it evidently gathered (so it seems) from the sacred canons and civil laws—as it is maintained in di. 12, c. *Praeceptis apostolicis*,¹⁶ and di. 19, c. *In memoriam*,¹⁷ and c. 4,¹⁸ and c. 7,¹⁹ and innumerable other places. Therefore, etc. /21/

- [18] [11] Similarly, supreme secular power falls to him from whose judgment of some sort no one is allowed to judge, and from whose judgment or opinion or act no one is allowed to appeal: for in every case one is allowed to appeal from he who does not exercise supreme power but has a superior: 2 q. 1, c. 6²⁰ and c. *Placuit*.²¹ But no one is allowed to judge concerning the judgment of the pope: 9 q. 3, c. *Patet*,²² and c. *Ipsi*,²³ and c. *Cuncta*,²⁴ and 17 q. 4, § *Qui autem*,²⁵ and c. *Nemini*.²⁶ Therefore, supreme secular power falls to the pope.

CHAPTER III

- [19] [3] There is another opinion somewhat in between the aforesaid opinions, in harmony in certain ways and discordant from both in certain ways. For, in agreement with the first that a de facto supreme spiritual power and a supreme secular power does not fall, nor should it fall, at the same time to the same man. But it recedes from them, saying that those two powers are not so distinguished by nature from the opposite that they cannot fall at the same time to one person. And in this it agrees with the second opinion (from which it is discordant), affirming that those

15. X 2.1.8 (2:241). 16. D. 12 c. 2 (1:27). 17. D. 19 c. 3 (1:60–61). 18. D. 19 c. 4 (1:61). 19. D. 19 c. 7 (1:62). 20. C. 2 q. 6 c. 1 (1:467). 21. C. 2 q. 6 c. 9 (1:468). 22. C. 9 q. 3 c. 10 (1:609). 23. C. 9 q. 3 c. 16 (1:611). 24. C. 9 q. 3 c. 17 (1:611). 25. C. 17 q. 4 d.p.c. 29 (1:822). 26. C. 17 q. 4 c. 30 (1:823).

two powers do not fall to the same man, namely to the highest pontiff or pope.

[4] And so, first they try to prove that those two powers can fall [20] to the same person at the same time as much as is from the nature of the thing. For all spiritual power, which belongs to the one exercising spiritual power, or belongs to him by reason of order or by reason of administration. But the fact (*res*) of secular power opposes neither order nor administration. Therefore, by nature it can fall just as much to one person at the same time to whom supreme spiritual power falls.

In fact, that it does not oppose order is clear. For supreme secular [21] power does not seem, insofar as it exists by its own nature, to have a greater repugnancy to the sacerdotal order or some other one than non-supreme secular power does. But non-supreme secular power, as much as it exists by its own nature, has no repugnancy to some other order; otherwise, if some king or another layman were to become a priest, bishop, or pope, by that very fact he would lose all temporal power that he had had over any other thing or person—which seems absurd.

Similarly, matrimony does not oppose order. Hence even in the [22] primitive Church priests and bishops had wives licitly; therefore as much as is by nature secular power, even supreme power, as it concerns the thing opposes /22/ spiritual power: since matrimony is ordered to a carnal act more distant from spiritual things than secular power in temporals.

Similarly, an act of order, which seems to be a certain power, and [23] an act of secular (even supreme) power do not have a repugnancy by nature by which they cannot (*quin*) fall to the same man. Therefore, powers of the acts themselves, insofar as [each one] exists by its own nature, can fall to the same man. The antecedent is proven: For no act of supreme secular power appears that opposes, by nature, the act of preparing (*conficiendi*) the body of Christ, ordaining clerics, consecrating virgins, binding and loosing, or other things. Indeed, to judge those bound in secular crimes seems to oppose order especially. And yet it does not oppose, since an act of this sort, both *de facto* and *de iure*, ought to belong to an ecclesiastical judge on account of the negligence of a secular

judge. For an ecclesiastical judge makes up for the negligence of a secular judge: *Extra, de foro competenti*, c. *Licet*,²⁷ and the following.²⁸

[24] And so it seems that secular power does not oppose the one exercising supreme spiritual power on account of the order that he has. Nor does it oppose it on account of administration: first, because secular power is less distant from administration than from order; second, because no act of supreme secular power opposes every act of administration, which the one exercising supreme spiritual power has. Indeed, judging criminals seems especially to oppose it; yet it does not oppose it since, as it was said, an ecclesiastical judge ought to make up for the negligence of a secular judge.

[25] It is concluded from the aforesaid that supreme secular power and supreme spiritual power can by nature fall to the same man.

CHAPTER IV

[26] [2] Secondly, that opinion maintains that those two powers neither fall nor ought to fall to the same man. This, indeed, does not happen by nature, but from the ordination of God and divine law, whereby precaution is taken so that the same man is not ordinarily or regularly in charge of secular or divine affairs, although the one exercising supreme spiritual power is able to do those things which are of supreme secular power on occasion. /23/ Yet [this occurs] in such a way that ordinary supreme secular power does not fall to him. For, the aforesaid negatives only refer to ordinary and regular power, not to casual power.

[27] And it [sc. that opinion] tries to show that those two powers do not fall, nor ought to fall, to the same person in many ways. For the one exercising ordinary supreme secular power ought to involve himself in secular business: di. 10 c. *Imperium*,²⁹ di. 96, c. *Si Imperator*,³⁰ 11 q. 1 c. *Sicut enim*.³¹ But the one exercising supreme spiritual power ought hardly involve himself in secular business, since even the other inferior [leaders] ought not involve themselves in secular things—as blessed Paul testifies, who says in 2 Timothy 2, *No one soldiering for God involves himself in secular business in order to please the one to whom he has proven himself*. In a letter of blessed Clement, as it is read in 11 q. 1, *Te quidem*,³²

2 Tim. 2:4

27. X 2.2.10 (2:250–51). 28. X 2.2.11 (2:251). 29. D. 10 c. 5 (1:20). 30. D. 96 c. 11 (1:338). 31. C. 11 q. 1 c. 30 (1:634–35). 32. C. 11 q. 1 c. 29 (1:634).

Blessed Peter seems to assert openly the very same thing, saying, 'It is fitting indeed that you live irreproachably, and cast aside with the greatest effort all the pursuits of this life: that you not be an oath-swearer, that you not become a lawyer of lawsuits, that you, entangled by occasion of mundane business, not be found entirely in some occupation. For Christ wishes that neither judge nor knower of secular business of business orders you today.' And in c. 30 he says, 'It is a crime of impiety for you, O Clement, to take up secular concerns with the zeal for the word of God neglected.' A canon published by the apostles also commands this in these words, as it is read in di. 88 c. *Episcopus*,³³ 'By no means let bishop, priest, or deacon assume secular cares; if it be otherwise, let him be brought down.' The Fourth Carthaginian council seems to allude to these ideas, as it is read in the same di., c. *Episcopus*,³⁴ saying, 'Let a bishop recall to himself no care for a familiar thing, but only be free for reading, prayer, and the word of preaching.' This is also expressly contained in other sacred canons and decretals, as is clear in 21 q. 3, cc. 1, 2, 3, 4, and the last chapter,³⁵ and in *Extra*, *Ne clerici vel monachi saecularibus negotiis se immisceant*, c. 1,³⁶ and c. *Sed nec*,³⁷ and c. *Clericis*.³⁸ Therefore those two powers ought hardly fall to the same man according to the divine and human rights founded in divine law (*ius*).

Further, those powers, which Christ wished to be distinct and belong [28] to distinct persons, ought not fall to the same man. Moreover, Christ wished supreme secular power and supreme spiritual power /24/ to be distinct and belong to distinct persons: which Cyprian, as it is read in di. 10, c. *Quoniam*,³⁹ and pope Nicholas, as it is maintained in di. 96, c. *Cum ad verum*,⁴⁰ seem to testify in nearly the same words, assigning reasons with this canon why he wished it. For Nicholas writes thus: 'When you come to the truth of the matter,⁴¹ no further did the emperor seize for himself the rights of the pontificate, nor did the pontiff usurp the name of the emperor, since the very mediator of God and men, the man Christ Jesus, distinguished the offices of both powers with the proper acts and distinct dignities, wishing it to be raised up by proper medicinal humility,

33. D. 88 c. 3 (1:307). 34. D. 88 c. 6 (1:307-08). 35. C. 21 q. 3 c. 1-4, 7 (1:855-57). 36. X 3.50.1 (2:657). 37. X 3.50.4 (2:658). 38. X 3.50.5 (2:658-59). 39. D. 10 c. 8 (1:21). 40. D. 96 c. 6 (1:339). 41. The Latin reads: *Cum ad verum ventum est*. Cf. Horace's *Satires* 1.3 'quis paria esse fere placuit peccata, laborant, / cum ventum ad verum est: sensus moresque repugnant / atque ipsa utilitas, iusti prope mater et aequi.' (Let those who prefer to think that all sins are essentially equal make some effort when it is come to the truth: sense and custom disagree, as does utility herself, the mother, nearly, of justice and equity.)

not be sunken down into hell by human pride, so that Christian emperors need pontiffs for eternal life, and pontiffs use imperial laws only for the course of temporal events since spiritual action is distant from carnal assaults, and the one soldiering for God scarcely involve himself in secular business, and, in turn, he not seem to preside over divine things, who would be involved in secular business.' From these words, as it seems, it is clearly held that, just as the emperor ought not usurp supreme spiritual power to himself, so ought not the pope usurp supreme secular power to himself; and that Christ ordered this (whose ordination no one is allowed to transgress), lest he acquire damnation for himself according to the opinion of the Apostle in Romans 13.

cf. Ro. 13:2

[29] A threefold reason is suggested (*innuitur*) why Christ ordered that those supreme powers ought to belong to distinct persons. [a] The first is that he would not be proud and be plunged into hell if the emperor or pope were to have both. Hence says the gloss, 'The first has fallen through pride, hence all were plunged into hell; but Christ raised us up by his humility.'⁴² But if all were to have the same duties (*officia*), they would be proud in such a way that they would be plunged into hell again. [b] The second reason is so that distinct persons having distinct supreme powers, namely emperor and pope, would mutually need one another. [c] The third reason, which is in sacred scripture just as even the preceding allegation seems to be founded, is so that one fighting for God would not mix himself in secular business, and so that one intent on secular business not have supreme power in spiritual matters. From these it can be concluded according to the ordination of Christ that those two supreme powers ought not fall to the same man.

[30] Again, it pertains to supreme secular power to be concerned with weapons and exercise the judgment of blood, as the Apostle witnesses in Romans 13: *Not without cause does he carry a sword. For he is a minister of God: in anger the defender [goes] to him who does evil. /25/* Hence Cyprian, as it is had in 23 q. 5 c. *Rex*, says:⁴³ 'The king must restrain theft, punish adultery, drive (*perdere*) the impious from the earth, and not allow patricides and perjurers to live.' Hence Augustine against the Manichees, as it is had in 23 q. 1, *Quid culpatur*,⁴⁴ wished 'the authority of undertaking war to be in the power of the prince'; and, consequently, it is first of all in the power of the supreme secular prince. For what he

Ro. 13:4

42. *Gl. ord.* ad D. 96 c. 6, s.v. 'rursus'. 43. C. 23 q. 5 c. 40 (1:941). The author of the text was not, it would seem, Cyprian. 44. C. 23 q. 1 c. 4 (1:893).

says there about a secular prince, is clear by that which he adds, saying: 'A just man, if he fights strongly under a king, a sacrilegious man, he can rightly wage war with him ordering [[it]].' Hence Salomon says in Proverbs 20: *The king who sits on the throne of judgment scatters all evil with his gaze*; and again: *The wise king scatters the impious, and bends the arch over them*. But Christ forbade his vicar and other spiritual prelates by his word and example to be intent upon weapons and exercising the judgment of blood. For he said to Peter, as it is read in John 18: *Put your sword in your scabbard*, and it is written in Matthew 26 in this way: *Return your sword to its place; for all who shall have received the sword, shall perish by the sword*. It seems that he did not only prohibit Peter from using the sword, but also the other apostles, as Luke witnesses, saying in c. 22: *Now these ones, who were around him, seeing what was going happen, said to him: 'Lord, shall we strike with the sword?' And one of them struck the servant of the high priest, and he cut off his right ear. Responding, Jesus said: 'Suffer you thus far.'* From which words it is gathered that Christ forbade the apostles and other prelates the power of the sword, and, consequently, he wished that they abstain from the shedding of blood.

He also forbade them this when he said to them, as it is read in [31] Matthew 20: *You know that the princes of the nations exercise lordship over them; and they who are greater exercise power over them. It will not be so among you; but whosoever wishes to become greater among you, let him be your minister. He who wishes to be first among you, will be your servant: just as the Son of man did not come to be ministered, but minister*. From which words, two things are gathered. [a] The first of which is that Christ kept back supreme spiritual power from the apostles. In fact, he kept back some power, and not all: [i] first, because he wished that there be greater ones and chiefs (*primi*) among others; [ii] second, because he commanded them to exercise some power when he said to Peter: *Feed my sheep*; and when he said to all the apostles in John 20: *As the Father sent me, even do I send you*; and after: *Whose sins you shall forgive, they are forgiven them; and whose you shall retain, they are retained*. Therefore, Christ forbade supreme secular power to all the apostles. [b] Secondly, it is gathered /26/ from the aforesaid words that Christ wished that the apostles imitated him in the abdication of exercising of power over others, since he put himself before them as an example, saying: *As the Son of man did not come to be ministered, but to minister*—as if he said, 'Do just as you see me do, so that you not exercise over others greater power than

you see me to have exercised'. But Christ, insofar as he was a mortal man, offering an example to his vicar how he ought to govern his subjects, he never exercised a judgment of blood or supreme secular power, but he even declined such power when an opportunity was offered to him by others. For when, as it is read in John 8, *the scribes and Pharisees led a woman caught in adultery, and they stood her in the middle, and they said to him: Master, this women was just now caught in adultery. In the law, Moses command such a person to be stoned. What, therefore, do you say?* He himself refused to involve himself with the cause of blood so much so that he did not wish to respond to his interrogators which sentence was to be passed (*fērenda*) according to the law by himself or by another judge. Hence also, when his disciples, James and John, as it is had in Luke 9, desired that the contempt of the Samaritans be avenged by means of a capital punishment (which they did for Christ), rebuking them, he said: *You do not know of whose spirit you are. The Son of man did not come to destroy souls, but to save.* He did not say, 'The contempt of the Samaritans is not worthy of death', but he said: *The Son of man did not come to destroy souls*, as if he said, 'Although that contempt is worthy of death, nevertheless, I shall not inflict it because I did not come insofar as I am a mortal man to take away corporal life for any sort of crime, but to confer it.' For he resuscitated three dead men, but he did not punish any crime, no matter how big, with death or with the loss of a limb, though sometimes he inflicted some other bodily punishment on some people. For, as it is written in John 2, with the scourge of cords made, he ejected the people selling sheep and oxen from the temple, *and he poured out the money of the money-changers.* He himself even refused to defend himself with weapons when he was handed over to be killed (*ad mortem*); hence he said to Peter, as it is read in Matthew 26: *Do you think that I cannot now ask my Father, and he will give me more than twelve legions of angels;* and yet he in no way wished to do this. And so, although Christ taught by example that spiritual prelates of the Church can correct criminals with a light corporal punishment; yet by this fact, he showed that they ought not use weapons, nor inflict death or the loss of limbs [upon anyone]: which the sacred canons of Christ, following his tracks, seem to command and witness, as is clear in 23 q. 8 c. *Clerici*,⁴⁵ and c. *Quicumque*,⁴⁶ and c. *Reprehensibile*,⁴⁷ and c. *Hiis a quibus*,⁴⁸ /27/

Jo. 8:3-5

Lk. 9:55-56

Lk. 9:56

Jo. 2:15

Mt. 26:53

45. C. 23 q. 8 c. 5 (1:954). 46. C. 23 q. 8 c. 6 (1:954). 47. C. 23 q. 8 c. 19 (1:958).
48. C. 23 q. 8 c. 30 (1:964).

and c. *Si quis*,⁴⁹ and *Extra, Ne clerici vel monachi saecularibus negotiis se immisceant*, c. *Clericis*,⁵⁰ and c. *Sententiam*,⁵¹ and *Extra, de excessibus praelatorum*, c. *Ex litteris*,⁵² and 23 q. 5, c. 1,⁵³ and c. *Poena*,⁵⁴ and c. *Unum*,⁵⁵ and c. *Incestuosi*,⁵⁶ and c. *Sunt quaedam*,⁵⁷ and q. 1, c. *Nisi*.⁵⁸ From which [references] and many others, it is gathered that it pertains to laymen alone to intend arms and pursue the cause of blood, not to spiritual prelates. For this reason, it is concluded that supreme secular power and supreme spiritual power ought not fall to the same man.

CHAPTER V

Because I thought to proceed only by reciting and alleging in this little [32] work, it ought to be said how one might respond, according to the afore-said opinions to the allegations contrary to them; and first, how, according to a third opinion, those things that the first opinion adduced are solved.

[1] It is said to the *first*⁵⁹ of these that, although things which are [33] divided by opposition (*ex opposito*) as contraries cannot, by nature, have the same primary (*primum*) subject (though they can fall to different parts of the same subject), those things, which are divided by opposition as different species, or of some common mode (and for this reason they are not the same), can nevertheless often fall to the same person—in fact, sometimes to the same primary subject. For, a sacred order and a non-sacred order are in some way divided by opposition, and yet they can fall to the same man, in fact, to the same soul, which is the primary subject of both. So, too, are intellectual and moral virtue are in some sense divided by opposition, and yet they fall to the same man. And so it is regarding innumerable other things. Therefore it cannot be concluded that they cannot fall to the same man [simply] because the power was first divided into a spiritual and secular power, although it can be clearly proven that they are not the same power. And thus it seems that it ought to be said of supreme spiritual power and of secular power that, although it can be shown that they are not the same power because they are divided

49. C. 23 q. 8 c. 31 (1:964). 50. X 3.50.5 (2:658–59). 51. X 3.50.9 (2:659–60). 52. X 3.31.10 (2:797). 53. C. 23 q. 5 c. 1 (1:928–29). 54. C. 23 q. 5 c. 2 (1:929–30). 55. C. 23 q. 5 c. 3 (1:930). 56. C. 23 q. 5 c. 22 (1:937). 57. C. 23 q. 5 c. 39 (1:941). 58. C. 23 q. 1 c. 1 (1:890). 59. See §.1.1.3 on p. 2.

in some way by opposition, they can nevertheless fall to the same man at the same time—as much as it is from the nature of the thing.

- [34] [2] It is said to the [second](#)⁶⁰ that a supreme spiritual power and supreme secular power do not, from the nature of thing, necessarily establish two heads of two diverse bodies, namely one of clerics and one of laymen: [a] first, because clerics and laymen are one body, according to that [verse] of the Apostle in Romans 12: for *we all are one body in Christ*; [b] second, because, although clerics and lay people ought to be distinguished /28/ due to the multitude of Christians that now exists and did exist in the time of blessed Jerome, some people still think that it would not be impossible for clerics or laymen to be turned from the faith and that there remained only one group (*genus*) of them with respect to whom (as much as it might be by nature) the same man has both supreme spiritual and secular power.

- [35] [3] The [third](#)⁶¹ is responded to in two ways. [a] In one way, that although the papacy and any ecclesiastical office (*prelato*) excludes from itself domination (which exists with respect to slaves, not free people) so much that no prelate of the Church is, by force of ecclesiastical office or spiritual power, the lord of any Christians by means of such a domination, which is called *despotes* in Greek according to Aristotle in the *Politics*:⁶² for no ecclesiastical rulership (*principatus*), even an supreme one, is despotic by Christ's ordination, but is in fact, according to that [verse] in Peter 2, more assimilated to a regal rulership: *But you are a chosen people, a regal priesthood*, and that [verse] in Apocalypse 1: *He made us a priestly kingdom*. An ecclesiastical office, nonetheless, does not exclude from itself the domination that exists with respect to free people through which mode a king is the lord of his subjects. But when Blessed Peter says, *Not exercising lordship over the clergy*, he excludes the first domination from the priests of the Church in the previously alleged words, not the second. And if it be said that this is opposed to the sacred canons—according to which prelates of the Church are lords with respect to others as if with respect to slaves—because the Church has slaves, it is responded according to some that no one is a slave of the Church by force of ecclesiastical office established by Christ; but whoever is a slave

60. See §.1.1.4 on p. 2. 61. See §.1.1.5 on p. 3. 62. Aristotle, *Politics* 1.7.1255b16. 'Despotes' (= δεσπότης) literally means 'master' or 'lord'.

of the Church, is a slave by human ordination. Hence there are several slaves of the Church, who were freely given by their lords to the Church.

[b] It is responded in another way to the third reason (*motivum*) [36] for the first opinion that, although ecclesiastical office, according to the authority of Peter, or rather according to the words of Christ, who wanted prelates of the Church to be the slaves and ministers of others [and] he excluded from himself the sort of domination that supreme secular power has, for supreme spiritual power is neither this sort of domination, nor does it necessarily have it attached to it. And for this reason, although according to blessed Peter he who executes supreme spiritual power ought not have such domination, such domination is nonetheless not opposed to him. And therefore it can fall to the same person together with supreme spiritual power, as long as there isn't some other obstacle.

To the *fourth*⁶³ it is responded that, because the emperor should [37] not be the highest spiritual prelate, for that reason he is a son of the Church—if he is faithful. But this is not by the nature of supreme power, which he holds. And therefore he can be the father, and not son, of the Church /29/ as much as it is from the nature of that supreme power. But the *Decretum* speaks according to the second mode, which ought to be observed regarding the emperor, not who comes by nature.⁶⁴

It is said to the *fifth*⁶⁵ that an emperor who holds supreme secular [38] power is not subject to the pope by the nature of that power, but because, if he has that supreme secular power, he ought to lack supreme spiritual power, which the highest pontiff has. And therefore, in spiritual matters, he is less de facto than the highest pontiff—not from the nature of the power [itself].

CHAPTER VI

It now remains to respond to the reasons (*motiva*) of the second opinion [39] according to the third opinion. None of these are based on this: that the pope has a fullness of power in both spirituals and temporals. Some people think this thought (*intellectum*), as many understand it, is heretical. Indeed, as many people strive to prove in many ways, to say that

63. See §.1.1.6 on p. 3. 64. See D. 96 c. 11 (1:341). 65. See §.1.1.7 on p. 3.

the pope has such a fullness of power, either in spirituals or temporals that he can do anything (*universa*) without exception that is not against divine law (*ius*) (which Christians are bound to observe from the necessity of salvation), nor against indispensable and immutable natural law, opposes divine scripture, human canon and civil law (*ius*), and evident reason against indispensable and immutable natural law. [Consequently,] I have decided that some of their reasons (*motiva*) ought to be inserted for the present by touching [on them] briefly without a drawn out discussion.

[40]

[1] The first one, which some people boldly think, is the following. According to the sacred letters, the evangelical law is a law of liberty in comparison to Mosaic law. This ought at least be understood negatively so that it not be of such servitude, neither in temporals nor in spirituals, with respect to ceremonial and exterior observances, as was the Mosaic law: so much so that, although some or all Christians can be subjected to so great (or greater) a servitude through their own agency or that of others from a newly emerging cause, yet the community of the faithful is not bound by such servitude through evangelical law; nor can some mortal subject it to such great servitude, by virtue of the evangelical law, especially without manifest and rational fault and cause. And if anyone presumed to attempt this, what he does is null by divine law (*ius*). But if the pope had such a fullness of power from Christ and by evangelical law, evangelical law would be of intolerable servitude, and of much greater one than Mosaic law. For all would be made slaves of the pope through it, such that the pope would have as much power over all Christians as any temporal lord ever had or could have had /30/ over his own slaves; such that the pope could give or sell any king or other people to the servitude of any other people; the pope could even impose many ceremonies and exterior observances on the community of the faithful than where established in the Old Law. And, thus, the evangelical law would be of incomparably greater servitude than Mosaic law—which appears heretical to many people. It remains, therefore, that the pope does not have such a fullness of power.

[41]

Regarding this reason, so it seems, nothing remains but to prove that the evangelical law is a law of liberty, which some assert can be fully proven through both sacred scripture and the sacred canons. For, as they say, blessed James witnesses this in his canonical letter, in the first chapter, the Apostle Paul in 2 Corinthians 3 and Galatians 2 and 4, and blessed Peter and James in Acts 15, and pope Urban, 19 q. 2, c. *Duae*,⁶⁶ and

cf. *Iac.* 1:25cf. 2 *Co.* 3:17; *Gal.* 2:3–5, 4:31cf. *Act.* 15:10–29

Innocent III, *Extra, de regularibus*, c. *Licet*,⁶⁷ and blessed Augustine to the questions of Januarius, and it is had in di. 12, c. *Omnia*.⁶⁸ Now, I do not adduce these authorities for the sake of brevity; however, they say from these and many others that it is fully clear that the evangelical law is a law of liberty with respect to the Old Law.

Further, although Christ had a fullness of power insofar as he was God, he yet abdicated such a fullness of power insofar as he was a mortal man: because he said in John 18: *My kingdom is not of this world*—intending by those words to deny that he was a king in temporals. Otherwise, by those words he would not at all have excluded before Pilate the accusation of the Jews who charged that he had said he was a king in prejudice to Caesar; yet, as it is read in Luke 23, after the Jews charged that he had said he was a king, Pilate said: *I find no case in this man*, suggesting that Christ had not said that he was a king in temporals, but was in another way than in temporals, according to which way he did not think him opposed to Caesar. And he did not condemn Christ for that reason, as if convicted because he had made himself king in temporals, but due to the importunity of the Jews seeking that he crucify him, as Luke witnesses, /31/ when saying first: *But he*, namely Pilate, *said to them a third time: Indeed, what evil has this one done? I find no cause for death in him. Therefore I shall chastise and release him. But they insisted with loud voices, demanding that he be crucified; and their voices grew strong. And Pilate judged that their petition should be done.* And after: *But he delivered Jesus unto their will.* From these words it is gathered that Pilate did not consider Christ guilty of a crime worthy of death. Yet he would have done this, if Christ had been convicted or confessed that he had a temporal kingdom, whether by men or by God, and in Judea, where Caesar did not wish to reign anyone except the person whom he instituted. Pilate, therefore, conquered by the unscrupulousness of the petitioners and of those instilling fear in him, in order that he not be falsely accused in front of Caesar by the Jews that he favoured someone in Judea who said that he was a temporal king (who had not been instituted by Caesar), especially since they were clamouring and speaking against him, as it is held in John 19: *If you send this one away, you are not a friend of Caesar's; for everyone who makes himself a king speaks against Caesar*; against justice and against conscience even, he delivered Jesus to those demanding that

66. C. 19 q. 2 c. 2 (1:839–40). 67. X 3.3.1.18 (2:575–76). 68. D. 12 c. 12 (1:30).

he be crucified, knowing that although Jesus said to himself *I am king*,^{Jo. 18:37} he nevertheless knew that he was a king in a way other than the way the Jews understood since they accused him that he had made himself king. Hence not a few were amazed that Pilate turned to this thought, a worldly man without faith, from Christ's words about his kingdom, and yet some Christians did not assess him carefully, who yet wish to be doctors of law; of which, as it seems to them, is not another case except because they have been blinded by an evil affection. But the pope does not especially have by divine ordination a greater power in temporals than Christ had insofar as he was a mortal man (of whom he is the vicar). Therefore the pope does not have such a fullness of power in temporals.

[43] Again, the sacred canons seem to testify that the pope does not have such a fullness of power in temporals. For he does not have such a fullness of power in temporals to whose temporal jurisdiction some lands are subject to and others not. But some lands, and not all lands, are subject to the pope in terms of temporal jurisdiction, *Extra, de haereticis, Vergentis*;⁶⁹ therefore, etc.

[44] Likewise, the prescription does not go against a person who has such a fullness of power in temporals; but at least the centenary prescription goes against the pope in terms of temporals, *Extra, de praescriptionibus, Si diligenti*;⁷⁰ /32/

[45] Moreover, he does not have such a fullness of power in temporals who cannot alienate fiefs and other temporal goods assigned to him. But the pope cannot alienate the goods of the Roman Church: 12 q. 2 *Non liceat*;⁷¹ therefore, etc.

[46] Still, it seems it can be proven that the pope does not have such a fullness of power through the civil rights. For, if the pope had such a fullness of power, the empire and all kingdoms of the world would be from the pope—which seems to be opposed civil laws, since they say that the empire is from God, in the *Authentica, Quomodo oporteat episcopos*, etc., coll. 1,⁷² where it is read: 'God's greatest gifts among' all 'men, indeed are conferred from on high, clemency of the priests and empire; the one ministering divine things, and the other presiding over human things and exhibiting due care; from one and the same beginning both proceed, adorning human life'. And C. *de veteri iure enucleando*, l. 1,⁷³ it is held so: 'By God, our author, who governs the empire that was delivered to

69. X 5.7.10 (2:782–83). 70. X 2.26.17 (2:388–89). 71. C. 12 q. 2 c. 48 (1:703).

72. Nov. 6 pr. (Coll. 1.6) (3:35–36). 73. Cod. 1.17.1 (2:69–70).

us by the heavenly majesty', etc. Therefore, the pope does not have the aforesaid fullness of power over the empire.

This is also proven, as it seems to some, by a [self-]evident reason. [47] For apostolic or papal leadership (*principatus*) does not regard the utility of the faithful subjects less than does secular leadership. But according to Aristotle in the *Politics*,⁷⁴ a temperate, just, [and] upright secular principate is established principally for the common good of its subjects; therefore, the apostolic principate was established by Christ much more principally for the sake of the common good of all the faithful. But if the pope had such a fullness of power, his principate would not be for the sake of the common good, but for the sake of the good proper to the pope: [1] first, because through such a principate there would be more provision for the pope than the subjects; and he who seeks his own profit ought rather be called a mercenary than a true pastor; [2] second, because such a principate would be dangerous to its subjects, because if the pope had such a fullness of power although he despoiled all Christians of all their things and liberties outside the case of extreme necessity and subjected them to labours, servitudes, burdens, and immense dangers, it would not be licit for them to resist the pope, but they would be bound to obey of necessity, which would stand as dangerous to them. Therefore, it remains that the pope does not have such a fullness of power.

Further, there is an equal fullness of power in all the highest pontiffs: [48] the fullness, namely that they have from Christ by reason of the papacy. But there were some highest pontiffs, and there can still be some, who were not capable of /33/ the aforesaid fullness of power: e.g., monks and other religious taken from the perfect religious orders: because such religious are not capable of ownership and lordship, neither of temporal things nor of people, since they have abdicated all ownership through a vow of poverty from which they cannot be absolved: *Extra, de statu monarchorum, Cum ad monasterium*. Yet this is necessarily included in the aforesaid fullness of power. Therefore, no pope has such a fullness of power from the power granted to him by Christ.

But perhaps someone will say that a monk or other religious elevated [49] to the papacy is freed, without qualification, from the vow of poverty. This seems to be able to be proven in this way: the vow of poverty is necessarily annexed in the same way as the vow of obedience to a perfect

74. Cf. Aristotle, *Politics* 3.6 1279a17–21.

religious order; but a religious elevated to the papacy is without qualification freed from the vow of obedience because he is no more bound to obey the prelates of his religious order than if he had always been a secular (priest); therefore he is also freed from the abdication of ownership and the vow of poverty. To this it is responded that a religious elevated to the papacy is not entirely absolved from the vow of obedience; nor is he as free as if he had always been a secular (priest). [1] First, because, although he is not bound to obey the prelates of his order for the duration of his papacy, he is, nevertheless, bound to obey the Rule, which he vowed, in terms of its substantial points and those things which do no impede the office for which he was elevated. [2] Second, because, be it that the vow of obedience does not properly regard those things that are commanded in a Rule, but those things that are commanded (and can only be commanded) by prelates, even so a religious made pope is not free from the prelates of his order as if he had been a secular (priest). For, if such a pope became a heretic even for another crime, in which he appeared incorrigible and the Church would be scandalized, he would be deposed by sentence or he would spontaneously renounce the papacy, by that very deed and right he would be made *[[so]]* by the obedience of the prelates of his order. And, thus, such a pope, because he can become not a pope, is not as free from the obedience of the prelates of his order as if he had never been a religious; and for that reason he is not, without qualification, absolved from his vow of obedience: for he can be returned, and is bound to return to the obedience of his prelates without a new vow. Nor is it surprising, for each and every thing easily returns to its own nature. Since, therefore, a vow of poverty is of the substance of a perfect Rule, and it does not in any way impede the exercise of the pontifical office, it seems binding that such a religious, elevated to the papacy, cannot have ownership, especially outside the case of necessity. Hence, be it that some case could arise in which it was necessary for a religious pope to assume the ownership of some temporal thing: even so, outside the case of necessity, he is not allowed to have ownership. /34/

CHAPTER VII

- [50] Having seen how certain people holding a third opinion try to prove that the pope does not have that fullness of power that was explained [above](#)

in the second chapter,⁷⁵ it ought to be seen how they strive to respond to the allegations to the contrary.

Mt. 16:9 To the first of these, it is said that, by those words, *Whatsoever you shall bind*, etc., Christ did not give, or promise, Peter such a fullness of power, and therefore he did not promise, or give, such a power to the pope in blessed Peter. Indeed, such a power would help neither the pope nor his subjects, but would be dangerous to both. For it would be dangerous to the pope because it might lead him to excessive pride and be an occasion for perpetrating innumerable evils. It would even be dangerous to his subjects because, as there are many spiritually weak and enfeebled individuals among the faithful, there are a great number who would not be able to endure the burdens which the pope could impose upon them by right without their fault and without cause, without the greatest of difficulty; by this fact, such a yoke would emerge as excessively dangerous to them, because it is to be feared that they would completely cast aside the yoke of obedience before they sustained such serious [burdens]. And so, since Christ did not give the pope any power dangerous to himself and to others, he did not confer upon him fullness of power; therefore, he only gave him another [kind of] fullness of power.

Now, they say that Christ did not give or promise blessed Peter any power through the preceding words except with respect to sinners because he only gave him a power of conferring the sacrament of penitence, that is, the power of binding and loosing men from sins, not indeed by expelling fault, restoring grace, and remitting the debt of eternal damnation (for only God does these things); but only [1] by showing men that they are freed or bound before the Church, [2] by imposing some [sort of] satisfaction in this world (e.g., prayer, fasting, or some similar thing), [3] by reconciling sinners with the communion of the faithful, and, [4] sometimes, by promulgating that sinners are to be put under excommunication; [but] not by exercising coercive judgment.

Jn. 21:17 Others, however, thinking that it is not pointless to restrain papal power from danger in such a way, say that, through those words, or at least through the words, *Feed my sheep*, gave or promised blessed Peter, and, in him, the pope, / 35 / all power necessary for the government of the faithful for the purpose of acquiring eternal life—with the rights and reasonable liberties of others, honest or even licit, preserved of all other

75. See §.1.2.8 on p. 3.

people who are not manifestly delinquent or perpetrating a crime (for which they justly ought to be deprived of their rights or liberties).

[54] Now, they say 'power necessary for the government of the faithful' is granted to the pope in order to exclude power not only pernicious or dangerous, but even useful on occasion, though not necessary on the same occasion. On this account, the pope does not have from the ordination of Christ alone a power over the faithful in respect of what are only of supererogation, outside of the case of necessity and utility (which should be made equal to necessity). They say, moreover, 'for the purpose of acquiring eternal life' in order to exclude a particular power in respect of what do not lead to (*disponunt*) eternal life. And on account of this, Christ said to Peter, *I shall give you the keys to the kingdom of the heavens*, as if he said 'all the power that I shall give you, is necessary for you or other faithful for acquiring the kingdom of the heavens'; on this account he has no particular power over temporals given to him by Christ, except in the case in which it could be said somehow necessary to consider the kingdom of the heavens—e.g., in the case in which it was necessary that the pope make arrangements regarding some temporals in order to avoid necessarily sin or danger, or in order to do of necessity some meritorious work. They say, moreover, 'with the rights and liberties' etc. 'preserved' in order to note that, through no power given to him by Christ, the pope can remove the rights or liberties of emperors, kings, or any others, clerics or laymen, with them unwilling, without fault or cause, beyond the case of necessity and utility (which can be made equal to necessity), provided only that such liberties and rights are not against divine law (to which all Christians were bound): because, although they are against what are in the Old Law—to which Christians are hardly bound—they ought to enjoy them; nor against the law (*ius*) of nature or of the peoples, especially if they agree with the divine law (*ius*) of nature, or of the peoples, or civil [law (*ius*)]—because if they are against law (*ius*) of the peoples, or civil law (*ius*), they should not make use of them. They say, moreover, 'of people who are not manifestly delinquent or perpetrating a crime'; etc. in order to note that the pope has from Christ a power of inflicting a due and fitting penalty for every crime, when /36/ it is necessary for the common good of the faithful that such a penalty be inflicted, with the right of other judges, who are not exercising their power negligently or damnably, preserved. Because, if other judges, to whom it pertains to punish the guilty (*reos*), are prepared to make the

Mt. 16:19

complement of justice, the pope cannot at all insert himself in prejudice of others regarding the punishing of their subjects through the power conferred upon him by Christ. Even if subjects, or anyone else not at all established in lofty positions (*in sublimitate*) abuse their rights or liberties, the pope must not deprive them of these things outside the case of necessity.

And so, according to them, the pope has that fullness of power, [55] because that power prejudices neither the common good nor the private good of anyone who is not delinquent. But if it is *for the punishment of evildoers*, the common good is looked after by this; and, consequently, it seems it ought, deservedly, be attributed to the pope, who ought to excel all other men in his merits and his wisdom (if such a person will be able to be found): because that power seems to be for the *edification, not for destruction* of the good, which the Apostle in the last chapter of 2 Corinthians, speaking in the person of all the prelates of the Church, says ought to be granted to him. Therefore, it ought to flourish in the pope most fully, not perishing at the edges of his territory.⁷⁶ He ought to be content with this power, since, according to Augustine in *On the City of God*, book 19, and held in 8 q. 1, *Qui episcopatum*, he ought to wish ‘to benefit’, not ‘be in charge’;⁷⁷ namely, so that he not usurp a greater [power] to himself with the faithful unwilling, even though he is capable of a greater one, should others freely wish to transfer him a more extensive one—especially if he did not abdicate a greater one by vow.

These ones, therefore, responding to the earlier-written allegation, [56] say that, although the words of Christ, *Whatsoever you shall bind*, etc., are generally offered, but they ought not be understood generally (as some wish) without any exception whatsoever, since they say that they ought to have some exceptions. For, those things, which are against divine and evangelical law, and against the law of nature make exception in order that the pope cannot do them. And so, just as the aforesaid are not to be included in the power of the pope, neither should all these be included, which Christ, by word or example, and the Apostle, in his canonical writings (whose words must be received as Christ’s words because *they spoke, inspired by the Holy Spirit*), indicated must not be included—even though Christ made no vocal exception when he offered those words [in Matthew]. For, Christ suggested that a power unnecessary for the

76. Translating ‘non exeundo fines ipsius’. 77. C. 8 q. 1 c. 11 (1:593–94); in Augustine, *City of God* 19.19.

government of the faithful should not be included when he forbade the apostles a dominative mode of ruling observed by the powers of the world, and he lead them to humility, as /37/ it is gathered from Matthew 20 and 23, Mark 10, and Luke 22. Which even Peter did (once he followed Christ), when he said: Not *exercising lordship over the clerics*. For being able to command someone to something to which he is not bound hardly lacks all manner of domination. For he who does as he wishes regarding a person or a thing shows that he is in some way the lord of that person or thing. Christ also suggested, by word and equally by example, that the power of removing the rights and liberties of other people without fault or cause should not be included in Peter's power. By word, indeed, when he said, as it is read in Matthew 22, *Render what are Caesar's unto Caesar*, which words ought not only be understood about the things that are owed to Caesar, but even about all those things that are owed to anybody. The Apostle, following the teaching of Christ in Romans 13, make this clear, when, speaking of the powers of the faithless and others, says, *Render everyone their dues; tribute to whom tribute is due; tax to whom tax is due; fear to whom fear is due; honour to whom honour is due*. Now, if one's dues are to be rendered, rights and liberties ought not be removed without fault and without cause. He also shows this by example, when he paid the tribute to which he was hardly bound, as is clear in Matthew 17; by this deed, he gave an example to Peter, and to all others who wish to follow the perfection of his life: that they should yield their right in order to avoid scandal. Therefore, he showed even more by example that Peter should not removed the rights and liberties of others (when they are unwilling), because this could hardly have been done without a scandal, which it was needful for Peter to avoid. For, who is not scandalized whose rights and liberties are unwillingly removed?

cf. Mt. 20:25–28

cf. Mt. 23:10–12; Mk. 10:42–45;

Lk. 22:25–27

cf. 1 Pt. 5:2

Mt. 22:21

Ro. 13:7

cf. Mt. 17:23–26

[57] Form the aforesaid, and practically innumerable other things, which some adduce for the same point, it is concluded that Christ wished that the aforesaid power not be included in the power that he granted to Peter under those general words. It is inferred, therefore, that neither Peter nor another successor of his had that fullness of power from Christ, especially in temporals, which was explained [above, in chapter two](#).⁷⁸ Since he suggested by words and deeds that his vicar ought not exercise such a power by virtue of another power granted to him outside of the case of necessity (for, since he said to Peter and all the other apostles, as

78. See p. 3.

Mt. 10:24 it is read in Matthew 10, *The disciple is not above his master, nor a servant*
 cf. Jn. 13:16 *above his lord*, and in John 13, *There is not a servant greater than he who*
 Jn. 6:15 *sent him*, and in 6, *When he recognized that they were coming to take him,*
and make him king, he fled once more to the mountain; who even responds
 to a certain man asking that he pass judgment on temporal affairs between
 he and his brother, as it is had in Luke 12, /38/ *Man, who has established*
me a judge, or a divider, over you?, as if he were saying ‘No one’ [has done
 so], with the gloss witnessing there, ‘he did not deign to be a judge of
 lawsuits, nor an arbiter of their resources [*facultatem*]’), it is manifestly
 proven, as is apparent, that his vicar cannot regularly exercise such a
 power, though he might casually, according to what Innocent III seems
 to suggest, as it is had in *Extra*, *Qui filii sint legitimi*, *Per venerabilem*.⁷⁹

CHAPTER VIII

Among the previously-written points, two things are maintained that [58]
 seem like they could be attacked in particular. [1] The first of these is
 that such a fullness of power would be dangerous to the subjects—which
 does not seem to be true: because perfect obedience, even with a vow, is
 not dangerous; but it looks to perfect obedience that a prelate have such
 a fullness of power; therefore, such a fullness of power in the pope is not
 dangerous to the faithful. [2] The second is that the pope can exercise
 such a power in temporals casually. For this seems to obstruct (*obviare*)
 Mt. 10:24 his superiors: for, if, as it was alleged,⁸⁰ *The disciple is not above his master,*
nor a servant above his lord, and Christ did not, even casually, exercise
 such power, it follows that the pope ought not exercise this kind of power
 even casually.

To the first of these, it is responded that, just as some things are most [59]
 salubrious for good people, which are nevertheless mortally perilous to
 wicked people, so some things are expedient for perfect people, lacking in
 any danger that should be avoided, which are nevertheless known to be
 dangerous to imperfect people, [and] entwined with dangers that must
 be avoided by the imperfect. In fact, martyrdom does not have so great
 a danger attached that the perfect must not suffer it by fleeing [from
 it]; and, yet, the imperfect ought not expose themselves to the danger

79. X 4.17.13 (2:714–16). 80. See §.1.7.57 on p. 26.

connected with martyrdom, as Bede testifies, who says on that [verse] of Matthew 26, *The disciples, having left him, fled*: ‘The disciples, who anticipated the moment of arrest by fleeing, teach the precaution of fleeing to those, who think that they are less suitable for the punishments—for whom it is safer to hide than to place themselves opposite the hazard.’⁸¹ So it is regarding such a fullness of power because, be it granted that such a fullness of power in the highest pontiff were not dangerous to perfect people of the most perfect voluntary obedience, who subject themselves to him, it would still be dangerous to many imperfect people, for whom it even seems to be hazardous to be obliged to the most perfect obedience. Since, therefore, many imperfect people exist in the congregation of the faithful, it is not expedient that the pope has such a fullness of power with respect to all the faithful: for such a fullness of power is dangerous, at least /39/ for the imperfect, for whom it is even safer to not be bound to the most perfect obedience than to be obliged to enduring burdens and dangers, which the pope could maliciously and indiscriminately enjoin by right, if he had this kind of fullness of power.

Mt. 26:56

[60] To the second it is said that Christ did not exercise such a fullness of power in temporals, because a case did not arise in which it would be expedient for the faithful for Christ to exercise this kind of power (who nevertheless would not have abstained from its execution in a case where it would have been necessary to exercise it). In order to imply this, perhaps, he did some things either according to a power (*potentia*) of divinity or according to a regular power (*potentia*) of humanity, but a casual one, which seems to look to such a power in temporals, just as when he said to the demons that they enter others’ pigs, which they drowned in the water, and when he cursed the fig-tree that it not make fruit for others. And, therefore, the pope does regularly, but casually in case of necessity, power in temporals, and a certain fullness of power, although not the aforesaid [kind].

cf. Mt. 8:28–32

cf. Mt. 21:19

CHAPTER IX

[61] It remains, therefore, to respond to the words of Innocent III,⁸² which seems to militate most expressly against the aforesaid. To this it is said

81. Bede, in *Matth.* 4.26 (PL 92:117). 82. See §.1.2.10 on p. 4.

that, unless they are explained violently and against the understanding that they convey at first glance, they smack of manifest heresy, just as do some other words of Innocent, which, additionally, seem to be contrary to other words of his. Indeed, when he says in *Extra*, *Qui filii sint legitimi*, c. *Per venerabilem*:⁸³ 'When the second law of Deuteronomy is interpreted, it is proved from the force of the word, that is, discerned in the New Testament ought to be observed', unless it is explained more sensibly, he errs openly. For he either intends that those things that are decided in Deuteronomy ought to be observed in the New Testament in terms of the surface of the letter in the way in which they needed to be observed in the Old Testament, which must be considered erroneous in many details since there are many ceremonial, sacramental, and judicial things there (as is clear in chapters twelve and fourteen, and in many other places) which are not observed in the New Law (nor are those things, which are decided in Deuteronomy, to be observed in that way more than what are decided in the other books of Moses); or, he understands that they are to be observed according to a mystical or moral understanding, and thus not only what is in Deuteronomy ought to be observed, but even all the things that are decided in the other books of Moses, as it is read in the *Decretum*, di. 6, § *His ita*.⁸⁴ Therefore, since Innocent suggests in the preceding words that /40/ what is decided in Deuteronomy ought to be observed more than what are decided in the other books of the law, especially since the above-written words would otherwise be altogether irrelevant for the conclusion that he intends to prove, it follows that the above-written words must be considered heretical unless they are explained more sensibly.

When he also says, *Extra*, *de electione*, c. *Venerabilem*:⁸⁵ 'The same is [62] against one's oath, on which he did request counsel from the apostolic See, he presumed to usurp a kingdom to himself by the vice of ambition, since on that oath the Roman Church ought to have been consulted first. Nor does it help for his full exoneration if the oath were called illicit, since he still ought to have consult us first about this', unless it is explained against the understanding, which the words entirely seem to convey, he seems to fall into heretical absurdities. Since those words pretend that no one ought to go against his illicit oath, by not distinguishing between one illicit oath and another before he counsel the highest pontiff; from which

83. X 4.17.13 (2:714-16). 84. D. 6 d.p.c. 3 (1:11). 85. X 1.6.34 (2:81).

innumerable absurdities against good customs seem to follow. Indeed, it would follow that if someone swore illicitly that he did not wish to abstain from fornication, theft, homicide, or any other sin, he ought never abstain from such sins before he counselled the pope. It would also follow that if someone swore that he was not going to praise God, or not love his neighbour, or not return other people's things, or some such thing, he ought not praise God, nor love his neighbour, nor return other people's things, or any such thing, before he consulted the Roman Church—which seem to smack of manifest heresy and to supply kindling for sins and iniquities.

[63] In addition, the previously alleged words of Innocent on behalf of the aforesaid fullness of spiritual power seem to incompatible with other words of his, unless they are explained more sensibly, as when he says, as it is read in *Extra, Qui filii sint legitimi*, c. *Causam*,⁸⁶ 'We, attending to what pertains to a king, do not judge for the Church regarding such possessions', etc. From these words it is gathered that it does not pertain to the pope, who is the Church, or head of the Church, to judge about possessions, and, consequently, that he does not have such a fullness of power in temporals: which can also be gathered clearly also from many other decretals of the same Innocent, as it is seen.

[64] It is said, therefore, that Innocent's words are to be explained sensibly, when he says that Christ did not make any exceptions when he said to Peter: *Whatsoever you shall bind*, etc., lest they be caught in manifest heresy. Now, they are explained in a catholic sense in two ways. [1] In one way, that he understands that Christ, when he said to Peter *Whatsoever you shall bind*, etc., he did not verbally and expressly make an exception at that time; yet he showed elsewhere by both other words and examples that many things are to be excepted, /41/ and, therefore, that they ought to be excepted by us. [2] In another way it is said that Christ did not make an exception: understand [he did not make an exception] 'about what are necessary for the government of the faithful, and which do not prejudice the rights and liberties of others'; and, therefore, by those words, *Whatsoever you shall bind*, etc., Christ did not promise to furnish Peter with a power unnecessary for the government of the faithful to Peter, nor one prejudicial to others, especially not one enormously or

Mt. 16:9

Mt. 16:9

Mt. 16:9

86. X 4.17.7 (2:712).

notably abusing their rights and liberties, nor one damnably neglecting their right.⁸⁷

CHAPTER X

To the [second allegation](#)⁸⁸ adduced above in chapter two for a fullness of spiritual power, which is founded in this, that, making no exceptions (as is proved by the authority of Jeremiah), God established the pope over the peoples and kingdoms, it is responded that it must be considered sophistical for many reasons. [1] First, because it was in no way said to the chief priest, *Behold! I have established you over the peoples and kingdoms*; for it was said to Jeremiah, who was not the chief priest. [2] Second, because although Jeremiah was a priest, nevertheless the previous words were said to him not insofar as he was a priest but insofar as he was a prophet. Hence, God said previously in the same place: *I made you a prophet over the peoples*. [3] Third, because Jeremiah did not at all exercise such power, and he did not say to the people that he had received such a power from God. He, therefore, who wishes to conclude by those words that the pope has such a fullness of power, let him also conclude that any priest and every prophet has such a fullness of power from God. [4] Fourth, the abovesaid allegation does not seem to conclude because those things, which look to spiritual and celestial things, ought to shine more fully in the chief priest of the New Law than in a chief priest of the Old Law, nevertheless they do not know those things that look⁸⁹ to carnal and terrestrial, or temporal, things. Otherwise, just like a priest of the Old Law, so also a priest, and a chief priest, of the New Law would make appropriate use of matrimony; and, just as in the Old Law a chief priest involved himself decently in arms, wars, the deaths of men, the removal of limbs, and the vengeance of blood: yet, all these things, and similar ones, must be considered absurd [in a priest of the New Law]. Therefore, by power and lordship, it can be that the pope may have some power in temporals, which must be believed necessary, neither for himself nor for others. [5] Fifth, it does not conclude, because, although an exception is

87. Reading *abutentem* and *negligentem* for *abutentibus* and *negligentibus*. 88. See §.1.2.11 on p. 4. 89. Reading *spectant* for *spectare*.

not added in those words, nevertheless it can be gathered by other words of Scripture that some exception must be added. /42/

- [66] Different people respond in different ways to [Innocent IV](#).⁹⁰ For, some sanely explain his words as it seems to them, saying that he meant that the eternal pontificate of Christ is of far greater power, even in temporals, casually not regularly, than a pontificate of the Old Law. And, for this reason, if it was said to a pontiff of the Old Law, *Behold! I have established you over the peoples*, it is understood to be said even more to the chief pontiff of the New Law, *Behold! I have established you over the peoples to root up*, etc., that is, 'so that you only casually assume, even in temporals, jurisdiction over the peoples and kingdoms: not regularly, in prejudice of kings and princes using their power legitimately'. And that this was his intention they gather from his words, which follow when he says:⁹¹ 'Therefore, it remains that the Roman pontiff exercises, at least casually, pontifical judgement (*iudicium*) over any Christian, of whatever condition he may prove to be, especially by reason of sin, so that he might establish that every sinner whatsoever, after he has come to the depth of vices through contempt, be held alien from the body of the faithful, like a publican or heathen' By these words it is noticed that the Roman pontiff cannot exercise temporal judgement over all Christians except casually. From this it is concluded that the pope does not regularly have the aforesaid fullness of power.

Icr. 1:10

Icr. 1:10

- [67] Others do not care to excuse Innocent, especially since, as it seems to them, he asserts and affirms a manifest and inexcusable heresy in the very same decretal, saying that there is no ordered power from God outside the Church, nor is any power or jurisdiction granted outside the Church but a permitted one alone; and that no temporal power of government can be found outside the Church.⁹² All of this, as they say, ought to be considered heretical; which, as it is alleged in other works, they strive to show in very many ways: of these, I shall discuss (*perstringam*) a few.

- [68] For evidence of their allegations, it must first be known that, according to them, there was a true lordship of temporal things, and a true, legitimate, and ordered power of the material sword, both before the advent of Christ and among the faithless afterwards: true temporal jurisdiction, and not only /43/ permitted by God (in the way God permits tyrants, robbers, and invaders of the things and rights of others to

90. See §.1.2.11 on p. 5. 91. Innocent IV(?), *Eger cui lenia*, ed. Herde, 519. 92. Innocent IV(?), *Eger cui lenia*, ed. Herde, 520–22.

usurp power and lordship to themselves), but granted (although the ones holding such a power among the faithless always or frequently used it illegitimately or inordinately). But the abuse of the user and the legitimate power of the holder do not in any way oppose or resist one another, but they can fall to the same man at one and the same time, as Augustine witnesses, who, as it is read in 14 q. 5 *Neque enim*, says:⁹³ 'The the perversity of a tyrannical faction will not be laudable if the tyrant were to treat his subjects with royal clemency; nor will the order of royal power be faulted if the king rages with tyrannical cruelty. Indeed, it is one thing to wish to use justly an unjust power, and another to wish to use a just power unjustly.' From these words, it is clear that a just power and an abuse of that same just power allow themselves in the same person. Wherefore, be it that all things outside the Church build toward Gehenna, and that the faithless completely abuse all power, it cannot be shown that they have no true and legitimate power.

And so, it is proved in such a way that there was a true power of the material sword and a true lordship of temporal things both before the advent of Christ and among the faithless afterwards: a lordship of things given by God to determinate individuals, which is hardly allowed to be taken away by them from other faithful people, is a true lordship, not only permitted, but even granted by the one who could grant and give a true and legitimate lordship. But God, as it is said in Deuteronomy 2, *cf. Dt. 2:4-5*

Further, he who is joined to a special divine precept in a king, has not only a permitted power of the material sword from God, but also a granted one: because there is no legitimate royal unction without a legitimate power. But God commanded the prophet Elias, as it is read in 3 Kings 19, that he annoint Hazael as king over Syria, who was, nevertheless, an infidel; therefore, Hazael had a legitimate power of the sword. Regarding whom it is added in the same place, *Whoever shall escape the sword of Hazael, Jehu shall execute.* *cf. 1 Sm. 19:17*

Again, he has a true lordship of temporal things, and not only a permitted one, to whom the faithful are obliged to render the things that *1 Sm. 19:17*

93. C. 14 q. 5 c. 9 (1:740).

he says are his: because, another person is not bound to render those things that a tyrant or a robber, or an invader claims. But Christ wished and commanded the faithful to render to Caesar the things that he said were his own, saying, *Render to Caesar what are Caesar's*; therefore, /44/ that Caesar, namely Tiberius, who lived as an infidel, had a true and legitimate dominium of temporal things. Mt. 22:21

[72] Still, the one to whom the faithful ought to be subject, not only to avoid danger, but even due to conscience, have a true and legitimate power. In the time of the apostles, Christians were to be subject to faithless powers, not only to avoid danger, but even due to conscience, as the Apostle witnesses in Romans 13, when he says, *Therefore, be subject of necessity, not only for wrath, but even for conscience*. Ro. 13:5 Therefore, the faithless had true and legitimate power. And it is clear that the Apostle understood 'faithless' there under *higher powers* through what he writes in 1 Timothy 6, saying, *Whosoever are slavers under a yoke, let them judge their lords worthy of all honour, lest the name of the Lord and his teaching be blasphemed. But they who have faithful masters, let them not despise them, because they are brothers; rather, let them serve more because they are faithful*, where they openly suggests that of all the true lords, some are faithful, and some are faithless, and that both are to be served. Likewise, when he says in Romans 13, *Let every soul be subject to higher powers*, Ro. 13:1 he meant the faithful are subject even to faithless powers. Wherefore, when he said, *There is no power except from God; and those that are, are ordered from God*, he openly understood that a power, which was among the faithless, was ordered from God, and not only permitted: for he said of that power, *he who resists power, resists the ordination of God*, which cannot be understood of permitted [but] not granted. 1 Tim. 6:1-2 For, the fathers in the Old Testament, who often opposed the faithless having power over them permitted by God, did not resist the ordination of God, because by resisting them they did not at all acquire their own damnation, but emerged as laudable and worthy of reward. If Christians, too, should try to oppose the faithless who oppress them and who have a permitted power, they do not resist God's ordination in any way. Ro. 13:1

[73] Outside the Church, therefore, a legitimate, granted, and not only permitted, power can be found among the faithless, although the faithless abuse that legitimate power as frequently as several faithful sinners, who hold legitimate power abuse it more often. Augustine, in the *City of God* Ro. 13:2

4 and 5, seems to hold and assert this opinion about the power granted and given by God to both the faithless and evil faithful.⁹⁴

Those, therefore, because they think that **Innocent** cannot be excused regarding the previous error, do not think his words above ought to be explained according to another understanding /45/ than what they express. Rather, indeed, they say that they are so irrational that they clearly show their inventor to have been hardly skilled in divine scriptures. [1] First, because it is not had from sacred scriptures that the pontificate was ordained in the seat of Peter under the grace of Christ of far greater power in temporals than the priesthood of Aaron. Rather, it is regularly of power in temporals, for many and greater temporals had been assigned by divine ordination to the priesthood of the Old Law than to the priesthood of the New Law. [2] Second, because the pontificate of Peter was not of equal power to the pontificate of Christ: for Christ could institute new sacraments by the authority of his pontificate, which Peter could not at all do; Christ could also make dispensation in many things in which Peter did not have the power of dispensing. [3] Third, because it was not said by God to the person exercising the pontificate, *Behold! I have established you*, etc., because Jeremiah was not a pontiff, but one of the lesser priests. [74]

1 Jer. 1:10

CHAPTER XI

To the **third allegation**⁹⁵ adduced above in the second chapter, it is responded that the Apostle, in saying, *Do you not know that we shall judge angels? How much more, then, shall we judge secular things?*, did not speak in his own person, or in that of the highest pontiff, or even in that of the clerics, but in the person of all the faithful, clerics and laymen. [This is] because judges ought to be established from the gathering (*coetu*) of the faithful, who ought to judge secular things, to act—with the right of faithless judges not neglecting justice—in those things, which pertain to them before they are justly deprived of their jurisdiction. Not necessarily indeed [must this person be] some bishop or priest, but rather a layman, if a suitable layman is found. But if a suitable layman is not found, a suitable cleric ought to be established, who has can judge secular things [75]

1 Co. 6:3

94. Augustine, *De civitate Dei* 4.33 and 5.19, 21 (CCSL 47:126–27, 154–56, 157–58).

95. See §.1.2.12 on p. 5.

with necessity urging. Yet, no one ought to be established, who has to judge secular things regularly in every case without any exception, so that he has the aforesaid fullness of power over them: for, it would be dangerous to the community of the faithful for any one mortal to have such a fullness of power over all faithful in secular things. Hence, neither the pope nor the emperor ought to have such a power over the community of the faithful, because no one of them is able to remove the rights and liberties of their inferiors without fault and without cause—except in a case of necessity. When, therefore, it is said that the pope has to be judge secular things without exception, this is denied. /46/

[76] And when it is proved that the Apostle, neither by distinguishing nor by making exceptions for spiritual prelates and, especially, for the highest pontiff, says, *Do you not know that we shall judge angels? How much more, then, shall we judge secular things?*, it is responded to in the same way as it was said [before] that the Apostle did not say those words to spiritual prelates only, nor especially to the highest pontiff, except on occasion; but he said them in the person of the community of the faithful in the way in which it was said. Although he did not make a distinction or exception there, he still meant for exceptions (which he posited elsewhere) to be understood, lest one contrary to himself be found, or rather one contrary to Christ, who established Peter the highest pontiff of all the faithful, not for exercising lordship, but for feeding the faithful, not for the utility, exaltation, or honour of Peter, but principally for the utility of the faithful; and, for that reason, he conferred no *power* upon himself, except for *building*, not for *destruction*, nor did he wish the faithful to be to subject to the successors of Peter except in necessary matters on account of innumerable dangers, with the liberties and rights of not only the faithful and the faithless preserved before they are justly deprived of their rights and liberties by a rational and manifest cause on account of a special fault by a lay catholic prince, or, on occasion, an ecclesiastic. On account of which, the apostle commands the faithful in many places that they exhibit obedience, due reverence, and subjection to their rulers (*potestates*), even faithless ones, manifestly suggesting that, when he spoke in 1 Corinthians 6 that the faithful ought to judge secular things, he did not understand that the faithful ought to be judged without any exception, and not among the faithless.

1 Co. 6:3

cf. 2 Co. 13:10

[77] It is said, therefore, that the Apostle intended to encourage the Corinthians in that chapter that, just as—according to canonical sanctions, as

it is had in 5 q. 2, *Si primates*,⁹⁶ di. 90, c. *Studendum*,⁹⁷ *Extra, de simonia, Querelam*,⁹⁸ 23 q. ult., *Si quis membrorum*,⁹⁹ *Extra, de transactionibus, Ex parte*,¹⁰⁰ 23 q. 4, *Si illic*¹⁰¹—a judge ought first harmonize the parties before they come to court if he can, and in the same way those subject to some judge or secular or ecclesiastical prince having between themselves a case do better [to sort it out] on their own (*immediate*). They can do this through arbiters without prejudice to their superior, if, before they come to a superior judge on their affairs, they will strive among themselves to put a due end to their affairs through arbiters or judges elected from the factions. In this way, the Corinthians (and other faithful by the same reason), having secular affairs among themselves, if they were not bound to sustain injury and /47/ suffer fraud, and they wished to obtain their right through the court (if they could not do so otherwise), then they would establish among themselves faithful judges, among whom (and not among faithless) they would acquire their right without an illicit prejudice to the faithless judges to whom they were subject. And, for that reason, in three cases, the faithful Christians were licitly able to be judged among the faithless. [1] First, if the faithless in the cases in which they were subject dragged them to the court of the faithless. [2] Second, if a faithful defendant (*reus*), compelled by a faithful plaintiff (*actore*)—though wicked in this—was taken to the court of the faithless. [3] Third, if a plaintiff was bound to acquire his right, which he could not obtain except only through faithless judges. In other cases, the Apostle wished either that they receive injury and suffer the fraud, or that they be judged in the presence of faithless judges established by the faithful, so that, as much as they licitly could, they avoid being judged among with scandal the faithless, in order that the faithless not learn of their frauds and injuries, which evil and wicked Christians do not fear to do to Christians, and so they have an opportunity to blaspheme not only Christians, but even the teaching of the Lord.

To Innocent IV's words given at the end of the allegation [quoted earlier](#),¹⁰² some say that they ought to be explained according to a sane understanding, sc. that the power of the pope is not to be restricted with respect to those things, which are regularly necessary to the government of the faithful, with the rights and liberties of others preserved in the

96. C. 5 q. 2 c. 4 (1:546–47). 97. D. 90 c. 7 (1:314). 98. X 5.3.15 (2:753). 99. C. 23 q. 8 c. 31 (1:964). 100. X 1.36.11 (2:210). 101. C. 23 q. 4 c. 29 (1:912). 102. See §.1.2.12 on p. 5.

previously explained way, and that, even casually, he is not bound with respect to doing the necessary things when there is no one else who is willing, able, and ought take care of (*expedire*) what must be done.

[79]

Some other people do not wish to explain Innocent [in this way] because it is clearly had from other words of his that, according to him, Christ ‘established a regal monarchy (*monarchatum*)’ in the Apostolic See,¹⁰³ and that there is no royal power outside of the Church: they consider this heretical, because it is against sacred scripture, as they think was demonstrably [proved above](#).¹⁰⁴ They say, therefore, that the above-said Innocent erred openly. [1] First, in this, that he says that the apostle shows that this sort of fullness is not to be restricted since the Apostle wished it to be bound in several places, as they think was proven earlier. [2] Second, they say that he errs when he says that ‘lesser things are understood to those to whom the greater ones are subject’;¹⁰⁵ because this is not universally true without any exception, although it is true in many things. For, bishops are regularly subject to their archbishop, to whom nonetheless the bishops’ subjects are not subject except in [some] cases. Often, even, greater things befit some people, whom lesser things do not befit, as Gregory witnesses, who treating the words of the Apostle in the nineteenth book of the *Moralia*,¹⁰⁶ *If you have secular trials, set to judge those who are the contemptible in the Church*, says, ‘Let those who are of lesser merit in the Church and are strong by no virtues of great gifts, let them judge about terrestrial business.’ And after: ‘But those who are endowed with spiritual gifts, they certainly ought not to be entwined in terrestrial business, in order that they are able to serve greater goods when they are not compelled arrange inferior goods.’ From these words, it is concluded that lesser things are by no means regularly subject to things which are greater: which the Apostle clearly suggests when he says, *No one who is a soldier for God is entwined in secular business*. And Peter also says this openly, as it is held in 11 q. 1 c. *Te quidem*,¹⁰⁷ and c. *Sicut enim*,¹⁰⁸ as it was alleged [above in chapter four](#).¹⁰⁹ Therefore, from this, that the pope is a judge in secular matters, it can in no way be concluded that in a case where there is not another grade of an inferior who by office could, and would wish to, judge secular matters, the pope can mix himself in such a court, just as one member of a natural body

1 Co. 6:4

2 Tim. 2:4

103. Cf. Innocent IV(?), *Eger cui lenia*, ed. Herde, 520–21. 104. See §.1.10.68 on p. 31.

105. Cf. §.1.10.72 on p. 33, above. 106. Gregory the Great, *Moralia in Iob* 19.25 (PL 76.125). 107. C. 11 q. 1 c. 29 (1:634). 108. C. 11 q. 1 c. 30 (1:634–35). 109. See §.1.4.27 on p. 9.

assumes—if it can—the duty of another member, when it is deficient or not able to have its own action. For, he who cannot walk with his feet tries to crawl with his hands, and he who cannot strike with his hand, endeavors to bite with his teeth.

CHAPTER XII

To the [fourth allegation](#)¹¹⁰ adduced in the second chapter, where some try [80] to prove especially that the pope is pre-eminent in all temporal authority and power over all others regardless of their power or domination, it is responded in many ways.

[1] In one way that, even if it were granted that pontifical authority [81] was given in the Old Law, even in temporals for regal dignity, nonetheless it is not to be granted in the New Law, because pontifical authority in the New Law is more spiritual and /49/ more withdrawn from terrestrial business than pontifical authority was in the Old Law, just as the New Law is more spiritual than the Old Law.

But the aforesaid [[people]] seem to try to exclude this response, saying [82] that the Church imitates the acts and works of the writing of the Old Testament, because *whatever are written in therein are written for our teaching*. Romans 15. Therefore, however the king conducted himself in the Old Testament towards the pontiff, so ought a king conduct himself towards the pope.

But it is responded that that allegation is heretical: because it would [83] follow from this that the Church ought to imitate circumcision, the separation of foods, and other ceremonial and judicial things of the Old Law; and that, just as the priests of the Old Law made use of (*intendebant*) arms and exercised the judgement of blood, so ought the pope be occupied in such things. These things are heretical. Therefore, the Church is by no means bound to imitate the acts and works that the fathers of the Old Testament did, except as far as moral matters, to which all men are known to be indispensably obliged. But when the Apostle
cf. Ro. 15:4
Ro. 15:4
is alleged, it is responded that *whatever are written, are written for our teaching*, not so that we do all those things to the letter, but *so that we have hope through patience and the consolation of the scriptures*, and that

110. See §.1.2.13 on p. 6.

we may fulfil them according to a spiritual, not carnal, understanding.

- [84] [2.] Secondly, it is responded to the aforesaid allegation that, in the Old Testament, the sacerdotal grade was not preferred to the regal dignity in the regular disposing of temporal affairs, and the regular exercising of temporal jurisdiction, although a prelate was [preferred] as far as offering sacrifices to God and those which pertained to divine worship. In this way (*per quem modum*), pontifical authority is preferred to the regal dignity in the new law, [but] not with respect to jurisdiction and temporal government. For they by no means deny that pontifical power is to be preferred to all secular power, but they say that it is not to be preferred in temporals outside the case of necessity, when laymen vigorously, rightly, and legitimately administer a power entrusted to them.

- [85] But when the aforesaid allege that Samuel—although he was the highest priest and pontifex in Israel, Saul established him king from a shared stock (*de communi genere*), deposed him from the kingdom due to a delict, and elevated David as king—, they err in many ways, even openly, against sacred scripture (of which, if they so allege, they seem entirely ignorant).

- [86] [a] First, because Samuel was not the highest priest, nor the pontifex in Israel, but only a judge. In fact, he was not even an Aaronite, and, consequently, not priest, neither the highest nor a lesser one, as is gathered from 1 Paralipomenon 6.

1 Par. 6:1–15

- [87] [b] Second, because Samuel did not establish Saul as king and as powerful (*pollens*) in grade and a more eminent dignity—especially in temporals—than is /50/ a regal dignity, but as obedient to divine precept, to which even the lowest one, outshining by no power (e.g., ecclesiastical or secular) is bound to obey. In the same way, as is held in 4 Kings 9, some of the sons of the prophets anointed Jehu as a king of Israel at the command of Elisha; and yet, neither he nor the prophet Elisha surpassed were eminent in a greater dignity, especially in temporals, than is the regal dignity. Hence, as it seems, it is evidently concluded that it cannot be held that, through unction, an emperor or any king in the New Testament is inferior to the one who anoints. And, similarly, from the fact that Samuel anointed Saul as king, it cannot be inferred that Samuel was superior to Saul in temporals even in terms of temporal jurisdiction: for Samuel only gave judgment (*functus fuerit iudicatu*), which is inferior to regal dignity. And, even granted that Samuel had deposed Saul on a command of God for a delict, he would have been superior to it in terms of a public

2 Kgs. 9:1–6

power and temporal jurisdiction, because he would not have deposed him as a superior as far as temporal government, but as one who exercises and executes in this matter a precept of God—just as a simple person could depose an emperor, even a pope, by a precept of God, although no other power would be given to him by God, neither in temporals nor in spirituals.

[c] Third, as it is said, those people who make these allegations err [88] when they say that Samuel deposed Saul from his kingdom due to a delict. For, it is not read in the book of Kings that Samuel deposed Saul, but that God deposed him; and that Samuel promulgated this and Saul announced it; although it is read that he established him as a king when the Lord said to Samuel, as it is read in 1 Kings 8, *Hear their voice, and establish a king over them*. Hence he anointed him as a king. Of his deposition, indeed, these words are read in 1 Kings 15, in which chapter they allege, Samuel said the following to Saul, *because you have rejected the word of the Lord, the Lord has rejected you so that you be not a king*. And later: *Samuel said to Saul: I shall not return with you because you have cast aside the word of the Lord, and the Lord has cast you aside so that you be not a king over Israel*. And later: *The Lord has torn the kingdom of Israel from you today*. And in chapter 16 it is written so: *And the Lord said to Samuel: How long are you going to mourn for Saul because I have cast him aside so that he does not reign over Israel?* From these words it is not thought that Samuel deposed Saul, but that he was an announcer of the deposition made by God. And, for this reason, it cannot be concluded from the deposition that the pope by a fullness of power can depose an emperor or any other king according to his own pleasure, except on occasion (*in casu*)—and this when a people is unwilling or /51/ unable [to make the deposition]. On this account, Pope Zacharias, of whom it is read in 15 q. 6 c. *Alius*,¹¹¹ that ‘he is said to have deposed’ the king of the Franks because ‘he agreed with the ones making the deposition’, as the Gloss says.¹¹²

Moreover, what they adduce about Joiada the priest, who, as it is read [89] in 4 Kings 11, made and anointed Joas as king, it does not demonstrate (*concludit*) that Joiada was superior to the king, especially as regards temporal jurisdiction, because it is often read in divine scriptures and other things that some people made and established kings, yet they were

111. C. 15 q. 6 c. 3 (1:756). 112. *Gl. ord.* ad C. 15 q. 6 c. 3, s.v. ‘deposuit’.

not superior to those kings. On the contrary, they were subject to the kings established by them. For the sons of Israel established Jeroboas as king in 3 Kings 12, and in chapter 16 *All Israel made Amri their king*; and after: *One part of the people followed Thebni, the son of Gineth, to establish him as king*. And in 4 Kings 14 it is said that the people of Juda established Azarias as king in place of his father; and so it is written in chapter 21: *But the people struck down all who had conspired against the king Amen, and they established king in his place his son Josias*. Jerome as well [in his letter] to Evandrus, as it is had in di. 93, c. *Legimus*, says that an army makes an emperor.¹¹³ From these and innumerable other examples, it is gathered that inferiors establish and make a king to whom they are subject. From this, therefore, that Joiada annointed and made Joas a king, it cannot be inferred that Joiada was superior to him with respect to temporal jurisdiction; for others than Joiada made him a king, of whom it is said: *And they made him king, and annointed him; and applauding him, they said: Long live the king!* Nor does it avail if it be said that Joiada was shown to be superior because he killed Athalia, who usurped the kingdom for herself. For he did this not insofar as he was superior to the king, but insofar as he was the tutor, leader, instructor, adviser, and vicar of the king, holding the place of the king, who at that time (because he was seven years old) was not able to rule by himself.

1 Kgs. 12:21

1 Kgs. 16:16

1 Kgs. 16:21

cf. 2 Kgs. 14:21

2 Kgs. 21:24

2 Kgs. 11:12

cf. 2 Kgs. 11:20

[90]

But what is said of Alexander, who showed reverence to the priest Iaddo,¹¹⁴ seems to have no relevance (*apparentiam*). For he did not show reverence to him as to a superior in temporals, but because he was the highest priest, in the same way emperors, kings, and other princes show reverence at mass by kneeling and kissing the hands of even simple priests, religious and secular. Thus also Totila¹¹⁵ did not withdraw from /52/ Italy at the request of Pope Leo because he thought him his lord in temporals, but because he considered him a holy man and therefore feared to offend him. Hence, many are amazed that any literate individual tries to prove through the [example of] gentiles and pagans (*ethnicos*) that the pope is superior to the emperor in temporals since, among all the pagans and gentiles, emperors and kings, who were not priests of the gentiles, always thought that they were above priests, especially with regard to arranging things which scarcely pertained to the worship of their gods. And yet many of them showed no shall reverence and honour

113. D. 93 c. 24 (1:328). 114. See §.1.2.13 on p. 6. 115. See §.1.2.13 on p. 6.

to the priests, although some of them from time to time dishonoured the priests and temples of another rite in some way, just as is read of Pompeius,¹¹⁶ who showed due reverence to the temple of God and the priest, and therefore did not undeservedly then have the accustomed prosperity.

But the aforesaid people¹¹⁷ adduce as an example Constantine, Justinian, and Charlemagne, which seems to militate against them. For although those emperors were devoted not only to the high pontiffs, but also to all the priests and clerics, in no way did they think that they were subject to a cleric in temporals, but conducted themselves as their superiors. [91]

Indeed, this is expressly clear regarding Constantine through something taken from the deeds of Pope Silvester, which is placed in the *Decretum*, at di. 96, c. *Constantinus*.¹¹⁸ From this it seems to be held patently that, as Innocent IV says,¹¹⁹ 'Constantine resigned' some power which he used earlier 'to the Church', and not that he received from Silvester some secular power, temporals, rights, or things; but he granted and assigned to himself some power and estates, since the phrase 'resigning' or 'receiving' or the equivalent cannot be found there, but the word 'alloting' and the equivalent (in terms of meaning) are often inserted there. Thus, when it is read:¹²⁰ 'On the fourth day, the emperor Constantine conferred the privilege of baptism upon [the pontiff] of the Roman Church so that pontiffs and priests might consider him the head over the whole world in the same way judges do their king.' And below:¹²¹ 'Allotting to him power and glory, dignity and vigour, and imperial honour (*honorificentiam*). And we sanction this decreeing /53/ that he should hold primacy (*principatus*) both above the four sees of Alexandria, Antioch, Jerusalem, Constantinople, and above all the churches of God all across all the world.' And below:¹²² 'We conferred estates upon the churches of blessed apostles Peter and Paul for the continuation of shining (*luminariorum*) possessions, and we enriched them with diverse things.' And below:¹²³ 'Behold! We granted and relinquished both the Palatine and the city of Rome, and all the provinces places, [and] cities of Italy or western regions to the blessed pontiff and pope, Silvester; and'

116. Cf. Ptolemy of Lucca, *Determ. comp.* 5, ed. Krammer, 13–14; from Petrus Comestor, *Hist. schol.*, II Macab. 9 (PL 198:1529). 117. Ibid. 118. D. 96 c. 14 (1:342–43). 119. Cf. Innocent IV(?), *Eger cui lenia*, ed. Herde, 521. 120. D. 96 c. 14 (1:342). 121. D. 96 c. 14 (1:343). 122. D. 96 c. 14 (1:343). 123. D. 96 c. 14 (1:344).

we have decreed, 'through the pragmatic decree (*constitutum*) they are to be managed by him and his successors, and we have granted that' they are to be seen to (*peragenda*) 'by the right of the Holy Roman Church.' And below:¹²⁴ 'Verily, we have establish all these things, which through this sacred imperial command, and through other divinely-based (*divalia*) decrees; and we confirm that they are to remain until the end of the world; and we decree they remain undisturbed.' By these words, so it seems, it is patently held that Constantine did not intend to resign any temporals whatsoever for the highest pontiff in any way, as if possessed or usurped by him earlier, or, as it were, to restore or render de iure things belonging to the highest pontiff. But he did intend to confer, grant, allot, and donate for the first time those things on him of which he makes mention. It is thus inferred that Constantine thought himself superior in temporals to pope and clerics, to whom he granted temporals; wherefore, if what seem to indicate that Constantine thought himself inferior to the pope are read against the words of Constantine himself, they ought to be understood in terms of inferiority in spirituals, lest the contrary be proven of him. Which he himself seems to imply when he says, where [he said] earlier, 'The pope, who shall live during the times of the sacrosanct Roman Church, should live as more noble than all the priests and as a prince of the whole world, and what should be procured for the worship of God and the stability of Christians should be disposed at his judgement.' By these words through an argument from the contrary sense he seems to imply that the pope should not have regularly disposed the temporals purely common to Christians and others. Hence it follows that he does not regularly have fullness of power in temporals.

[93] Now, regarding Justinian, several marvel at what is adduced by them in the example. To them it seems that these allegers may not have read the laws of Justinian, since no emperor was a Christian, neither before Justinian nor after, who attributed to himself so expressly so great a superiority, jurisdiction, and power over the affairs and persons of the pope and clerics, and over those things which the pope claimed either by conferral or by resignation of Constantine the Great: just as Justinian [did] in the laws edited by him, and to be observed by the whole world and in the promulgations to be received by all. /54/ For it pertains to a superior to establish law for others: at what time subjects might prescribe things possessed by others; and to command subjects that they observe the same

124. D. 96 c. 14 (1:345).

law. Justinian does this regarding the pope, other clerics, and things of the Roman Church and other churches, as it is had in the *Authenticae*, *Ut ecclesia Romana centum annorum gaudeat praescriptione*, collatio 2.¹²⁵ Justinian therefore thought that he was superior even to the pope in temporals in terms of things assigned to the Roman Church.

Also, it is characteristic of a superior to sanction which rules ought [94] to obtain the force of law (*vim legum*). And Justinian does this regarding ecclesiastical rules, even those which were established in the four principal councils, as it is had in the *Authenticae*, *de ecclesiasticis titulis et privilegiis*, collation 9.¹²⁶ Justinian, therefore, acted as superior even to the four general councils in terms of [which] laws are to be instituted.

Also, it concerns a superior who has power over clerics to establish, [95] ordain, command, and order: what number of clerics there ought to be in a church; from what necessities churches ought to be immune; from which ones they ought not to be free; that no ecclesiastical things at all may be alienated; how large the donations each person may confer upon the churches; in what places clerics may be ordained; who ought to punish delinquent clerics; which women clerics may keep with them, and which ones they know to be forbidden to them; which things of dying clerics who lack a will ought to be assigned to churches, and which things to others; that clerics not set out for a foreign city without letters; where the holy cross and the reliquaries of martyrs ought to be conserved; when a bishop and when another person has the ability of demanding those things which were left for the redeeming of captives from testators; with what punishment they are to be punished who ambitiously acquired an episcopal see through bribery (*pecuniae interventu*); before which judges clerics ought to be litigate; which bishops ought to have the immunity of tutelege, whether testamentary, legitimate, or appointed; how a cleric ought to be punished, who wrongly (*frustratorie*) had recourse to the help of an appeal before a definitive sentence in order to delay [the proceedings]; that no one is compelled to litigate unwillingly before a bishop; who ought to punish a high priest repeating the sacrament of baptism. All these things and many more besides, which concern the person who has jurisdiction, Justinian established, ordained, commanded, and ordered in his laws. The first is had in *C. de sacrosanctis ecclesiis et rebus et privilegiis earum*, l. *Non plures*;¹²⁷ the second, in the same title, l. *Placet*;¹²⁸ the

125. Nov. 9 (Coll. 2.4) (3:91–92). 126. Nov. 13 1.6 (Coll. 9.6) (3:654–64). 127. Cod. 1.2.4 (2:12). 128. Cod. 1.2.5 (2:12).

third, in the same title, l. *Ad instructiones*;¹²⁹ and l. *Iubemus*;¹³⁰ and l. *Neminem*;¹³¹ the fourth, in the same title, l. *Iubemus*;¹³² the fifth, in the same title, l. *Illud quod*.¹³³ The sixth is had /55/ in C. *de episcopis et clericis*, l. *In ecclesiis*;¹³⁴ the seventh, in the same, l. *Quicumque*;¹³⁵ the eighth, in the same, l. *Eum, qui*;¹³⁶ the ninth, in the same, l. *Si quis presbyter*;¹³⁷ the tenth, in the same, l. *Si qua per calumpniam*;¹³⁸ the eleventh, in the same, l. *Decernimus*;¹³⁹ the twelfth, in the same, l. *Nulli licere*;¹⁴⁰ the thirteenth, in the same, l. *Si quemquam*;¹⁴¹ the fourteenth, in the same, l. *Omnes*;¹⁴² the fifteenth, in the same, l. *Generaliter*.¹⁴³ The sixteenth is had in C. *de episcopali audientia* l. *Si clericus*;¹⁴⁴ the seventeenth, in the same, l. *Decernimus*;¹⁴⁵ the eighteenth is had in C. *Ne sacrum baptismum iteretur*, the first law.¹⁴⁶ By establishing these laws, and many others, concerning clerics and their things, and by affording (*indulgendo*) them liberties, immunities, and privileges, therefore, he openly indicated that he considered himself to be superior to the pope and other clerics.

[96] Also, it is not read concerning Charlemagne that he thought himself inferior to the highest pontiff in temporals. A sign of this is that the kings of France, who say that they are his successors, 'do not recognize a superior in temporals'; *Extra, Qui filii sint legitimi, Per Venerabilem*.¹⁴⁷ Nor does that chapter¹⁴⁸ of the same Charles oppose, which is found in the *Decretum*, 19 di., *In memoriam*,¹⁴⁹ where he says that, 'although a yoke imposed by the holy see is hardly to be borne, nevertheless' it is to be borne. By these words, it would seem, it is understood that the same Charles thought himself inferior to the holy pontiff. Since Charles did not think that the apostolic see could impose regularly any yoke on him in temporals, but [only] in spirituals. He seems to imply this in the same chapter, since it begins: 'In memory of the blessed apostle Peter, we honour the holy Romam church and apostolic see, so that, she who is our sacerdotal mother of dignity, ought to be the teacher of ecclesiastical reason'. By these words, it is had that in spirituals the

129. Cod. 1.2.7 (2:13). 130. Cod. 1.2.10 pr. (2:13). 131. Cod. 1.2.11 (2:13). 132. Cod. 1.2.14 pr. (2:13). 133. Cod. 1.2.19 (2:16). 134. Cod. 1.3.11 (2:19); this is the incipit as it is found in early printings of the *Codex*. 135. Cod. 1.3.14 (2:20). 136. Cod. 1.3.19 (2:20). 137. Cod. 1.3.20 pr. (2:20). 138. Cod. 1.3.22 pr. (2:20–21). 139. Cod. 1.3.26 (2:21). 140. Cod. 1.3.28 pr. (2:21). 141. Cod. 1.3.30(31) pr. (2:22). 142. Cod. 1.3.32(33) pr. (2:22). 143. Cod. 1.3.51(52) pr. (2:34–35). 144. Cod. 1.4.2 (2:39). 145. Cod. 1.4.13 pr. (2:40). 146. Cod. 1.6.1 (2:60). 147. X 4.17.13 (2:714–16). 148. The word has a double meaning here, for 'chapter three' of this distinction is from a chapter meeting of Charlemagne. 149. D. 19 c. 3 (1:60–61).

apostolic see is mother and teacher; therefore, if the argument holds by a contrary understanding (*sensu*), it is not mother and teacher in temporals.

CHAPTER XIII

To the [fifth allegation](#)¹⁵⁰ adduced above in the second chapter, which [97] would require a longer treatise than the brevity of this little work permits on account of the fact that many allege the same point (as it appears to some people, most affirm errors) it is responded briefly that it fails in two ways.

[1] First, because Christ Incarnate, insofar as he was a mortal man, [98] was not a king in temporals, nor had he such a fullness of power regularly in temporals, although insofar as he was God he had fullest of power; and insofar as he was a man—e.g., insofar as he was a prelate and instituter of the New Law—he had a fullness of power in spirituals. /56/

[2] Second, the above-written allegation fails because Christ did [99] not grant all power in spirituals that he had either to Peter or to any highest pontiff—even insofar as he was a man. For, Christ, insofar as he was a man and a prelate of all believers, did institute new sacraments, which power he granted to no pope. He even could dispense from it against the statutes, which no pope whatsoever could do. He could also impose without fault on his subjects things which are supererogatory, which the pope can hardly do regularly. And Christ could thus do many things, which the pope cannot do, because, just as he was, insofar as he was a man, he was lord of the Old Law (which he seems to imply when he says in Matthew 12, *The Son of man is lord of the Sabbath, even*), so was he also lord of the New Law; yet of this [Law] the pope is not lord. Therefore, the mentioned allegation admits something false when it says that the entire jurisdiction of Christ was granted to his vicar. For rarely—or never—does someone entrust his entire jurisdiction to his vicar. Rather, it appears to some that, of necessity, a vicar is always of less power than he of whom he is the vicar. And if it be said that Christ make no exception in making Peter his vicar and entrusting his power to him, [and] therefore granted him his entire jurisdiction, it seems to some that this is patently excluded by the aforesaid, since it was shown that Christ excepted many things by word and example. And so, since the pope does

Mt. 12:8

150. See §.1.2.14 on p. 6.

not regularly have power in temporals, it follows that supreme secular power hardly falls upon him in this respect (*quantum ad rem*).

- [100] To Innocent IV¹⁵¹ it is responded that when an emperor is crowned by the highest pontiff, he does not, receiving the sword in its scabbard, draw and brandish it for the purpose of showing that he is inferior to the pope in temporals: for he is not bound, unless he spontaneously wished it, to receive a sword in its scabbard—just as he is not bound to be crowned by him unless he should wish it. For there were many true emperors who were not crowned by a highest pontiff; quite the opposite, they considered the highest pontiff unworthy of all honour. But, for that reason, the emperor, when it pleased him to be crowned by the pope, it pleased him also to receive the sword in its scabbard from him and it draw and brandish it in order to show that he was prepared to meet the demands of justice (*iustitiae complementum*) when necessary by means of the material sword, and especially to defend Christians in just endeavours.
/57/

CHAPTER XIV

- [101] To the sixth allegation¹⁵² introduced in chapter two, it is responded that, with regard to many things, just as the soul is related to the body, so are spiritual things related to corporeal or temporal things; but this is not so for all things. For, just as the soul is more noble than the body, so are spiritual things more worthy (*digniora*) than temporal things; and just as the soul rules the body with regard to many things, so are temporal things to be arranged in many things according to the demands of spiritual things; and just as a rational soul does not have fullness of power over the body because the body has many operations which are not in the power of the rational soul, so does one having power in spiritual things not have fullness of power over temporal things. And for that reason, supreme secular power does not fall to the pope, who does have supreme power in spirituals, even though he is more worthy than he to whom supreme secular power falls. And in many things the one endowed with secular power should be ruled by the one holding supreme power in spirituals.

151. See §.1.2.14 on p. 6. 152. See §.1.2.15 on p. 6.

CHAPTER XV

To the seventh¹⁵³ [allegation], it is responded that the pope is not 'freed' [102] without any exception from all positive laws, although he may be freed from all merely positive laws established by the chief pontiffs because none of those laws can bind him, 'since an equal does not have sovereign authority (*imperium*) over an equal'.¹⁵⁴ He is also freed from any laws of general councils and the emperors, kings, and anyone else, which were set down about things which pertain to his power—and not about things which pertain to the rights and liberties of others. For any statute issued by general councils or anyone else on matters which must be of necessity in spirituals for the sake of ruling a congregation of the faithful, the pope is doubly freed from such merely positive laws. For he is not bound to preserve them, and he could even abrogate and annul them by issuing different statutes. And in such things, the pope is greater than a general council, greater, indeed, than the whole remaining portion of the congregation of the faithful. But the pope is not freed in the aforesaid double way from laws instituted on things which concern the rights, liberties, and things of others. For, provided they are not unjust of themselves, the pope cannot abrogate them, and is sometimes bound (at least conditionally) to observe them. /58/ For if an emperor, king, princeps, or another person bestowed rights, or exclusive (*proprias*) things to the pope, imposing [in addition] certain laws and rational pacts, if the pope wished to receive and hold those things or rights, then he is bound to observe those laws: because when one gives his own thing he can impose the law that he wishes, even when he gives it to the Church, 18 q. 2, *Elutherius*,¹⁵⁵ *Extra, de conditionibus appositis, c. Verum*.¹⁵⁶

But when it is said in the aforesaid allegation¹⁵⁷ that 'laws', even [103] imperial ones, 'do not refuse to imitate sacred canons', it is responded that this is not true of necessity, except when laws are instituted over things which pertain to pontifical power, on which, if any statute were issued by the emperor or another individual, even that which concerned an advantage or benefit (*favorem*) of the pope or various other clerics, it contains no force (*firmitatem*) unless it were approved by the chief pontiff. However, other laws without canons obtain a stable force provided they

153. See §.1.2.16 on p. 6. 154. X 1.6.20 (2:61–63); cf. Dig. 4.8.4 (1:97) and Dig. 36.1.13.4 (1:564). The phrase was also used by Gregory IX in *Quo elongati*, which Ockham knew from his involvement in the Franciscan poverty controversy. 155. C. 18 q. 2 c. 30 (1:838). 156. X 4.5.4 (2:683). 157. See §.1.2.16 on p. 7.

are rational and just. For if they were unjust, they could be abrogated by just canons. And, for that reason, although the pope can judge casually about the laws, yet he cannot regularly abrogate the laws.

[104] And, for that reason, supreme secular power does not fall to him, nor should it fall; although it could fall if the contrary were not ordained by divine law.

CHAPTER XVI

[105] To the **eighth allegation**¹⁵⁸ adduced above in the second chapter, it is responded that it is not necessary for the entirety (*universitatem*) of the faithful to obey the pope without any exception in all things. But it is necessary to obey to him without any exception on matters which are necessary to the congregation of the faithful, with the rights and liberties of others preserved. Also, if someone asks: 'who has to judge what those things are, which are necessary for the government of the congregation of the faithful?' It is responded that judging this by simple knowledge (*notitiam*) or doctrine is the concern of (*spectat ad*) wise men, skilled in divine law, excelling in the human sciences, eminent in the judgment of reason, whoever they are: whether subjects, prelates, seculars, religious, masters or not, poor, or rich and powerful. But this authoritative and judicial judging concerns the chief pontiff principally based on (*de*) the counsel of wise men. If in judging he should err, the wise men, or rather every one who recognizes that he erred, are obliged to resist him according to the time, place, and with the other due circumstances considered; and, /59/ to the degree it is licit for each person according to his grade and state: because educated individuals should resist him in one way, prelates another, kings and princes in another, and the simple and those devoid of temporal power (*potentia*) in another.

CHAPTER XVII

[106] To the **last allegation**¹⁵⁹ adduced for that opinion, it is responded that it is licit on occasion to judge concerning the judgment of the chief pontiff,

158. See §.1.2.17 on p. 7. 159. See §.1.2.18 on p. 7.

even authoritatively (*potestative*) and judicially by means of a sentence, and also to appeal from it.

For that it is licit regarding the judgment of the chief pontiff to [107] judge in such a way on occasion, some people strive to prove by this sort of reason: It is licit to judge on occasion concerning the person of the pope; therefore also concerning his judgment. The antecedent is clear by the decree of Boniface the Martyr, which is placed in di. 40, *Si papa*.¹⁶⁰ According to some, the pope is bound in three cases, moreover, to submit to human judgment. [1] First, in a case of heresy, just as the previously alleged chapter says. But it discusses whether he is a heretic in truth of fact or he is only accused of heresy. Because if he is a heretic in truth of fact, by the fact and law (*ius*) itself, namely by both divine and human law, he is deprived of the papacy and stripped of every ecclesiastical dignity. That he is indeed deprived of the papacy by divine law (*ius*), some people prove (as it seems to them) by many demonstrative reasons. For all of them, it suffices for now to mention one authority and one reason. In fact, the Apostle seems to witness this in Titus 3 when he says: *Reject a heretical man after the first and second censure, knowing that he who is of this kind is subverted, and that he is delinquent, since he is condemned by his own judgment*. Likewise, he who is of the body of the Church neither in number nor by merit, is not a true head of the Church. Therefore, no heretic is the true head of the Church no matter much he may be thought to be: just like the woman who thought herself pontiff for two years¹⁶¹ was not the true head of the Church, even though she was thought so by everyone; for, at that time all were in error. For, the universal Church, although it cannot err in things which are of law (*ius*), especially divine law, can nevertheless err in things which are of fact (*facti*), just as he errs when the pope is a sinner in truth of fact (*rei*) and he is still thought to be holy by all. A true pope, therefore, if he should be made a heretic later on, is deprived of the papacy by divine law (*ius*), according to which no faithless individual is of the body of the Church. /60/ He is deprived as well of all ecclesiastical dignity by canon law (*ius*). For all heretics, 'by whatsoever names they are considered', are condemned by a general council—which also has judicial power over a heretical pope: *Extra, de haereticis, Excommunicamus*.¹⁶² Therefore, since a heretical pope is not exempted from the aforesaid canon, we should not exempt him either.

160. D. 40 c. 6 (1:146). 161. A reference to Pope Joan; cf. Martinus Oppavien. *Chron. pontif. et imp.* (MGH SS 22:428). 162. X 5.7.13 (2:787) = Conc. Lateran. IV (1215), c.

But if he is at first only reputed heretical (*de haeresi ... diffamatus*) and later accused, he is not deprived by that fact of any dignity. If, however, he is convicted by that fact and a sentence is borne against him, if he does not appeal, the sentence seems to become a judicial decision.¹⁶³

[108] But someone may ask before what judge may (or should) a pope be accused of heresy. Some respond to this, saying that the pope can be accused of heresy before the diocesan priest in which he resides. For, since no special privilege is found to be granted in law (*ius*) to a heretical pope beyond one for other heretical bishops, and someone chooses the forum by reason of delict, just like other bishops, if heretical bishops are discovered in someone's diocese, they can be judged by him, although they cannot by solemnly degraded, so it is for the pope, if should become a heretic, especially a notorious one. Moreover, if he resides in the Roman diocese, or the bishop in whose diocese he remains does not wish to (or cannot) hear the accusers of the heretical pope, other bishops, roused by their zeal for the faith, ought to hear them. They try to prove this by an example. For, when blessed Marcellinus had notoriously committed idolatry, and was not therefore rightly (*merito*) convicted, but was held, suspected of heresy, bishops came together, as it is described in di. 21, c. *Nunc autem*,¹⁶⁴ in order to investigate Marcellinus himself. Because they did not find him to be heretical, but only an idiotater, and, [once] corrected, they did not wish to judge him. Now, they would never have made an inquisition of this sort if they had not thought that they were superior to him if he would have been convicted of heresy in their presence. Therefore, in this case some bishops obtain power over a heretical pope.

[109] If, however bishops are unwilling or unable to judge a heretical pope, other catholics, especially the emperor (if he is catholic) will be able to judge. Indeed, as the gloss notes in di. 17, on c. *Nec licuit*:¹⁶⁵ 'Wherever ecclesiastical power fails, there is always recourse to the secular arm'. Therefore, any canons whatsoever, which are inferior by natural and divine right, that express that the pope cannot be convened before a secular judge because he is a cleric or bishop /61/, are to be explained by

163. The final sentiment of this sentence echoes X 2.27.13 (2:398): 'the sentence, since it was not suspended by an appeal becomes a judicial decision' (*Cuius sententia, quum nulla fuerit appellatione suspensa, in rem transiit iudicatum*). 164. D. 21 c. 7 (1:71). 165. *Gl. ord.* ad D. 17 c. 4, s.v. 'per saeculares'.

means of *epieikeia*,¹⁶⁶ which is a certain virtue or natural equity whereby it is discerned in what case the laws are to be observed, and in what case they are not. In this case, because, as it is maintained in ff. *de legibus*, l. *Non possunt*,¹⁶⁷ ‘all articles’—and consequently all cases—‘cannot be individually comprehended by the laws.’ it says according to natural equity, proped up by reason and the sacred letters, that they should not at all be understood of a heretical pope when it is agreed he lacks ecclesiastical power through impotence, malice, or damnable negligence. Hence, just as the gloss says in 2 q. 4 on c. *Praesul*,¹⁶⁸ so many witnesses are not required against the pope as are required bishops and cardinals of the Roman Church—rather, two suffice; and in this he is of a worse condition because he was created great without comparison of any other; and, for that reason, he is to be condemned without hope of pardon, as it is said in *De poenitentia*, di. 2 *Principium*,¹⁶⁹ This is the gloss. So, in the case of heresy, due to the magnitude the danger that threatens the universal Church if he were to become a heretic inasmuch as he would be able to drag very many people to his heresy and wickedness on account of his authority and power (both spiritual and temporal) in which he is thought to surpass others, it is reasonable that he be of worse rather than better condition in this: that, by guiding [the interpretation of] the canons, *epieikes* says of him that the canons should not be understood of him in this case; and that the establishers of canons, if they had thought of this case and feared that it would come to pass, they would have altogether excepted it. Nor is it surprising: because, just as it is maintained in *Extra, de electione*, c. *Licet*,¹⁷⁰ ‘something special’ is established ‘in the Roman Church because’ in many cases ‘recourse to a superior will not be available’; so, regarding a heretical pope, because he could harm the entire congregation of the faithful beyond all others, something special was not unreasonably established when someone endowed with the papal dignity should fall into heretical depravity: because, as it is maintained in *Extra, de electione*, c. *Ubi*, in the Sext:¹⁷¹ ‘Where a greater danger is intended, without doubt fuller counsel should be taken there’; just as a

166. Here, *ἐπιείκεια* means ‘equity’ in opposition to a strict insistence on the letter of the law; the adjectival form is used below. Cf. Aristotle, *Nicomachean Ethics* 5.14 1137a31–1138a2; Thomas Aquinas, *In librum ethicorum* 5, lectio 16 nn. 1078–90. 167. Dig. 1.3.12 (1:34). 168. *Gl. ord.* ad C. 2 q. 4 c. 2, s.v. ‘Praesul’. 169. D. 2 de pen. c. 45 (1:1209). The quotation is difficult to translate literally; Ockham’s convoluted interpretation by means of reference to *ἐπιείκεια* suggests he may have found it a little vague as well. 170. X 1.6.6 (2:51). 171. VI 1.6.3 (2:946).

more diligent investigation and, consequently, more diligent provision is to be made in important matters, 7 q. 2 c. *Nuper*.¹⁷² /62/

[110] [2.] Secondly, the pope is bound to undergo human judgment whenever 'any crime of his is notorious and the Church is thereby scandalized, and' he himself is 'incurable', as the gloss in di. 40 on c. *Si papa* says.¹⁷³ But someone might ask, 'before what judge can the pope be accused in this case?' To whom some people respond that that he is to be exhorted due to a reverence for the office, which he discharges and which he is not deprived by the fact itself, so that, by the example of Pope Leo (about whom it is maintained in 2 q. 7 c. *Nos si*¹⁷⁴) he submit himself to another wise and provident man, and not to others, nor to someone suspect to him. If, however, he does not wish it, because his crime is notorious, it is not necessary to summon witnesses, but the Church must be told. And, indeed, it seems at first that the Church or the congregation of Romans (of whom he is in a certain way the proper bishop) must be told so that he be accused before them, who can more easily convene for the purpose of making a judgment. But if the Romans do not wish or are unable to judge him, the power of judging the pope devolves to some other Catholic, who is endowed with so much power that he can coerce him by temporal power (*potentia*), especially if the pope's crime verges on being a danger for the congregation of the faithful. Some try to prove this by many reasons founded on both divine and human laws, which I think should be suppressed at present for the sake of brevity.

cf. Mt. 18:17

[111] [3.] Third, as some say, the pope is bound to undergo human judgment if he invades the rights or things of others, or detains them less than justly. And if it is asked by them, 'before what judge is he bound to respond in this case', they respond by drawing a distinction: because either he commits injury against he who does not have a superior in temporals (like the emperor), or against one who has a superior. If against the individual who has not superior, he is bound to submit himself to the judgment of another, suspect to neither party, or to elect arbiters at the will of another party, who is to have the power of judging between them. But if neither wished to do it, the emperor can, due to the fault of the pope, either judge him or delegate the task to another, who has power in this case. But if he invades or detains the thing of right of a person who has a superior, he can be convened before that superior. This and

172. C. 7 q. 2 c. 2 (1:589). 173. *Gl. ord.* ad D. 40 c. 6, s.v. 'a fide devius'. 174. C. 2 q. 7 c. 41 (1:496).

many others besides, which touch on this material some people strive to show in many ways; which I shall bypass for the sake of brevity. /63/

From this, that the pope is bound in the above cases to submit to human judgement, some people try to show that in this case it is licit to appeal from the pope and from a person conducting himself as (*gerente se pro*) pope, and to call him to account extra-judicially (*extra iudicium ipsum provocare ad causam*) so that he not do anything in prejudice of the appellant and challenger. Because it is licit to appeal from every person who is bound to submit to human judgment, in that case in which he is bound to submit to judgement—both from the sentence, if he judged badly, and from past and future burdens, whether the appellant or challenger considers him the judge or not. For every oppressed individual, or person fearing probable oppression, can appeal from him in every case in which he can be accused, since an appeal is an alleviation for the oppressed (*oppressorum levamen*), *Extra, de appellationibus*, c. *Cum speciali*.¹⁷⁵ Since, therefore, the pope can be accused in the three cases described above, it follows that it is licit to appeal from him in those cases.

Those people say, therefore, that if a pope who has become a heretic conducts himself as a pope, every person is allowed to appeal from every sentence that the pope issued in any case whatsoever, and from every burden that he imposed or threatened, that he has an interest in: not as if from a judge, but as if from a non-judge who has not ecclesiastical power at all. Because every heretic no matter how hidden is deprived of all ecclesiastical dignity by divine law (*ius*), although he would not be deprived of a secular dignity (should he have any) by the same law (*ius*); because no one can have an ecclesiastical dignity unless he numerically belong to the congregation of the faithful, but a faithless individual can have even the highest secular dignity, just as Nero had de facto at the time of Christ and the apostles. And thus it is that anyone in whose interest it is can appeal from the pope as if he were not an ecclesiastical judge in every case, if he should become a heretic.

But if the emperor or another king or prince were to become a heretic, one is not allowed on this account to appeal from him by divine law (*ius*), as if from a secular non-judge. According to some, however, this would be allowed by human canonical law (*ius*). For, heretics are not deprived of their things and their own temporal rights by divine law (*ius*) by the fact

175. X 2.28.61 (2:438).

[[of heresy]] itself, although they are deprived of their things and common temporal rights (namely, those which were given to the community of the faithful, to whom belong all goods and temporal rights that are called 'ecclesiastical' by divine law (*ius*) by the fact [[of heresy]] itself. For, those things are called 'ecclesiastical' from 'ecclesia',¹⁷⁶ which is not the pope or the congregation of clerics, but from 'ecclesia', which is the congregation of the faithful, which includes clerics and laymen, men and women. For, after God, that church is first and principally the mistress of all goods and temporal ecclesiastical rights, unless some people, /64/ granting their own goods and temporal rights, should openly express—or it is very probable that they wished—that those goods and rights ought to be appropriated to some person or ecclesiastical college. For, in a concession of one's things and rights, laymen can impose what pacts and conditions they wish; these [[pacts and conditions]] belong to (*congruant*) to the people who receive them, and they are not disproved (*improbata*) by the laws to which givers and receivers are bound to observe.

[115] In a case of the faith, moreover, any Catholic whatsoever is allowed to appeal from a heretical pope because it is in his interest: for, a case of the faith touches all, 'and altogether pertains to all Christians', di. 96 c. *Ubinam*.¹⁷⁷ In this case, however, it is not without qualification necessary to appeal from a heretical pope, even if he issued a definitive sentence against Catholic truth because any such sentence would be null automatically (*ipso facto*) in that it would be against divine law (*ius*), although it would not be suspended by an appeal.¹⁷⁸ For this reason, it would suffice in this case to accuse a heretical pope; in fact, if a judge were not found who wished to accuse or dare to hear an unwilling [[pontiff]],¹⁷⁹ it would suffice to make public, by word or writing, in the presence of others that the pope is a heretic by alleging the reason or reasons by which he is a heretic. Such a publication must be made to the same degree with respect to the pope by divine and natural law (to which all Catholics are obliged), as in any other case regarding anyone else appealing from some other judge. All Catholics ought to defer to such a publication in favour of the Christian faith, so much so, in fact, that they are bound by the necessity of salvation to defend the publisher and all his accomplices (unless he be legitimately convicted of a false publication) in a mode

176. That is, 'church'. 177. D. 96 c. 4 (1:338). 178. Another, albeit less plausible, translation of *licet non esset appellatio suspensa* might be: 'although it would not be [[null]] once the appeal has been suspended'. 179. Reading *nolentem* for *volentem*.

congruent to everyone's status and character against the person truly or falsely conducting himself as pope. Even so, those people say that, in this case, the solemnity of the appeal should not harm because of those ignorant of divine and human law (*ius*), but should be able to benefit.

Those people additionally say that, in a second case, namely when any crime of the pope is notorious and the Church is scandalized by it, and he is incorrigible, it would suffice to accuse him unless the crime be such whereby someone feared to be oppressed (*gravari*); for then such a person could appeal from a future oppression (*gravamine*) extra-judicially in order, namely, that the pope not do anything in prejudice of him. In other cases, also, it would be licit for observers to appeal to this case, [but] I do not mean to express which cases [those would be] at this time. [116]

According to these people, also in a third case, namely when the pope invaded or unjustly detained the things and rights of others, it would be licit to accuse him on occasion and to appeal from him on occasion. But at present we must refrain from [discussing] this. /65/ [117]

And so, according to the aforesaid points, which they try to prove along with contingent matters at the greatest length, it is clear (according to them) that it is licit to judge on occasion—but not regularly—both concerning the person of the pope and his judgement, and even to appeal from him. And, for this reason, it cannot be proven from these things that a supreme secular power falls upon him in fact or by divine law (*de facto vel de iure divino*). Moreover, to all those canons that can be adduced to the contrary, they say that the true canons (of which sort are the canons of the ancient fathers, although they judge no few decretals of certain posterior fathers heretical) must be understood [in such a way] that it is not licit to make judgments about his judgement regularly in things which regularly concern the highest pontiff, nor is it regularly licit to appeal from him, but only casually. Still, everyone is allowed to judge regularly concerning any of his manifest crimes, which can hardly well come to be, not indeed by issuing a judicial sentence, but by strenuously denouncing (*cordialiter destestando*) and excusing in no way, much less illicitly defending. Bede can be alleged for this [conclusion]: *Extra, de regulis iuris*, c. *Estote*;¹⁸⁰ and Jerome: 11 q. 3 c. *Si quis dixerit*,¹⁸¹ and c. *Si quis hominem*,¹⁸² and the Gloss on di. 40 c. *Nos non*.¹⁸³ [118]

180. X 5.41.2 (2:927). 181. C. 11 q. 3 c. 57 (1:659). 182. C. 11 q. 3 c. 58 (1:659). 183. *Gl. ord.* ad D. 40 c. 1, s.v. 'Quis enim'.

CHAPTER XVIII

[119] Having seen how the third opinion strives to respond to those things, which were adduced against it above in the *first*¹⁸⁴ and *second*¹⁸⁵ chapters, it must be seen how the second opinion is able to respond to what are adduced against it in the *first*,¹⁸⁶ *third*,¹⁸⁷ and *fourth*¹⁸⁸ chapters.

[120] And so, one can respond to the first point, which was adduced in the *first chapter*,¹⁸⁹ that supreme spiritual power can be taken in two ways. [1] In one way it can be taken from the whole power that was granted by Christ to a supreme spiritual judge; and thus, according to them, supreme spiritual power and supreme secular power are hardly divided by opposition as it concerns the issue, but supreme secular power is a part of supreme spiritual power as it concerns the issue: namely, that the power is supreme without qualification with respect to temporal things. For another [power], which is in the emperor, is lesser, and is a certain effect of the spiritual power described in that mode. [2] Supreme spiritual power can be taken in another way, which regards only /66/ spiritual and not temporal things; and thus supreme spiritual power and supreme secular power—that is, a supreme power regarding only temporal things, not spiritual ones—are divided in some way by opposition. Still, they can fall to the same person according to what was declared by the third opinion above, in the *fifth chapter*.¹⁹⁰

[121] To the *second*¹⁹¹ it is said that those two powers do not establish two heads of two different bodies, but one having the aforesaid twofold power.

[122] To the *third*¹⁹² it is said that the papacy does not exclude domination, although it does exclude the tyrannical and unjust domination of which blessed Peter speaks in his first letter, chapter five.

cf. 1 Pt. 5:3

[123] To the *fourth*¹⁹³ it is said that the one discharging supreme secular power precisely without spiritual power is, if he is faithful, a son of the Church. And, for that reason, the emperor, because he is strong only in secular power is a son of the Church only if he is faithful. But a person

184. See p. 2. 185. See p. 3. 186. See p. 2. 187. See p. 7. 188. See p. 9. 189. See §.1.1.3 on p. 2. 190. See §.1.5.33 on p. 14. 191. See §.1.1.4 on p. 2. 192. See §.1.1.5 on p. 3. 193. See §.1.1.6 on p. 3.

strong in a supreme power over temporals and a supreme spiritual power is the father of all the faithful.

To the **fifth**¹⁹⁴ it is said that the emperor can be called either the one [124] who obtains supreme power *among* lay people without supreme spiritual power (and he is both inferior to the pope and generally called emperor), or the one who has without qualification supreme power in temporals *over* all lay people (and he is not inferior to the pope), but is the pope, although the pope is not generally called by this name 'emperor', but by a certain more worthy name, namely 'apostolic', 'pope', 'highest pontiff', or 'priest'.

CHAPTER XIX

According to that opinion it is also responded to those things which [125] were adduced above for the third opinion in the **fourth chapter**,¹⁹⁵ which seem to militate against that opinion.

Indeed, it is said to the **first**¹⁹⁶ that, according to the Apostle and the [126] sacred canons, the pope ought not get directly involved secular business regularly; instead, he ought to entrust such business to others. For, many people ought to do many things through others that they ought not do themselves: 5 q. 3 c. 3,¹⁹⁷ di. 88 c. *Episcopus gubernationem*,¹⁹⁸ 12 q. 1 c. *Praecipimus*.¹⁹⁹ Nevertheless, if they do /67/ them through themselves, they are binding, even though they sin (often even mortally) by doing them. Thus, if the pope were to do something in temporal affairs, whatever it might be, it holds by right if it is not against divine law or natural law. By doing this, however, he will have sinned mortally because he is doing through himself what he should have done through another.

To the **second**²⁰⁰ it is said that those powers are distinct; yet they [127] can fall to the same person, and they do fall *de facto* though they may not and must not fall to the same person regularly with respect to the exercise: because the one on whom supreme spiritual power falls must not execute (*exequi*) another power directly except, perhaps, on occasion.

To the **third**²⁰¹ it is said that the pope must not be intent upon arms [128] and upon exercising the judgment of blood through himself. Yet he can

194. See §.1.1.7 on p. 3. 195. See p. 9. 196. See §.1.4.27 on p. 9. 197. C. 5 q. 3 c. 3 (1:547). 198. D. 88 c. 7 (1:308). 199. C. 12 q. 8 c. 24 (1:685). 200. See §.1.4.28 on p. 10. 201. See §.1.4.30 on p. 11.

and should entrust this to others. And, for that reason, Christ forbade his vicar the regular (*regulariter*) use of the material sword, but not the power of entrusting it to others. And those people understand and explain in this way all the canons and other authorities, which seem to suggest the contrary.

CHAPTER XX

[129] Finally it remains to see how the first opinion strives to respond to what was adduced against it in the *second*²⁰² and *third*²⁰³ chapters. To what was adduced in the *second*²⁰⁴ chapter for the second opinion, one might respond just as the *third opinion*²⁰⁵ responds. But what was adduced in the *third*²⁰⁶ chapter for proving that those two powers might still be able to fall upon the same person in a double manner (although they ought not to), it is responded that supreme secular power is opposed to someone who has supreme spiritual power by reason of papal status (*status papalis*). For, just as the papal status is opposed to the female sex, so it is also opposed to the supreme secular power, although it is not opposed to all secular power. And this is because supreme secular power extends itself to many things opposed to the papal status, to which not all secular power can extend itself. On this account, if some king were to become pope, he would lose supreme secular power although he would not lose an inferior or lesser secular power. Matrimony is also opposed to the same papal state, although it is not opposed to the sacerdotal order: hence, although in the primitive Church both bishops and priests had wives and made use of matrimony, nevertheless it is not read that a pope made use of matrimony /68/ while in office (*in papatu*). The papal status and supreme secular power are opposed more than spirit and body, to the extent that man and wife are more opposed. And, for this reason, although body and spirit can be found in the same person, the papal status is still opposed to both the female sex and supreme secular power. Also, judicially inflicting corporal death is opposed to the papal state, which is still an act of supreme secular power. And thus it is that, although supreme secular power is not opposed to a person strong (*pollenti*) in supreme spiritual power, neither by reason of sacerdotal order nor by

202. See p. 3. 203. See p. 7. 204. See p. 3. 205. See p. 21. 206. See §.1.3.20 on p. 8.

reason of administration, it is still opposed to it by reason of the papal status, which does not allow itself (*compatitur secum*) many judicial acts pertaining to supreme secular power; although it does allow itself those same acts in terms of the substance of the acts, just as it does not allow itself conjugal intercourse, although it is not opposed to the act in terms of the substance of the act.

QUESTION TWO

CHAPTER I

- [1] Second, it is asked whether supreme secular power has any property exclusive to itself immediately from God. There are two contrary opinions on this question. [1] One is that supreme secular power does not have a property properly its own¹ immediately from God because it has it from God by means of a mediating spiritual power. In fact, the pope has a fullness of power both in spirituals and temporals, and, for that reason, no one has any power in temporals except from him. The things that were alleged above in the [second chapter of Question 1](#)² can be adduced for this opinion.
- [2] This position can be argued for in another way. For it appears to some people that although the pope may not have such a fullness of power in temporals, it still ought to be said that imperial authority³ is from him. From this, it can be inferred that supreme secular power, namely imperial power, has a property exclusive to itself from the pope and not immediately from God because it has the property exclusive to itself from the one from whom it comes (*est*).
- [3] It remains, therefore, to prove that imperial authority is from the pope; this is shown in many ways. For imperial authority is from him to whom the keys of heavenly and terrestrial imperial authority were given. But the keys of heavenly and terrestrial imperial authority were given to Peter and, consequently, his successors /69/, di. xxii, c. 1;⁴ therefore, imperial authority is from the pope. Moreover, imperial authority is from he who is the first head and supreme judge of all mortals by ordination of God, in whose power exists imperial authority most perfectly. Imperial authority is from the one who can can depose the emperor; and the pope can depose the emperor: 15 q. 6 c. *Alius*;⁵ therefore, imperial

1. The phrase *proprietas sibi proprie propria*, which could be translated literally as ‘a property properly proper to itself’, occurs frequently in these early chapters. I have tried to translate the term consistently, but the wider context sometimes requires slight variation. 2.

See p. 3. 3. The word *imperium* can be translated as both ‘imperial rule’ (or, roughly, sovereign authority) and ‘Empire’; often in these chapters both senses of the word should be kept in mind. The question was about the possible sources of the (Holy Roman) Empire itself and the authority to rule the Empire. I have favoured the (admittedly awkward) ‘imperial rule’ in order to highlight that supreme secular power connects more closely to the authority aspect; but I have not hesitated to use the word ‘empire’ where that seems more appropriate. See the bottom of [paragraph 4](#) of this chapter for an example where both translations are required. 4. D. 22 c. 1 (1:73). 5. C. 15 q. 6 c. 3 (1:756).

authority is from the pope. Likewise, imperial authority is from the one who can transfer imperial authority from one people to another; but the pope can do this, *Extra, de electione, Venerabilem*;⁶ therefore, imperial authority is from the pope. Likewise, imperial authority is from the one from whom he becomes emperor after he is elected, examined, anointed, consecrated, and crowned; but the emperor is examined, anointed, consecrated, and crowned by the pope, *Extra, de electione, Venerabilem*;⁷ therefore, imperial authority is from the pope. Likewise, imperial authority is from the one to whom the emperor swears an oath as a vassal; and the emperor does present an oath of fidelity and subjection to the pope as a vassal, di. 63, *Tibi domino*;⁸ therefore, imperial authority is from the pope. Likewise, imperial authority is from the one who has both swords, namely the material and spiritual sword; and the pope has both swords; therefore, imperial authority is from the pope. These seem to be the opinion of Innocent IV, who in a certain decretal asserts that ‘both swords of each administration are held concealed in the the bosom of the faithful church; hence whoever shall not be in that place shall have neither.’ Both ‘are believed to be of Peter’s right, since the Lord did not say to him “Cast it away” regarding the material sword, but “Return your sword to its scabbard”, namely, so that you do not exercise it through your own agency. Significantly, he stated “your”, not that of another. Such power of the material sword is deeply tied to the Church, but is utilized by the emperor, who accepts it.’⁹

cf. Jo. 18:11; Mt. 26:52

Likewise,¹⁰ imperial authority is from the one to whom emperor is related like a son to a father, like a student to a teacher, like lead to gold, like the moon to the sun; but emperor-to-pope has these comparisons, di. 96, c. *Si imperator*¹¹ and c. *quis dubitet*,¹² and c. *Duo sunt*,¹³ *Extra, de maiortate et obedientia, Solitae*;¹⁴ therefore, imperial authority is from the pope. Likewise, imperial authority is from the one to whom the emperor is bound to bend (*submittere*) his head; and the emperor is bound to bend his head to the pope, di. 63, *Valentinianus*,¹⁵ di. 96, *Nunquam*;¹⁶ therefore, imperial authority is from the pope. Likewise, imperial authority is from the one by whom /70/ the Empire ought to be

6. X 1.6.34 (2:80). 7. X 1.6.34 (2:80). 8. D. 63 c. 33 (1:246). 9. Innocent IV(?), *Eger cui lenia*, ed. Herde, 522–23. The text here plays on the contrast between *est implicita* and *explicatur*, which is not as easily captured in English. Cf. Ptolemy of Lucca, *Determ. comp.* 6, ed. Krammer, 18; Bernard of Clairvaux, *De consideratione* 4.3 (PL 182:776). 10. Cf. Ptolemy of Lucca, *Determ. comp.* 3, ed. Krammer, 8–9. 11. D. 96 c. 11 (1:341). 12. D. 96 c. 9 (1:340). 13. D. 96 c. 10 (1:340). 14. X 1.33.6 (2:198). 15. D. 63 c. 3 (1:236). 16. D. 96 c. 12 (1:341).

ruled when the empire is vacant (*ipso vacante*) on his own authority and not by ordination of the emperor or another man; and the pope does this when empire is vacant; therefore imperial authority is from the pope.

CHAPTER II

[5] Next, although some say in agreement that imperial authority is from the pope, all do not agree in the manner of positing it, nor are they motivated by the same reason. For there is an opinion that, because it holds that the pope has the fullness of power in both temporals and spirituals in the sense it was said above in [the second chapter of question one](#),¹⁷ posits and concedes that imperial authority and all other kingdoms is from the pope in such a way that he can institute what emperor he wishes from his fullness of power; and, whenever he wishes, he could render the institution void at his pleasure without cause and without fault and substitute another in his place, and *even* retain imperial authority for himself. He even has this sort of power, as they say, regarding all other kingdoms; for, otherwise, he would not have a fullness of power, but would have a power limited by laws (*iura*) other than by divine and natural laws (*iura*).

[6] Others, however, although they think that the aforesaid opinion smacks of manifest heresy, still say that imperial authority is from the the pope due to this: that, according to them, the pope has a certain other kind of fullness of power because: although (as they say) the pope cannot do all things without exception that are not *already* prohibited by divine law (*ius*) or natural law, since he cannot [1] command those things that are supererogatory, [2] nor deprive someone of his right ‘without fault, unless a cause subsists’,¹⁸ [3] nor can he command those which (though they may be expedient) are known to not be necessary for ruling mortals; nevertheless, he can command without exception all those things that are known to be necessary to the government of his subjects, either directly or by officials instituted by him.¹⁹ Hence, although kings and princes justly holding kingdoms and principalities (*principatus*) without fault currently, if no cause subsists, by no means

17. See §.1.2.8 on p. 3. 18. VI 5.12 reg. 23 (2:1122). 19. Note the logic of this overlong sentence. These people believe that the pope has a certain fullness of power *because, although* he cannot do all things, he *still* can command all things he needs to.

could he deprive them of their kingdoms and principalities, even from his fullness of power; yet if there were some people, who did not have a king, prince, or other leader (*caput*) in temporals, since it is not only expedient but even necessary for every people to have also a leader in temporals, [one] by whom it is ruled directly, the pope could, from his fullness of power make him their leader (*caput*) without election, nomination, or their consent, allotting to him a greater or lesser dignity and power. And from this fullness of power (as this opinion says), the pope has a power over the emperor and empire, not indeed so that he could /71/ deprive the emperor of his empire ‘without cause, unless a’ necessary ‘cause subsists’,²⁰ nor that he could transfer the empire at his pleasure from one people to another, but because he can depose an emperor for a fault or due to a necessary cause without having consulted anyone else if it is necessary for common utility. Should it be necessary for common utility, and not only expedient, he can transfer imperial authority from people to people, from house to house, or from person to person by his fullness of power, without having consulted anyone else; should it also be necessary for the common good from some evident cause that no one be elected to a kingdom or an Empire, he can ordain and command that—so long as it is necessary—such an election be put off. And, in this way, imperial authority is from the pope; not because the pope has a fullness of power over him (of the kind discussed in [the second chapter in question one](#)²¹); but he has the kind which is now being discussed, which he even has over all kingdoms and over temporals of all sorts.

And this opinion differs from the opinion which was recited above in [the seventh chapter in question one](#)²² because, according to that opinion, the pope can correct the emperor whenever he is to be corrected and he can do all things whatsoever with regard to all temporals that are necessary for the common good, but he cannot deprive anyone of his right ‘without fault, unless a cause subsists’. That opinion (*sententia*) holds that, because the pope has no power from Christ in temporals beyond a right of demanding necessary things except with both the rights and the liberties of others preserved; for that reason, the pope can hardly do the things that are necessary for the commonwealth in temporals so long as there are others who can or wish to see to (*expedire*) them effectively. Therefore, if there were some people that did not have a

20. VI 5.12 reg. 23 (2:1122). 21. See §.1.2.8 on p. 3. 22. See §.1.7.53 on p. 22.

leader in temporals, the pope must not (nor could he) establish a leader over them if they themselves wish to elect for themselves a suitable leader. So, also, however much an emperor or king or other prince ought to be corrected, or even deposed due to a defect or crime that does not pertain only to spirituals, the pope must not involve himself by virtue of the authority granted to him by Christ, unless due to the impotence, negligence, or wickedness of the laymen. Hence they even say universally that the pope (so that he might be entirely free for the spiritual matters for which things alone he shall find himself overmatched) must not involve himself in temporal affairs so long as laymen are found who both want and can see to them rightly and legitimately. There is an argument for this in 11 q. 1, *Te quidem*.²³

[8] Another opinion is that imperial authority is not from the pope by divine law (*ius*), but from human law (*ius*), namely from the voluntary concession or surrender of the Romans, /72/ who granted to all power that they had over the Empire to the highest pontiff, or by legitimate prescription, whereby the highest pontiff acquired a right and power over the imperial authority. And hence it is that, although the pope has no greater power over the Empire by divine law (*ius*) than over any other kingdoms, by human right he nonetheless obtains a greater power over the Empire because the people of other kingdoms did not give their power to the pope, nor did he legitimately prescript it against other kingdoms.

[9] Consequently, although the aforesaid opinions disagree in the manner of positing, they nevertheless agree in this: that they believe that imperial authority is from the pope either by divine law (*ius*) or by human law (*ius*); and, for that reason, they concede that supreme secular power, namely imperial power, has a special property properly its own from the pope and not immediately from God, because it has a property exclusive to itself from whom imperial authority comes.

CHAPTER III

[10] There is another opinion which responds by means of distinctions. [1] One of these is that property properly proper to someone is presently taken in two ways. [a] In one way, when 'property properly proper' is

23. C. 11 q. 1 c. 29 (1:634).

called 'ownership' taking the noun 'property' most properly and strictly; [b] in another way, when 'property properly proper to someone' is called that which (whether it be property taking the noun 'ownership' most properly or broadly) is appropriated more to one person than other things.²⁴

[2] The second distinction is that some property can be understood in three ways, just as some power can be understood to be immediately from God in three ways. [a] In one way, so that it is given by God alone without any donation or contribution (*ministerio*) of the creature. Moses had leadership (*ducatum*) immediately from God through this mode, and the Sons of Israel had ownership of the Promised Land, and Peter the highest priesthood, and the twelve apostles the apostolate. [b] In the second way, something can be immediately from God because it was given by God alone, though not without a contribution of the creature. Through this mode, any highest pontiff after Peter has power and the pontifical office (*pontificium*) immediately from God: for, even though he does not have that power without legitimate election, not those electors, but God alone, allots him his power, just as he who is baptized receives grace from God alone, though not without the administering of the baptizer because that grace is not conferred except for the baptized; and, still, the person who baptizes does not create that grace. In the same way, a commoner has a church without a bishop, and yet not without the presentation of a patron. [c] Someone can be understood to have power or some property from God alone in a third way /73/ because, although he had it in the beginning by concession or donation or the resignation of another, after it was given and assigned to him, he still depends upon God alone in such a way that God alone is superior to him with respect to such a power and property. Thus, according to some, the pope is said to have lordship or ownership of temporal things, which were granted to the Roman pontiff by the faithful, immediately from God alone. For, although he at first received them from the generosity of the faithful, even after he received them, no one else had any right in them except God alone to the extent that he held the estates, cities, and other things, [11]

24. Ockham could be clearer here. His point is that the 'most proper' meaning of the word *proprietas* in this context is property or ownership, but that we may also use the word when one person is said to have a stronger claim to something than others. Cf. *OND* 2.433–454 (1:309), which describes a difference between the strict meaning of *proprietas* (in legal discourse) indicating lordship of a thing, and words such as 'mine', 'yours', and 'have', which do not necessarily indicate ownership and lordship—e.g., one might say, 'This is my lodging', even though it is understood that that person does not own the lodging.

which the faithful gave him, not from man, but from God alone, [[and]] in such a way that, besides God, he does not recognize a superior in such temporals. So also, when Noah was alone, with his sons and their wives, he held the things, which he had then (whether by hereditary right, or by the purchase or donation of others, or by any other way), from God alone; nor did he have a superior in such things at that time, although he had had a superior in such things before the flood, namely a king or other principal lord to whom he was inferior.

CHAPTER IV

[12] Now that we have considered these distinctions, it must be seen how people who maintain that imperial authority is not from the pope do not all respond in the same way to the proposed question.

[13] Some, in fact, say that although the one who has supreme secular power from some [[manner other]] than by supreme spiritual power can have a properly exclusive ownership in the first way (sc. by taking the noun 'ownership' in the most proper and strict way) because he can have such ownership in goods that he had before he obtained supreme secular power, and in other things, which he acquired afterwards with respect to his person (*personae*) and not with respect to the position (*dignitas*) or supreme secular power. Yet, by taking the noun 'proprietas' in its most proper and strict way, supreme secular power has no ownership because, regarding ownership taken most strictly, a person who has it can do what he wishes: 1 q. 1, *Eos*²⁵ —to such an extent that whatever he does with it, namely spending, giving, bequeathing, or alienating it in any way, well or badly, although he can do such things with grave sin, he is still not bound to restitution, but it suffices that he make satisfaction to God regarding the sin in other ways. But the emperor, who obtains supreme secular power, can in no way do this regarding the rights and things of the Empire; for, if he were to squander them and not use (*expendere*) them for the utility of the Empire and common good, he would be obligated to restore them from his own goods. And for that reason, /74/ according to them, supreme secular power, unlike supreme spiritual power, has in

25. C. 1 q. 1 c. 21 (1:365); cited also in *OND* 2.416 (1:308), where he described different possible meanings of (proprietary) lordship.

this way ownership exclusive to him neither immediately nor mediately from God or another person.

There is a reason for this: because supreme secular power is regal [14] leadership (*principatus*) according to the most perfect mode of leadership itself. The most perfect mode of a regal leadership, which differs most of all from both a tyrannical and despotic leadership, has this among other things: that it is instituted for the sake of the common good of his subjects, and not for the sake of the good exclusive to the person exercising leadership (*principantis*). Indeed, Aristotle speaks of such a prince or king in *Ethics* 8: 'And so, he certainly does not intend useful things for himself, but for his subjects'.²⁶ Therefore, the goods of the Empire are granted to him for the sake of the common good of his subjects in the same way. This is why he cannot use them except for the common utility of his subjects; and if he were to use them otherwise, he would be bound to restitution, for he who consumes goods granted by others for specific uses in other uses against the will of those who grant them is bound to restore them if he can.

Another opinion is that supreme secular power has some special [15] ownership properly its own, taking the noun 'ownership' in the same way. For one established in supreme secular power ought to abound from that same power in those goods by means of which he can exercise acts of the political virtues. Hence Aristotle says in *Ethics* 8 that 'he is not a king who is not sufficient by himself and abounding (*superexcellens*) in all goods'.²⁷ Among the necessary political virtues for one established in supreme secular power, the virtue of liberality is by no means the least: for, as Aristotle says in *Ethics* 8, 'Friends are especially necessary for possessors of leadership and political might (*potentatus*)', because, as he says in the same place, such good fortune is 'less secure to the degree it is greater';²⁸ for, as is maintained in *Extra, de accusationibus, Qualiter et quando*,²⁹ just as ecclesiastical prelates 'frequently incur the odium of many and endure treachery', so too do kings and princes. Since they sometimes have to exercise the judgment of blood against powerful and rich men, many gladly plan treachery for them; thus, in order to exercise their own defense and power against wicked men without fear, they are known to need friends most of all. Friends, moreover, are chiefly acquired and

26. Aristotle, *Nichomachean Ethics* 8.12 1160b1–2; Aquinas, *In libros Ethicorum* 8, lectio 10, n. 1676. 27. Aristotle, *Nichomachean Ethics* 8.12 1160b3–4; Aquinas, *In libros Ethicorum* 8, lectio 10, n. 1677. 28. Aristotle, *Nichomachean Ethics* 8.1 1155a6–7; Aquinas, *In libros Ethicorum* 8, lectio 1, n. 1539. 29. X 5.1.24 (2:746).

kept through the munificence of liberality, as Solomon testifies, who /75/ says in Proverbs 19: *Many honour the person of the powerful, and are friends of him who gives gifts*, and again in the same place: *Riches adds many friends*. Therefore, an act of the virtue of liberality is necessary for one established in supreme secular power. Thus, since supreme secular power ought to be sufficient for the person who discharges it, he ought to abound in goods so much that, being preeminent in it, he can exercise an act of liberality (the act of which is to give). Giving, moreover, belongs to one who has ownership. When the word is taken in the strictest way, therefore, supreme secular power ought to have ownership.

Prov. 19:6

Prov. 19:4

CHAPTER V

- [16] Now, both the aforesaid opinions agree in this: that supreme secular power has its own special ownership in a second way because some temporal goods are appropriated to the supreme secular power in such a way that it does not pertain to the ownership or lordship of another person. But both opinions do not hold in the same way that it has that ownership immediately from God. For some, although they say that it does not have that ownership immediately from God in the first way (just as no pope after blessed Peter had spiritual power immediately from God, because none of them had such power without the legitimate election of the one or of those ones to whom it pertains to elect the highest pontiff), supreme secular power nonetheless has its own properly exclusive ownership in the first or second way immediately from God in the second way, in the same way the highest pontiff has his own exclusive authority immediately from God. For, just as when the pope is elected, those electing him allot him no power, but, with the election celebrated and the elect consenting, God immediately confers on him all the power that he has, thus, with the election of the emperor celebrated, those who elect him confer nothing upon him, but, once he consents, God alone confers upon him all the ownership, which is exclusive to the imperial dignity, and power. This seems to be the opinion of the Glossator in di. 96 on c. *Si imperator*, who says over the word 'divinitus',³⁰ 'Therefore, not from the pope. For imperial authority is from God alone, as in 23 q. 4, *Quaesitum*. For he

30. *Gl. ord.* ad D. 96 c. 11, s.v. 'divinitus'; citing C. 23 q. 4 c. 45 (1:924) and Cod. 1.17.1.

has the power of the sword from the heavenly majesty, *C. de veteri iure enucleando*, l. 1, at the beginning—which I concede regarding the true emperor.'

A case can be made for this opinion in the following way. The emperor does not have from man any ownership exclusive to supreme secular power; therefore, he has it from God alone. The consequent seems manifest. The antecedent is proven /76/ because if he had it from man, he would have had it from the electors, the crowner, or the confirmer. [But] not from the electors, because the electors in general, precisely when they are electors, do not give any dignity (to which he is elected) to the elect, but only a right of seeking that dignity (to which he is elected) from another, when the election needs to be confirmed by a man, or an immediate power or capacity of receiving a dignity (to which he is elected) from God. In the same way, because an election of the highest pontiff does not need to be confirmed by man, the electors do not give him a spiritual power, but only an immediate capacity of receiving such a dignity from God, because according to God's ordination he was not previously capable of such a dignity. And so the emperor receives neither ownership nor dignity from the electors. Nor does he have it from the crowner because the crowner, when he is not the confirmer, does not give ownership of any temporal thing to the one who has been crowned; in the same way, the consecrator does not give any ownership or even administration of any spiritual thing. Therefore, the emperor receives no ownership from the crowner who is not the confirmer. Nor does he have it from the confirmer, because he does not need confirmation, just as they argue (*supponunt*) according to the reasons adduced [earlier]. [17]

CHAPTER VI

There is another opinion, which holds that supreme secular power does not have any ownership exclusive to itself immediately from God in either the first or second way, but only in a third way, because it has it from a donation of the people and not from God's donation alone. For the people not only ordained that there should be one supreme secular power, nor only elected the emperor in the way that only the cardinals elect the pope, allotting him no temporal things from their exclusive goods, but they ordained and established the highest secular power, bestowing on [18]

him certain temporals from among their own things, which they gave to the dignity, not the person. And for that reason, the emperor cannot alienate them except in [[certain]] cases, but he is obliged to restitution if he alienates, and his successor can and ought recall them no matter to whom they were given. /77/

[19] And so this assertion says two things. [1] First is that supreme secular power does not have ownership exclusive to itself immediately from God in the first or second way. [2] Second, that it has it immediately from God in the third way.

[20] A case can be made for the [first](#)³¹ [[argument]] in the following way. It should not be said that some dignity or person has some special ownership of its own immediately from God in the first or second way, unless it were undoubtedly agreed on this point through divine revelation (because this cannot be agreed to by means of natural reason or experience). For, since it is agreed through divinely revealed scripture (as it is had in the first chapter of Genesis) that God gave lordship of temporal things in common to the human race, and it is not necessary that the appropriation of any of those things take place in particular by means of God alone without the consent and will of those to whom common lordship was given, it follows that we must not maintain that some such appropriation was made by God alone without the will of those to whom it was given in common—unless it were to be agreed on this point by means of divine revelation. Through this mode it is agreed that God deprived the Chanaanites of the Promised Land and assigned it to the Sons of Israel in particular. By this mode, also, we know that God gave some lands to the sons of Esau, Amon, and Moab specifically, as it is clear in Deuteronomy 2. However, there is no agreement by means of divine revelation that God specifically gave for us some temporal things and appropriated it for the Empire or supreme secular power, nor, also, that he ordered that some things must be specially appropriated to it; nor that the Empire would have some ownership from God alone in any way other than other kingdoms did that existed before the Empire: for we have nothing about this in the divine scriptures in which the divine revelations are held. Therefore it is not to be maintained that the Empire have any ownership immediately from God in the first or second way.

[21] But perhaps someone will say that it can be found in the Gospel that the Empire has ownership in such a way immediately from God when

cf. Gn. 1:28–30

cf. Dt. 1:8

cf. Dt. 2:4–5, 9–12, 19

31. See §.2.6.19 on p. 71.

Mt. 22:21 Christ says (as it is had in Matthew 22), *Render unto Caesar what are Caesar's*. From these words it is gathered that Christ, who is the true God, ordered that some things in particular are to be given to Caesar; wherefore, because he had them from Christ, Caesar had them immediately from God. To this it is responded that Christ gave nothing in particular to Caesar through those words, but he ordered that what had been given to Caesar through a human ordination earlier, are to be rendered to him; and for that reason, he did not say, 'I am giving Caesar some things', but 'Render to him those things which are his', namely, what had been collected for him by men. For they, who /78/ installed him as emperor (or his predecessor), ordained either in general or in particular what he ought to claim by reason of supreme secular power. And Christ approved this; but he who approves does not establish anything new, just as he who confirms allots no new right: *Extra, de fide instrumentorum, Inter dilectos*³² *Extra, de confirmatione utili vel inutuli, c. Cum dilecta*³³ and c. *Examinata*.³⁴

Second,³⁵ what that opinion holds is that supreme secular power [22] has ownership exclusive to itself immediately from God in a third way. For, although God did not at the beginning of the institution of supreme secular power allot determinate temporal things to the supreme secular power immediately through himself—nor through some special mandate miraculously revealed to any men—but through men following natural equity who consider that it is expedient for the commonwealth for one prince to preside over others in temporals, whereby he [sc. the prince] is able to exercise the office given to him, such that, then, he receives ownership of those temporals not from God alone but also from men. Nevertheless, after that handing over or doantion, he holds them from God alone, and has to recognize only God as his superior with respect to them. For those assigning that ownership to him regularly transfer through themselves all positive right that they have in it to the supreme power instituted by God.

A case can be made for that opinion in the following way. If supreme [23] secular power were not immediately from God in that way, it would have some man or community as a superior in temporals from whom or from which it held its temporals, and whom or which it was bound to

32. X 2.2.2.6 (2:346). 33. X 2.40.4 (2:445). 34. X 2.40.7 (2:447). 35. See §.2.6.19 on p. 71.

recognize in temporals. But supreme secular power holds its temporals neither from man nor from some community.

- [24] It is clear that it [sc. supreme secular power] does not have it from man. For if it held it from a man, and someone other than the pope could not assign it, it would hold it from the pope—which is shown to be false even regarding a faithful and Christian emperor because his successor enjoys and uses the same right as his predecessor: *Extra, de regulis iuris, Si quis*, in the Sext.³⁶ For there would not be a true succession if the successor had a lesser [right] than his predecessor. A faithful emperor, moreover, succeeds a faithless emperor; therefore, a faithful one ought to use the right that the faithless one used. But a faithless emperor /79/ does not hold his temporals from the pope: [a] First, because there was an emperor before there was a pope; [b] Second, because a faithless emperor in the time of Christ did not hold temporals from Christ because Christ did not come to remove nor even impede the lordship of kings or emperors, as blessed Augustine witnesses, who says on John, who is speaking in the person of Christ to the kings of the world, ‘*My kingdom is not of this world*, that is, I do not impede your domination in the world so that you may fear and rave in vain.’³⁷ Pope Leo agrees with this, saying, ‘the lord of the world, who offers an eternal kingdom, did not seek a temporal one.’³⁸ The Church also seems to testify to this, when it sings, ‘He does not seize mortal kingdoms who gives heavenly ones.’³⁹ [c] Third, because the Christian religion takes away from no faithless person his right, as blessed Ambrose witnesses, who says on the Epistle to Titus, ‘*Admonish them to be subject to princes and powers*, as if he were saying Ti. 3:1 “If you have spiritual authority (*imperium*), admonish them still to be subject to princes, namely to kings, dukes, and lesser powers, because the Christian religion deprives no one of his right.”’⁴⁰ [d] Fourth, because there was an emperor before Christ and the Christian religion, at which time he had no superior in temporals; therefore, his successor also has no man as a superior in temporals; and, consequently, he is not the vassal of the pope. Hence, if some emperor were to subject himself to the pope by recognizing, as a vassal, the pope as his superior in temporals, then, by that very fact, he renounces imperial authority and supreme secular power; and, from then on, he cannot be called a successor of the first

36. VI 5.12 reg. 46 (2:1123). 37. *Gl. ord.* ad John 18:36. 38. Leo the Great, *Sermons* 31.1 (PL 54:236). 39. Sedulius, *Hymns* 2. 40. Cf. Peter Lombard, *Colectan. in Epp. Pauli* ad Tit. 3:1 (PL 192:392).

emperor, and he should not be called Augustus because he would not augment imperial authority, but, to the degree he has it (*quantum in eo est*), he would destroy it.

It is also clear that the emperor does not hold ownership exclusive to [25] supreme secular power from some community. For this could have such a kind of appearance from no community other than from the community of Romans. It cannot be true of them. For there cannot be vassal and lord with respect to the same individual, especially on the basis of one and the same reason (*praesertim ratione eiusdem*). But the Romans are inferiors and vassals of the emperor, of whom he himself is lord; therefore, he holds no temporals from them. Therefore, he has ownership exclusive to supreme secular power immediately from God. /80/

CHAPTER VII

Having seen the above-written opinions, we must respond according to [26] them to what was alleged to the contrary. And first [we must do so] for what was adduced above in this question in the first chapter⁴¹ against that final opinion. To these it is said that imperial authority is not from the pope because there was an Empire from the same source (*ab eodem*) before and after the arrival of Christ; but imperial authority was not from the pope beforehand, just as it was alleged above.⁴² Therefore, nor was imperial authority ever from the pope afterwards.

[1] To the first [argument] to the contrary, when it is said that (ac- [27] cording to Pope Nicholas [II]) Christ gave or 'entrusted' to blessed Peter the 'rights of the earthly and heavenly empire';⁴³ it is responded that the words of Pope Nicholas are clearly to be explained against the understanding which they superficially seem to hold so they do not smack of heresy, just as [we must do with] some other words: namely when he says, 'He alone instituted and founded it'—sc. the Roman Church—and soon erected on the rock of that nascent faith, and when he says, 'the Roman Church instituted all primates, whether the apex of all patriarchs, or metropolitan of the primate, or cathedral of the episcopates, or dignity of the order of the churches'. These words seem to obviate divine scripture and the writings of the holy fathers unless they are more reasonably

41. See p. 61. 42. See §.2.6.2.4 on p. 73. 43. D. 22 c. 1 (1:73). The reference should be credited to Peter Damian rather than Nicholas II.

understood. For Christ did not found the Roman Church 'on the rock of the then nascent faith' because the Roman Church was not founded at the beginning of the faith nor did it found all the other churches. In fact, there were many churches before the Roman Church; many had been elevated to ecclesiastical dignities before the Roman Church was founded. For before the Roman Church blessed Mathias was elected to the dignity of the apostolate: Acts 1. Seven deacons were also elected by the apostles before the Roman Church: Acts 6. Before the Roman Church, *the Church had peace throughout all Judea, Galilee, and Samaria*: Acts 9. Before the Roman Church blessed Paul and Barnabas were raised to apostolic dignity by God's command. Before the Roman Church had the power /81/ of establishing prelates, Paul and Barnabas ordained (*constituerunt*) priests: Acts 14. Before the Roman church had any authority, the apostles and the elders celebrated a general council: Acts 15. Before the Roman Church had the power of instituting prelates, blessed Paul said (as it is had in Acts 20) said to the prominent individuals (*maioribus natu*) whom he had called from Ephesus, *Attend to yourselves, and to the whole flock, in whom the Holy Spirit has placed you bishops to rule the church of God*. Before the Roman Church had primacy, the churches of Antioch had multiplied so often that the disciples of Christ there were the first-called Christians (in Acts 11): hence, even blessed Peter had his seat there before he did at Rome: 24 q. 1 c. *Rogamus*,⁴⁴ and thus the Church of Antioch instituted churches and ecclesiastical dignities earlier than did than the Roman Church did. And so, we need to offer a sound interpretation for these above-written words of pope Nicholas lest they openly contradict divine scripture.

cf. Act. 1:26

cf. Act. 6:3-6

Act. 9:31

cf. Act. 13:1-3

cf. Act. 14:22

cf. Act. 15:4ff.

Act. 20:28

cf. Act. 11:26

[2.8] His other words that follow about the rights of the 'earthly and heavenly' Empire entrusted to Peter similarly need to be explained so that they do not seem to smack of manifest heresy. For, if they were interpreted as they sound on the surface, two errors would follow from them.

[2.9] [a] First is that imperial authority is from the pope because Pope Nicholas speaks thus:⁴⁵ that Christ entrusted the rights of the heavenly imperial authority in the same way as those of the terrestrial one. But it is agreed that the heavenly imperial authority is not from the pope, especially in the way in which some say (due to the authority of Pope

44. C. 24 q. 1 c. 15 (1:970). 45. See p. 74 n. 43, above.

Nicholas) that the earthly imperial authority is from the pope, namely such that the one who has earthly imperial authority holds it as a fief (*in feudum*) from the pope.⁴⁶ For it would be heretical to say that someone held heavenly imperial authority as a fief from the pope. Nor is heavenly imperial authority from the pope as from a lord in the way they say that earthly imperial authority is from the pope like from a lord since the pope is only in some way a key-giver of the heavenly imperial authority and not at all a lord.

[b] The second error that follows from the words of Nicholas, understood as some understand them, is that all kingdoms are from the pope, which is recognized to be (*redundare*) in prejudice to all kings who do not give homage to the pope for their kingdoms. For the king of France seems to err dangerously in the faith 'since he does not recognize a superior in temporals': *Extra, Qui filii sint legitimi*, c. *Per venerabilem*.⁴⁷ [30]

And so these people say that the above-written words of Nicholas must be understood in a way different than they sound. Hence they say that, just as (according to Gregory in his well-known [*communi*] homily about virgins) the Church Militant ought sometimes to be understood through the kingdom of the heavens, so also the good men (*boni*) in the Church Militant can be spiritually understood through the heavenly imperial authority. /82/ Evil men, therefore, can be spiritually designated in the Church through the earthly imperial authority. And so, as they say, the aforesaid words of Nicholas ought to be understood that, namely, Christ entrusted blessed Peter some power over good and evil men in the Church. Otherwise, some say that Pope Nicholas understood spiritual men by heavenly imperial authority, men whose conduct is in the heavens, and, by the earthly imperial authority, secular men tied up in earthly business, and the pope has power over both. Otherwise it is said that Christ entrusted to Peter the rights of the heavenly imperial authority to the degree he has power in spirituals over wayfarers predestined to the heavenly empire. To him, also, he entrusted the rights of earthly imperial authority to the degree he established him superior in spirituals to the earthly emperor, whom he can also coerce casually; but, just as no one holds heavenly imperial authority as a fief from the pope, so also no one holds earthly imperial authority as a fief from him. [31]

46. Perhaps to be understood in a sense analogous to the notion of 'fee simple' in common law: i.e., something that very nearly approaches (full) ownership. Here it is especially clear that the holder of the fief would hold it from some superior. 47. X 4.17.13 (2:715).

CHAPTER VIII

[32] To the **second allegation**⁴⁸—which consists in this: that the pope, and not the emperor, is the first and supreme judge of all mortals by the ordination of Christ—it is responded that this does not contain truth, since divine scripture contradicts it when the Apostle says in the persona of all the faithful 1 Corinthians 5: *For why is it for me to judge those who are outside?* 1 Co. 5:12

[33] But perhaps someone will say that the pope is at least supreme judge of all the faithful; therefore he is judge of the emperor, if he is faithful. It is responded to this in many ways. [1] In one way it is said that the pope is not judge of all faithful except in spirituals, which pertains to his power. And, for that reason, if he pronounces some sentence in temporals or on some temporal matter by his papal authority outside the case of necessity and utility (which ought to be made equal to necessity), such a sentence is null by the law itself just as is one pronounced by someone who is not his judge;⁴⁹ For he is not a judge in such affairs nor do such things look to his office; and, for that reason, what he might do in such matters would be null by the law itself according to that rule in *Extra, de regulis iuris, Ea, quae* in the Sext:⁵⁰ ‘The things done by a judge do not survive on their own strength if they do not pertain to his office’. The emperor, therefore, not the pope is the supreme judge in such matters, not only of all the faithful, but even of all mortals. ‘Because’, as Ambrose says, ‘the Christian religion deprives no one of his right’, according to what was alleged above **in the sixth chapter**;⁵¹ and it is founded in a saying of the Apostle, /83/ who says in 1 Corinthians 7, *Let everyone remain in the vocation to which he was called. You were called as a slave? Let it not concern you.* 1 Co. 7:20–21

From these words it is gathered that the Christian religion does not free the slaves of the faithless from servitude, *lest the name of the Lord and his doctrine be blasphemed*, as the Apostle says in 1 Timothy 6. Much less, then, does the Christian religion free one elevated to the papacy from the subjection whereby he is bound to a faithful lord: because, just as the Apostle says in 1 Timothy 6, *But those who have faithful lords, let them not despise them, for they are brothers; but let them serve even more,* 1 Tim. 6:1

1 Tim. 6:2

48. See §.2.1.3 on p. 61. 49. On the phrase *a non suo iudice*, see C. 2 q. 1 c. 7, §. 9 (1:442); X 1.4.3 (2:36–37); X 1.30.5 (2:185); X 2.1.4 (2:240); X 5.38.4 (2:885). It usually denotes a decision made by someone without the appropriate jurisdiction. Ockham also employs the phrase at *Brev.* 2.16.18 (4:143) and *IPP.* 5.18–19 (4:289). 50. VI 5.12 reg. 26 (2:1122).

51. See §.2.6.24 on p. 73.

for they are faithful and beloved. The emperor, therefore, remains judge of the pope, just as he was before his papacy. For neither the pope nor other clerics are exempted from the jurisdiction of the emperor by divine right, since, as much as it is from divine right, they remain subject (as they were before) to the emperor in such matters, which do not impede the observation of Christian religion and the execution of the offices to which they were elevated. In fact, in such matters, because *one must obey God more than men*: Acts 5, and ‘just as the greater power is put in charge of the lesser for obedience among the powers of human society, so God is put in charge of everyone’: di. viii, *Quae contra*.⁵² And converts are not subject to a faithless lord, and neither the pope nor clerics are subject to the emperor or another faithful lord. As much as it is from divine law (*ius*), however, they are subject in other things; and for that reason, they have and enjoy a greater liberty only from human right.

But perhaps someone will say that that response seems to imply [34] a contradiction: namely, that the pope is a judge of the emperor in a case of necessity, and that ordinarily the emperor is judge of the pope in temporals— which seem to contradict each other. For it follows that the same person is superior and inferior to another person for this reason: no one can be judged except by a superior, di. 21, c. *Inferior*,⁵³ and c. *Submittitur*.⁵⁴ It is responded to this that it is unsuitable for the same person to be inferior and superior regularly to another due to one and the same reason or cause; but it need not be considered unsuitable or impossible for the same person to be superior to him regularly and superior casually. For a king is regularly superior to his entire kingdom, and yet he is inferior to his kingdom on occasion, because a kingdom can depose its king and hold him in custody in a case of necessity. This is from natural law, just as it is from natural law that one is allowed to repel force with force: di. 1, *Ius naturale*.⁵⁵ Thus also in many religions the highest (*supremi*) prelates are superior to all the brothers of their order; /84/ even so, in some cases general chapters of these religious are superior to the higher prelates to the extent that they can absolve them. And for that reason, just as it is expressly found in law (*ius*) that a minor makes up for (*supplet*) the negligence of his elder in many cases, so is it not unfitting that the same persons is regularly inferior to another and casually superior: just as a delegate is ordinarily inferior to his bishop,

52. D. 8 c. 2 (1:12). 53. D. 21 c. 4 (1:70). 54. D. 21 c. 8 (1:72). 55. D. 1 c. 7 (1:2).

yet, having been delegated by the pope, he can be superior to him on occasion.

- [35] It is responded in another way to what was taken up near the start of this chapter, namely that the pope is the supreme judge of all the faithful. For it is said that no one is a judge of all the faithful in temporals (with not a single exemption). For although the emperor is the supreme judge of the multitude of faithful, he is nevertheless not the supreme judge of the person of the pope in temporals because of the reverence for the office which the pope enjoys, which is the reason why he is superior to the emperor in spirituals. And it is a modest loss which the emperor incurs if the person of the pope is not subject to him because a modest one does no harm: for a modest thing does not induce simony: *Extra, de simonia, Etsi quaestiones*.⁵⁶ In a certain way it is congruent with natural law that the emperor is not the ordinary judge of the pope, and the pope is not the ordinary judge of the emperor in temporals; for that reason no one—with no exceptions—is the supreme judge of all the faithful in such things.

CHAPTER IX

- [36] To the third allegation introduced above in the first chapter,⁵⁷ where it is taken that the pope can depose the emperor, it is responded that, just as the pope cannot regularly depose other kings by the power granted to him by Christ, so he cannot regularly depose the emperor, no matter how worthy he is of being deposed because of some defect or crime that is not counted among spiritual ones. And, for that reason, if an emperor commits a crime of bankrupting or destroying the empire, damnable negligence leading to danger of the empire, tyranny, or anything else worthy of deposition, the Romans (or others to whom the Romans gave their power) ought to depose him, and not the pope—unless they to whom it pertains assign their power to him, or unless they to whom it pertains do not wish or are unable to make the complement of justice and a case were threatening where it would be necessary that such justice be exercised against the emperor. /85/

56. X 5.3.18 (2:754). 57. See §.2.1.3 on p. 61.

However, it seems the decree *Alius*, in 15 q. 6,⁵⁸ does not work for the proposition because it does not speak about the emperor, but rather about the king of France, who does not recognize a superior in temporals.⁵⁹ In fact, not only the king, but even the citizens of the kingdom hold this, which is why they do not consider that the pope can depose their king of his own authority outside of case of necessity when others are not negligent. And therefore the pope, it is said, did not properly depose the king of the Franks, but, as the gloss says, 'it is called "deposed" because he consented to those who did the deposing',⁶⁰ praising their decision (*propositum*) and counseling that they not fear to exercise their power for the common utility of everybody against the king on this matter. Therefore, the Franks, perhaps doubtful of their own (*propria*) power, consulted and asked the pope as a wise man who had with him men wiser than they themselves were (for the University of Paris did not yet exist) whether they were, according to God, allowed (*liceret*) to depose their king. Some people in our time, however, who certainly do not doubt their own power deposed their king by decree (*sententialiter*) without having asked the pope.⁶¹ For, as they say, neither instituting nor removing kings belongs to the pope when the people are found to be dangerously and damnably negligent regarding the institution and removal of their kings.

But perhaps someone will say that Innocent III deposed Otto IV [37] from his empire, and Innocent IV deposed the emperor Frederick. To this it is responded in three ways by different people. [1] For some say that Innocent III and Innocent IV made those depositions on the authority of the Romans, to whom the correction of the emperor belongs, especially if the princes of Germany (to whom the right of electing the emperor was given by the Romans) were damnably negligent regarding his correction. [2] Others say that Innocent IV deposed Frederick especially on the authority of a General Council, which has, without qualification, power over all Christians in a case of heresy. [3] Others say that both proceeded badly by usurping to themselves a power which they did not have, just as the Roman pontiffs often do, as the gloss testifies in *Extra, de foro competenti*, on c. *Si quis*, saying in these words:⁶² 'The pope concedes letters to clerics against laymen everyday on every sort of question, whether they are negligent', namely laymen, 'or not; and thus he usurps

58. C. 15 q. 6 c. 3 (1:756). 59. Cf. X 4.17.13 (2:715). 60. *Gl. ord.* ad C. 15 q. 6 c. 3, s.v. 'deposuit'. 61. That is, Edward II, who was deposed in 1327. 62. *Gl. ord.* ad X 2.2.5, s.v. 'Si clericus laicum'; not, as Offler notes, X 2.2.1, s.v. 'Si quis clericus'.

the jurisdiction of others for himself against what is said one title above in c. *Novit*,⁶³ at the beginning.' On account of this /86/ usurpation, they say that the Christian order is confused: because the all order is confused if everyone's own jurisdiction is not preserved, as the canonical sanctions in 11 q. 1, *Pervenit* testify.⁶⁴ For they say that, due to that usurpation, massacres of the people, the laying waste to cities, regions, and lands, and innumerable other desolations have occurred in Italy from the time of Innocent IV. Of whom, whatever it was about Frederick—namely, whether he was a heretic or a orthodox (*catholicus*)—they say that he published a decretal or publication (*scripturam*)⁶⁵ against Frederick, which is rife with countless inexcusable errors against the faith.

CHAPTER X

[38] To the fourth allegation introduced in the first chapter⁶⁶—where it is said that the pope can transfer imperial authority from one people to another—it is responded in various ways. [1] In one way it is said that the pope can do this casually because there is no other superior. Otherwise it is said by distinguishing, for either [a] imperial authority is to be transferred from people to people because of some spiritual crime of the people from whom imperial authority is to be transferred (e.g., if the people were infected with heretical depravity or turned to the law of the Jews or a rite of the gentiles or some other sect, or because of some similar crime); or [b] due to a secular crime, negligence or other defect, that people is not otherwise worthy to govern (even by a judgment of wise gentiles or non-Christians).⁶⁷

[39] [Ad a] If imperial authority is to be transferred due to some spiritual crime, [i] some say that the pope can transfer imperial authority by divine law, because he has by divine law a fullness of power in spiritual things and in things annexed to them regarding what must be done by necessity. [ii] Others say that the pope in this case cannot transfer imperial authority unless the laymen are damnably negligent or supporting a people from whom it is necessary that imperial authority be transferred. But, in this case, it belongs to the pope to recognize the spiritual crime and to

63. X 2.1.13 (2:243). 64. C. 11 q. 1 c. 39 (1:638). 65. That is, *Eger cui lenia*; see above, pp. 5, 31, and 37. 66. See §.2.1.3 on p. 62. 67. This alternative does not seem to be addressed in what follows.

denounce those to whom his deposing belongs—unless they wish to enturst the pope with their power on this matter. But if they do not wish or cannot transfer imperial authority, in this case, by /87/ divine law the power of transferring imperial authority devolves to the chief pontiff, and this [is] because he has a fullness of power so far as concerns all things which must be done of necessity, saving the rights and liberties of those who are not neglecting what belongs to them at the expense of the common good. For, according to that canon, 11 q. 1, *Te quidem*,⁶⁸ which speaks about the pope in particular, and many other [canons], which were founded in divine scriptures and strengthened by the examples of Christ and the apostles, the pope ought by no means involve himself. And so it is that, as a certain assertion says,⁶⁹ if imperial authority is to be transferred from the Romans by a manifest cause, that translation ought to be done through the agency of other laymen, not through that of the pope, unless the laymen were damnably negligent. Yet he still ought admonish them, because a simple admonition does not distract him much from spiritual cares.

In what manner was there a *de facto* process by the pope when imperial authority was translated from the Greeks to the Germans, and whether it proceeded justly or unjustly, only the one who had the acts of that time could know with certitude (*per certitudinem*), and then he would recognize the process (with respect to everything that touches on that translation). Still there would be a presumption in favour of the pope (*pro facto papae*), unless the contrary were to be proven, just as there is a presumption in favour of any judge until the contrary is proven: *Extra, de renunciatione, c. In praesentia*.⁷⁰ Some, who did not see the acts of that time, say on this account that if the pope attempted to do it without just cause or proper authority, he did not rightly (*rite*) do the translation from a commission of non-negligent Romans, [and] he [therefore] damnably presumed 'to put his sickle in another man's crop'.⁷¹ But if manifest cause /88/ demands, he did it from the commission and consent or authority of the Romans, or if the Romans themselves were damnably negligent in doing it, he proceeded justly because, in so great necessity, he was able to make up for their negligence. And thus only casually and not regularly,

68. C. 11 q. 1 c. 29 (1:634). 69. Cf. Marsilius of Padua, *Defensor pacis* 2.30.7–8 (598–601). 70. X 1.9.6 (2:106). 71. Cf. X 1.6.34 (2:80); C. 6 q. 3 c. 1 (1:562).

can the pope transfer imperial authority even though imperial authority needs to be transferred.

[41] But what some say, maintaining that the pope regularly can transfer not only imperial authority but even all other kingdoms, it is responded that, even in Gaul, such a translation does not seem to have been made for fifty years or more.

[42] But what some say,⁷² that is, ‘from fifty years and more, lordships’ were ‘translated from people to people in the regions of Gaul, Spain, and in Greater Britain by the highest pontiff’;⁷³ it is not unknown that it is a most open lie. In fact, in Greater Britain, no translation was made in that connection, nor in connection to Scotland, which is subject to it. For, the people of Greater Britain did not mean to require a highest pontiff in any translation, either by dismissal (*destitutione*) or institution; and, as it appears to many, many things (some of which even seem to derogate from the liberties of clerics) occur in Greater Britain against the expressed definitions, ordinations, and statutes of the highest pontiffs when there is a compelling reason and justice demands it. Moreover, what has been attempted in Spain regarding the translation of the kingdom of Aragon by the highest pontiff, is thought to have been iniquitous by many, and could in no way have any effect (*ad effectum perduci*).

CHAPTER XI

[43] To the [fifth allegation in the first chapter](#),⁷⁴ where it is accepted that imperial authority comes from the one from whom the emperor (after he is elected) is examined, annointed, consecrated, and crowned, it is responded that this does not contain the truth, because it cannot be shown that imperial authority is from the pope through /89/ examination, annointment, consecration, or coronation; nor can it be shown that the emperor is inferior to the pope in temporals; nor that he ought to be confirmed by the pope.

[44] Upon examination, it is said in different ways by different people why it is not to be said that the emperor is inferior to the pope in temporals, or that he needs to be confirmed by the pope. [1] For some say ‘that the

72. As Offler suggested, this paragraph seems to be a revised version of the previous one.

73. Ptolemy of Lucca, *Determ. comp.* 14 (32). 74. See §.2.1.3 on p. 62.

examination of the person elected as king' of the Romans⁷⁵ 'does not pertain to the Church for this end: that the election or person of the elect be approved or rejected; nor, also for this end: so that he could administer due to the approval he held from the same Church, since from the harmonious election or' election 'made by a majority of princes it belongs to him, but for this end: so that it correct him of notorious crimes—especially serious ones—if he committed any for which he did not [[previously]] give penitence; and if he were to scorn correction by not wishing to give penitence for such sins or crimes at the insistence of the Church, then' he can 'deny imperial anointing and coronation and otherwise proceed against him. [...] But had someone at sometime been elected by a minority of princes, then the pope would be able to reprove such an elected individual and his election: that is, he could declare that he does not have right.'⁷⁶

[2] Others say that the examination is not done by the pope principally and above all for this end: so that the pope may correct the elect of all crimes whatsoever, except perhaps by accident or as a consequence of other actions (*vel ex consequenti*), but so that he knows whether he ought have him as emperor, and so that he might indicate to others (if it is necessary) with certainty that they are bound to obey him as a true emperor. [[But]] not so that he may allot him some power, but only the imperial crown, if the elect wishes to receive it from him. In the same way, they (to whom the legate is sent) examine his letters, not so that they confer on the legate some power, nor so that they correct him regarding some crime, but only so that they may know whether they ought to obey him—as can be gathered from the canon *Nobilissimus* in di. 97, where the gloss says: 'Legates are not received without danger; thus, a greater examination is to be made of them.'⁷⁷ So also, as it is held in *Extra, de crimine falso, Ad falsariorum*,⁷⁸ those who receive papal letters ought to examine them, not so that they approve or reprove them as superi-

75. Lupold of Bebenburg, *Tractatus de iuribus regni et imperii Romanorum*, c. 10 (324.12–22): 'The examination of the person elected as king of the Romans pertains to the Roman Church, as is clear in *Extra, de electione, Venerabilem* [X 1.6.34], §. *Verum*, and in the *Clementines, de iureiurando, Romani* [Clem. 2.9.1], at the catchword *Prefatis itaque*. But this examination does not seem to be done for any end but that, with the person examined before being elected, his election (or at least the person of the elect) is approved such that he can then administrate because of his approval, just as is regularly observed with those elected to ecclesiastical dignities, as is clear in *Extra, de electione, Nosti* [X 1.6.9] and c. *Qualiter* [X 1.6.17].'

76. Lupold of Bebenburg, *Tractatus de iuribus*, c. 10 (330.5–15, 18–20). I have slightly modified Offler's identification of which passages Ockham has quoted from.

77. *Gl. ord.* ad D. 97 c. 3, s.v. 'signatis'.

78. X 5.20.7 (2:820).

ors, or so that they allot some power or vigor to them, but so that they may know whether they are true in order to avoid using false letters to their own peril. Thus, at one time an election of the chief pontiff was presented to be examined by the emperor; for that presentation would have been in vain except that /90/ he was examined: not so that the emperor might confirm the election of the chief pontiff, nor so that he might approve or reprove it as the superior in this, nor so that he allot him some power with regard to what Christ entrusted to blessed Peter, but so that he would know whether he was truly and rightly (*rite*) elected and whether he ought to defend him as the true pope from heretics, schismatics, and other enemies, as Gratian witnesses, who says in di. 63, §. *Principibus*:⁷⁹ ‘Custom (*usus*) and ordinance gave elections of Roman pontiffs and other bishops to princes and even emperors because of the dissensions of schismatics and heretics by whom the Church of God was harassed and endangered, [and] against whom it is read that the Church was frequently fortified by the laws of the most faithful of emperors.’ Thus, therefore, it seems to some that it cannot be shown that imperial authority is from the pope by examination.

CHAPTER XII

- [46] It is responded to the [sixth allegation in the first chapter](#)⁸⁰ in different ways by different people. For it is said by some that the emperor is not bound to make an oath to the chief pontiff as a vassal, but, conversely, if the pope wishes to retain the temporals things that emperors have given him, then he is bound to swear an oath as a vassal to the emperor (especially for the estates, cities, castra, villas, and all other things which far exceed what are necessary for him to sustain himself honourably and for the execution of his office). Regarding these things, unless he has obtained immunity from such things by imperial benevolence (which the emperor can give if it won't result in notable detriment to the empire), it is the same as other clerics [who] are bound to render tribute to the emperor. For Christ said to all priests in Matthew 22, *Render unto Caesar what are Caesar's*; and the Apostle commanded all faithful in Romans 13: *Render to all their due: tribute to whom tribute belongs; tax to whom* Mt. 22:21

Ro. 13:7

79. D. 63 d.a.c. 28 (1:243). 80. See §.2.1.3 on p. 62.

tax belongs.

It is said in another way that the emperor is not bound to offer an oath of fidelity and homage to the pope, nor is the pope to the emperor. It is responded to what is adduced regarding di. 63, c. *Tibi domino*⁸¹ that the oath was not an oath of fidelity and homage, but of faithful defence: the sort of /91/ oath other kings offer in their own kingdoms, swearing that they will faithfully defend the Church, and who nevertheless hold their kingdoms as a fief from no Church. [47]

But someone will seek whether the emperor is bound to offer the pope such an oath of faithful defence. People do not all respond to this in the same way. Some say that the emperor is bound to offer such an oath at his coronation (or earlier); others maintain that he is not bound to this, and if he did it out of devotion, simplicity, or some other cause, he cannot oblige his successors to it 'since an equal does not have imperial authority over an equal'.⁸² For although the emperor is a particular advocate, that is, the defender of the Roman Church, just as patrons of churches are likewise advocates of them, the emperor is no more subject to the pope than any other kings. Other kings, however, are not obliged to such an oath; therefore neither is the emperor. [48]

Again, just as 'one who succeeds to the right of another ought to use the same right that his predecessor used', in *Extra, de regulis iuris, Si quis, Liber sextus*,⁸³ so ought he who succeeds to the right of another enjoy the dignity and liberties which his predecessor enjoyed by right. But the Roman emperor succeeded to the right of a great number of emperors, both faithful and faithless ones, who enjoyed this liberty: that they were not bound to offer such an oath. Therefore, the emperor today is in no way bound to present such an oath unless he should wish to. [49]

CHAPTER XIII

It is responded to the [seventh allegation](#),⁸⁴ adduced above in the first chapter, that the pope does not regularly have both swords, sc. the material and spiritual, although he might have both on occasion. Nor do the words in Luke 12, *Behold! here are two swords*, suffice to prove this because the people advancing those words understand them to refer to two [50]

Lk. 22:38

81. D. 63 c. 33 (1:246). 82. X 1.6.20 (2:62); cf. 1.15 (p. 48 n. 154). 83. VI 5.12 reg. 46 (2:1123); cf. 2.6 (p. 73 n. 36), above. 84. See §.2.1.3 on p. 62.

material swords. Thus to understand them about a material and spiritual sword is to interpret them mystically. A mystical sense, however, which is not the first meaning (*intellectus*) of some words of divine scripture, cannot be adduced for confirming things which come into contention, /92/ unless it were openly proven through other words of scripture or through evident reason. And so, in order to prove that the pope has both swords one must seek another proof.

[51] To the [passage of] **Innocent IV adduced there**,⁸⁵ it is said his words should not be admitted since they contain a manifest error: namely, that no one except for he who is in the Church has any sword (that is, power); because the power of the material sword can truly and by right be found not only inside but also outside the Church. For faithless emperors truly had the power of the material sword, although they frequently abused it. But an abuse of power does not exclude a true and legitimate power. Nor is it valid to say that the emperor receives the sword from the highest pontiff in its scabbard, which he draws and brandishes because he is not bound to do this. On the contrary, he would be a true emperor even though he did not do it. Nor is it valid to say that the Lord said to Peter, *Return your sword to its scabbard*, not another person's, but *your*, whereby cf. Mt. 26:52; Jn. 18:11 it is indicated that Peter had the material sword but was not to exercise it himself. For those words of Christ must be literally understood of the sword which Peter had exercised himself before he was chief pontiff. For this reason, every other understanding of those words is mystical and not primary; and, consequently, cannot be adduced for confirming the authority of ecclesiastical doctrine unless it be openly proven by another passage of scripture or incontestable reason.

85. See §.2.1.3 on p. 62.

CHAPTER XIV

It is briefly responded to the **eighth allegation**⁸⁶ that imperial authority [52] is not at all from the one to whom the emperor is related—like a son to his father, like a student to this teacher, and like lead to gold—because the emperor does not have these comparisons to any genuine person (*hominem purum*) because of his imperial authority or temporal things, but because of spiritual things, in which he is subject to the pope.

In like manner it is responded to the **ninth**⁸⁷—that imperial authority [53] is not from the one to whom the emperor is bound to bow his head—because the emperor is bound to bow his head to neither pope nor other priest as to a superior in temporals, but in spirituals. Hence if by the words of the Emperor Valentinian /93/ it could be proven that imperial authority is from the pope, it would be proven by them that imperial authority is from the bishop of Milan, for Valentinian offered those words about him.

CHAPTER XV

It is responded to the **tenth allegation**⁸⁸ that the pope should not at all [54] involve himself regularly with the Empire while it is vacant, especially if another vicar of the Empire was instituted by the emperor, or even by the Romans or those to whom the Romans conferred the power of ordering (*ordinans*) the Empire. Hence, nor did any pope assume (*assumpsit*) for himself such a power in the time of faithless emperors and, long afterwards, in the time of faithful emperors. Still, he ought to have assumed it, especially in the time of the faithful, who no less than today were humbly prepared to obey the Church and chief pontiff in the things which they ought to, had such a power looked to the pope by Christ's ordination. For, according to blessed Cyprian, as it is had in 7 q. 1, *Quam periculosum*,⁸⁹ 'it is dangerous in divine things for one to yield one's right and power'.

But perhaps someone will say that, according to Innocent III, as it [55] is had in *Extra, de foro competenti, Licet*,⁹⁰ when the Empire is vacant, one should have recourse to the chief pontiff in order to obtain justice;

86. See §.2.1.4 on p. 62. 87. See §.2.1.4 on p. 62. 88. See §.2.1.4 on p. 62. 89. C. 7 q. 1 c. 8 (1:569). 90. X 2.2.10 (2:251).

therefore, it belongs to him to involve himself with the Empire when it is vacant. It is responded to this that Innocent understood that recourse is to be had to the papacy while the Empire is vacant when there is not some other vicar of the Empire, nor one who might do justice in temporals for those who are oppressed unjustly. He seems to insinuate this when he says that appeal should be made to the pope ‘when (while the Empire is vacant) they who are oppressed in their justice by superiors are unable to take recourse to a secular judge’.

CHAPTER XVI

[56] It was said how one responds to what was adduced to the contrary according to the opinion that maintains that supreme secular power holds temporals appropriated to itself from God alone. Now it must be seen one responds to what was adduced to the contrary above, [in chapter six](#),⁹¹ according to the opinion that says that supreme secular power holds temporals appropriated to itself from the chief pontiff

[57] Hence [to the first](#),⁹² where it is said that a faithless emperor does not hold his temporals from the pope, it is responded that faithless emperors are bound to recognize the pope as their superior in temporals, although they do not do this *de facto*. /94/

[58] And when it is said that the emperor existed before the pope, it is responded to in two ways. [1] In one way, that before Christ, who was the first pope and chief pontiff, there was no true emperor because no emperor before him had true lordship of temporal things, but was merely a possessor in good faith who was allowed to use them due to good faith (so long as it endured). But that response seems to some to smack of manifest heresy because there was true lordship among the faithless, although many did acquire it with a corrupt intention. In fact, a corrupt intention to acquire lordship does not exclude true lordship. For a person buying some thing with a corrupt intention acquires true lordship from a true lord. It is responded in another way that true imperial authority existed before the pope and even before Christ; at that time the emperor held imperial authority from no man. But after Christ came (to whom God gave lordship of all things), the emperor was bound to recognize

91. See p. 70. 92. See §.2.6.24 on p. 73.

imperial authority from him, and even from his general vicar, sc. the chief pontiff.

But perhaps someone will say: the emperor, who existed at the time of Christ, succeeded the emperor, who existed before Christ; therefore he ought to have used that right which he [had]. Therefore, just as he was not bound to recognize imperial authority from a man, so neither did the one who lived in Christ's time. To this it is responded that, 'one who succeeds to the right of another ought to use the same right that his predecessor used,'⁹³ unless it be ordered otherwise by his superior. But God, who is superior to every emperor, ordered lordship (with Christ giving it) of all temporal things so that the emperor, succeeding the emperor, who was before Christ, would be subject to Christ and his vicars.

And [when it is accepted](#)⁹⁴ that Christ did not come to remove nor even impede the lordship of kings or emperors, it is responded that Christ did not remove anyone's lordship, but subjected himself, by taking the principle lordship of all things and permitting (*dimittendo*) them a secondary lordship. And so it is responded to Augustine that Christ did not impede the domination of kings from freely exercising the preceding domination justly just as before, although he wished their domination to depend on him. And to that [auctoritas of Leo](#)⁹⁵ it is responded that the Lord of the world did not seek a temporal kingdom that he might take away from kings, although he did wish that every temporal kingdom would be subject to him. So also is it /95/ responded to [what the Church sings](#),⁹⁶ 'He does not snatch away mortal things' because Christ did not come to snatch away mortal things from anyone, although he did want all mortal things to be subject to him and to be recognized by him. In the same way it is responded to [Ambrose](#)⁹⁷ that the 'Christian religious order deprives no one of his right' without fault and without cause; yet, by permitting them the rights (which belonged to others before) he subjects himself to whom they belonged in order that they be recognized by him. By means of the aforesaid it is responded to that which was accepted, namely that [there was an emperor before Christ and the Christian religious order](#)⁹⁸; at that time, he had no superior in temporals because the emperor was subject to no man in temporals, because there was no man then to whom God—in whose control (*ditione*)

93. VI 5.12 reg. 46 (2:1123); cf. 2.6 (p. 73 n. 36). 94. See §.2.6.24 on p. 73. 95. See §.2.6.24 on p. 73. 96. See §.2.6.24 on p. 73. 97. See §.2.6.24 on p. 73. 98. See §.2.6.24 on p. 73.

are all things—gave principal lordship of all things. Afterwards, Christ, insofar as he was a man, was made principal lord of all things.

QUESTION THREE

As a translation of this question is already available in McGrade and Kilcullen 1995, 300–333, it will be translated last. But for reference, Ockham asks the following question:

Third, it is asked whether, by Christ's institution, the pope and Roman Church must entrust temporal jurisdictions to the emperor and other secular princes, and whether they themselves must not exercise them otherwise.

QUESTION FOUR

CHAPTER I

[1] Fourth, it is asked whether the election of someone as king of the Romans or as emperor gives him full administration from this: that his power comes immediately from God. This question seems to suppose a further point, since it seems to suppose that there is some distinction between the king of the Romans and emperor, or between the kingdom of the Romans and the Empire. There are diverse opinions on this.

[2] [1] One of these is that there is a distinction between the king of the Romans and the emperor, and it is that he is elected king of the Romans before he is emperor. For the king of the Romans is to be promoted to emperor later: / 123/ di. 23, *In nomine Domini*,¹ and *Extra, de electione, Venerabilem*.² But it is not true if there is no real distinction (but only a verbal one) between the king of the Romans and emperor, or between the kingdom of Romans and the Empire. This seems absurd, for then 'there would be a law imposed on words and not on things, and a distinction of names does not indicate a difference of things, which is against the rights: di. 21, *Cleros*'.³ It is said, therefore, that the promotion to Empire, which is done by the anointing and imperial coronation: it is not done only on account of the name of emperor being attained, but 'emperor attains, after the anointing and coronation of this kind, an imperial power over all kingdom and provinces, especially the western ones, which were not under the power of Charlemagne before the time of the translation of the' Empire, 'which is still, de facto, not under the power of the Empire.'⁴ In Italy, however, and in other lands and provinces, which had been subjected to Charlemagne and Otto I before the anointing and imperial coronation, the king of the Romans had the same power before imperial anointing that he would have afterwards. And for that reason, the emperor does not hold the provinces and lands subjected to kingdom and Empire from the pope (lands which Charlemagne held either by hereditary right or by the right of war before the translation of the Empire to him was made by the pope). But the emperor holds from the pope the name of emperor and the imperial rights or imperial power over those provinces and lands, which were not under the power of Charlemagne

1. D. 23 c. 1 (1:78). 2. X 1.6.34 (2:80). 3. Lupold, p. 378; citing D. 21 c. 1 (1:68).

4. Lupold, p. 377

before the time of the translation of the Empire; and, for the sake of that name and such rights, he receives unction and imperial coronation from him. The power of electing the emperor is also such that the elect attains from them the name of emperor and imperial power or acts reserved to the emperor of exercising over the other provinces and lands, which are not, *de facto*, under the kingdom and imperial authority of the Romans, and which Charlemagne did not have at the time of the translation of the Empire, reached the princes electors by the Church. And, with respect to those things which are to be attained, the king of the Romans was accustomed to seek them from the pope and Roman Church after his election that the unction and coronation be given (*impendi*) him. /124/

CHAPTER II

[2] There is another opinion, which seems to have been the opinion of [3] the princes of Germany, concerning which Hostiensis notes in *Extra, de verborum significatione, Super quibusdam*,⁵ that, between king of the Romans and emperor, or between kingdom of the Romans and the Empire, there is only a verbal distinction, so that they are 'of diverse names, but of the same office' or power, just as it is said of the primates and patriarchs in di. 99, at the start.⁶ Hence, before there was a doubt whether there was a distinction between the king of the Romans and the emperor, even in antiquity the emperors were sometimes called kings, sometimes emperors, and his power was sometimes called kingdom, sometimes called imperial authority—just as the regal power was, before the Empire of the Romans, sometimes called kingdom, sometimes Empire, as is clear from the Book of Judith, chapters 1 and two, and from the Book of Esther.

It can be alleged in this way for that opinion: At the start of the [4] Empire of the Romans, and for a long time afterwards, there was no distinction between the emperor and king of the Romans, or between the kingdom of the Romans and Empire, but they were names for the very same power. The antecedent does not seem to require any proof. For neither in the New Testament, in which mention is often made of both the kingdom of the Romans and the Empire, nor is a distinction suggested (neither explicitly nor implicitly) between Empire and the

5. Hostiensis, *Lectura* to X 5.40.26 (Strasbourg 1512, fol. 371); probably from Lupold, c. 11, p. 377. Cf. Andreae, *Glos. ord. to Clem. 2.9.1*, s.v. *Reges*. 6. D. 99 d.a.c. 1 (1:349).

kingdom of the Romans in other writings until nearly modern times, nor is it read in ancient writings that even a tiny doubt was raised about this. The consequent is proven: For the kings of the Romans and later emperors were the successors until the times of those who were at first were not only called kings of the Romans, but also the emperors of the Romans, sc. Julius Caesar, Augustus Octavianus, and the rest, who were called Caesars and Augusti from those two. And, as a sign that they are their successors, all were called Caesars and Augusti until that time, and all wrote that they were Augusti. Now the king, who 'succeeds' another king in some kingdom, 'ought to use the same right as the other', *Extra, de regulis iuris, Si quis*, in the Sext.⁷ For, otherwise, a gloss argues in a similar case, 'a successor would have less than his predecessor, and thus it would not be a true succession', / 125 / in *Extrade constitutionibus*, super c. *Cum omnes*.⁸ For this reason, the final kings of the Romans could use every right that the first ones used. The first kings of the Romans, moreover, used every right in temporals that the emperor could use after some sort of (*quamcunque*) anointing and coronation. Therefore, the final kings of the Romans, and all future ones, who are the true successors of those kings who were the first emperors, both had and obtained all power, and will have all power, that the emperor has after some sort of anointing and coronation.

CHAPTER III

- [5] But, because I found the [first opinion](#)⁹ fortified with allegations and declared by a certain verable doctor,¹⁰ but not the second, which seems to have been the opinion of the princes of Germany, in order that an opportunity be given for finding and understanding the truth about the rights of the Empire by comparison with the second, I have judged it to be useful to treat of some things (which explain the first opinion) without assertion but only by reciting briefly, in which the [second opinion](#)¹¹ is opposed to it (whether according to the intention of the princes of Germany or beyond it). For, since I have not seen a complete discussion

7. VI 5.12 reg. 46 (2:1123); cf. p. 73 n. 36 n. 8. *Gl. ord.* ad X 1.2.6, s.v. 'constitutum'.

9. See §.4.1.2 on p. 93. 10. That is, Lupold of Bebenberg. 11. See §.4.2.3 on p. 94.

of their [views], I do not know how to make a judgment about their intention.

The first and second opinion are contrary in many ways. Indeed, [6] they disagree [1] first in this: that the first opinion seems to assert that emperors, who lived after Charlemagne, have no right in the kingdom and Empire except [a] insofar as he was emperor; and also [b] insofar as he was a hereditary king of the Franks, who succeeded his father, Pipin, who (after the king of the Franks, Hilderic, was deposed) was elected as a successor to the same kingdom of the Franks; and [c] insofar as the same Charlemagne subjugated many lands and provinces through just and licit wars, and adjoined them to the kingdom of the Franks. The second opinion, however, holds that the emperors and kings of the Romans, insofar as the emperors and kings of the Romans who lived after Charlemagne, were principally successors of the first emperors and kings of the Romans (of which some were alive at the time of Christ and the apostles). But insofar as they were emperors and kings of the Romans, they were not successors of Charlemagne, except insofar as Charlemagne was a successor of those first emperors and kings of the Romans, and of others who lived after those first ones, /126/ although some successors of Charlemagne will be successors of Charlemagne not only insofar as he was a successor of the first emperors and not insofar as he was emperor, but insofar as he was king of the Franks or some other part of the kingdom of the Franks: just as, if a son of the emperor from the Duchy of Bavaria was elected and becomes emperor after being elevated to the Empire, then he would succeed his father in two ways because he would succeed his father with respect to the Empire insofar as his father was emperor, and he would succeed with respect to the Duchy of Bavaria his father insofar as his father, before he was emperor and after, was the duke of Bavaria.

And from this, sc. that emperors after Charlemagne were the suc- [7] cessors of the first emperors and kings of the Romans, especially of those who lived at the time of Christ and his apostles, on which the allegation adduced in the [preceding chapter](#)¹² was based, the emperors and kings of the Romans seem to have a much stronger foundation (*stabilitatem et vigorem*) than from the idea that they were successors of Charlemagne. The reason is because it was known with more certainty that those faithless were true emperors and kings of the Romans than that Charlemagne was

12. See §.4.2.4 on p. 94.

a true emperor and king of the Romans. For we have greater testimony about their Empire or kingdom because the testimony of God is greater than the testimony of men, as it is held in John. In fact, regarding the Empire or kingdom of the faithless, we have the testimony of Christ and the Holy Spirit, who spoke in John the Baptist, the Evangelists, and apostles. For Christ said of Tiberius Caesar, *Render what are Caesar's to Caesar*. He did not said, 'Render what Caesar says are his own'; he said, *what are Caesar's*. John the Baptist, as it is held in Luke 3, even said to the publicans and soldiers, who received their duties and stipends from Tiberius Caesar, *You should do no more than what was established for you. Be content with your stipend*. It is gathered from these words that Tiberius was a true emperor and king of the Romans. But, regarding Octavianus, the first Augustus, Luke the Evangelist says in the second chapter, *An edict when out from Caesar Augustus that the whole world should be documented*. And blessed Peter seems to speak about some other person, saying in the second chapter of his first letter, *Be subject to every human creature [...] even if a king as one who excels*, and *Honour the king*; and blessed /127/ Paul said of Nero in Acts 25, *I stand at Caesar's tribunal, where I ought to be judged*, and again, *I am called Caesar*. We do not have as much testimony about Charlemagne—indeed, far less. We have nothing certain about his Empire or any kingdom of his, especially with respect to the kingdom of the Franks.

cf. 1 Jn. 5:9

Mt. 22:21

Lk. 3:13–14

Lk. 2:1

1 Pt. 2:13

1 Pt. 2:17

Act. 25:10

Act. 25:11

- [8] Hence, some even try to prove from histories and chronicles that it was not a true kingdom, but only an usurped one, since the first kings of the Franks, in whose place Charlemagne succeeded, were invaders of that very kingdom, or their successors, who defiantly usurped for themselves the lands of the kingdom and provinces against the obedience that they owed the emperor.¹³ For it is read in the Chronicle of Eusebius that the Sicambrians, who took their origin from certain Trojan refugees, were freed from tribute for ten years on account of the victory which they had against Alani (also called Franks) by Emperor Valentinianus; after the ten years up refusing to pay the tribute, they killed those sent by the emperor to receive the tribute. Later, defeated by the army of the emperor, they came to Thuringia first and having subsequently 'crossed into Rhenum; attacked by the Romans, who ruled through magistrates at that time' in Gaul 'right up to the **Ligerian River**, they killed some and fled others.

13. Lupold, c. 1, pp. 333–35; cf. Frutolf-Ekkehard, Chron. univers. MGH SS 6.115–16 (possible source that Paramundus was grandso of Priam).

After, with the cities of Tornacus and Cameracus taken, they gathered little by little and returned to Rema, Suersona, Aurelianum and Colonia, which was then called Agrippina, and Treverim and finally all of Gaul and Germany, from Aquitania to Bavaria, they claimed and subdued. And these peoples, who mingled with the Teutons, are called Franks in their own terminology (who were born of the Gauls by marriage), are called the Francigenae.' The first king of the Franks was Feramund, the grandson of Priamus, under whom and with his **co-leader** (*conduce*) the aforesaid victory of the Alani was made, and that Feramund reigned in AD 426, and from that time the Germans were called the Franks. Now, from the stock of the aforesaid Feramund came / 128/ the kings of the Franks until the time of King Hilderic, who was the last of his kind: after he had been deposed, Pipin, the father of Charlemagne, was substituted for him.

It is gathered from this that the kingdom of the Franks had a tyr- [9]
 annical beginning; and it seems that, at least before Charlemagne was made emperor, it was never a just and true kingdom, but a tyrannical and usurped one. For, if it was made a legitimate, just, and true kingdom, it would have occurred [a] through prescription, [b] through the election and consent or will of the people of the Franks, or [c] through the substitution of Pipin for the already deposed King Hilderic. [Ad a] [It did not occur] through legitimate prescription: [i] first, because 'a possessor of bad faith does not prescribe at any time': *Extra, de regulis iuris, Possessor*, in the Sext;¹⁴ *Extra, de praescriptionibus*, last chapter.¹⁵ Now the Franks hardly had good faith in the beginning, since they invaded and possessed lands subject to the Empire through violence; thus, the origin of prescription is revealed as vicious and, consequently, there was no true prescription. [ii] Second, because prescription does not run against obedience and subjection, against public utility, [or] against what belongs to the prince (*principum res*).¹⁶ But the Franks, by establishing a king for themselves, were disobedient to the emperor, and acted against public utility, and, by reducing the right of the Empire, which is a public and most useful right, they have unjustly usurped for themselves both the lands and possessions (*res*) of the prince, sc. of the emperor. Therefore, the kingdom of the Franks was in no way made a true kingdom through a legitimate prescription. [Ad b] Nor could it become a true kingdom

14. VI 5, 12 reg. 2 (2:1122). 15. X 2.26.20 (2:393). 16. Cf. Lupold, *De iuribus*, c. 15, p. 398

through the election and consent, or will of the people of the Franks because, although a people that does not have a superior can establish its own king from the law of nations if it lacks a king, a people that has a superior or king by right (though not *de facto*) cannot establish another king for itself. Now the people of the Franks had a superior by right (though not *de facto*), *sc.* the emperor, whose [role] is to establish kings in lands subject to the Empire. They even had a king, [or] at least an emperor. Therefore, the people of the Franks could not establish a king for themselves without the authority of the emperor; and thus the kingdom of the Franks was not a true kingdom by right, even through the will of the people of the Franks. [Ad c] Nor was the kingdom true through the substitution of Pipin for King Hilderic: for, either that substitution was made by the people of the Franks, or by the pope. If by the people of the Franks, it was null: for the people, who cannot establish a king for itself, /129/ cannot substitute one person for another as a king. But the people of the Franks, just as was proven, could not establish a king for himself on account of this: that the people was subject to the emperor by right. Therefore, it cannot make a substitution. If the substitution was done by the pope, it would be null by right: [i] first, because the pope, just as he cannot remove the rights of the emperor, so neither can he diminish them, as the pope witnesses in *Extra, de iudiciis, Novit*;¹⁷ [ii] second, because, according to that [verse] of the Apostle in 2 Timothy 2, *Let no one soldiering for God involve himself in secular business*, he ought not involve himself in secular business; [iii] third, because he could then by a similar reason establish a king in any kingdom, and thus he would be able to usurp the name of emperor for himself, to whom it pertains only to confer the royal dignity. The contrary of this is found in di. 96, *Cum ad verum*.¹⁸

2 Tim. 2:4

[10] But perhaps someone will say that, although the pope cannot establish a king regularly, he can still do so casually, *sc.* in a case of necessity, of which sort there was when Pipin was established king of the Franks. To this it could be said that, given that the pope could establish a king in a case of necessity, even so, he cannot do this in prejudice of this person or those people to whom the institution of kings pertains, especially when they have not been consulted. He also cannot [do this] when dangers can be avoided and common utility procured by some other means. Yet

17. X 2.1.13 (2:243). Note that in this decretal Innocent III was referring to the rights of the French king. 18. D. 96 c. 6 (1:339).

these things happened when Pipin was made king. For the institution of kings looks to the emperor. And if he was negligent, then the power of establishing a king did not devolve to the pope, who ought not involve himself in secular things according to the previously alleged authority of the of the Apostle and the **sacred canons**¹⁹; rather, it devolved to the Romans. If they were negligent, it would have devolved to the Franks in a case of necessity. If they were all deficient, it would have devolved to the pope, who can make up for the negligence of those to whom the power of doing something pertained first in a case of necessity. Similarly, through another manner than by institution of a king, who, among the acts reserved to the emperor or Romans (when the emperor is deficient), seems to be the chief (*praecipuus*) or among the chief dangers that could be avoided and the common utility be procured in Frankish lands. Therefore, at that time, it was not a case in which the pope had the power of establishing a king.

Clearly, the aforesaid things about the kingdom of the Franks are also said according to the **second opinion**²⁰ by alleging or arguing only. For, the second opinion does not hold these things, although it says that emperors can boast more that they are the successors of emperors and kings of the Romans, who lived in the time of Christ and his apostles, than can that of Charlemagne, / 130/ on account of the testimony of Christ and the apostles regarding the true kingdom and Empire, not about their customs. They ought to succeed these people, not in infidelity and depraved customs, but in imperial or royal power—not only a permitted power, but one granted and ordained by God for public peace. Even that great King Assuerus seemed to sense this when he says, as it is held in the last chapter of Esther, *Of the greatest and ever-living God, by whose benefit the kingdom was given both to our fathers and to us, and is protected until this day*; who also, as it is read in chapter 13, suggested why the kingdom had been given to them, saying, *Although I ruled over many peoples, and I had subjugated the whole world to my control, I did not at all wish to abuse the magnitude power (potentia), but to govern my subjects with clemency and leniency so that those who pass their life in silence may enjoy the peace all mortals hope for without any terror.*

But perhaps someone will object against these [arguments], saying that, since there was no true lordship among the faithless, faithful em-

19. Cf. §.1.4.27 on p. 9. 20. See §.4.3.6 on p. 96.

perors foolishly claim that they are the successors of faithless emperors because they claim that they are the successors of those who justly could possess nothing. But how it is to be responded to such a person according to that second opinion, a studious individual can gather from what was treated above in [Question 1, chapter 10](#).²¹

CHAPTER IV

[13] The [first](#)²² and [second](#)²³ opinion disagree [2] secondly in this: that the first opinion holds, just as was recited on its behalf above, in [chapter 1](#),²⁴ that the king of the Romans does not have, insofar as he is king of the Romans, the same power over all lands and provinces before anointing and imperial coronation as the emperor has after anointing and imperial coronation. For, although he has the same power before anointing and imperial coronation from the election of the princes as the emperor has in Italy both in other provinces and lands subjected today to kingdom and imperial authority, nevertheless he does not have all power as the emperor has in all kingdoms and provinces, especially western ones, which were not under the power of Charlemagne before the time of the translation of the Empire to him, and which are, de facto, still not under the power of the Empire. For the emperor after anointing and /131/ imperial coronation in such kingdoms 'can legitimize bastards (*spurijs*) with respect to temporal things, restore the infamous to a [[good]] reputation, compose laws and make things similar to them, which are reserved, by right, to the emperors alone. Likewise, he can demand subjection from kings and the princes of those same kingdoms and provinces. But he could not do that before anointing and imperial coronation, except in the provinces and lands, which were under the lordship of Charlemagne before the time of translation and which are still subject to kingdom and Empire today. For he can exercise imperial power in these things, and act in such matters before anointing and imperial coronation, at least by virtue of custom by the same right by which Charlemagne could have done.'²⁵

[14] Now, the [second opinion](#),²⁶ distinguishing between the kingdom of the Romans and the kingdom of the Franks, and between king of the

21. See §.1.10.67 on p. 31. 22. See §.4.1.2 on p. 93. 23. See §.4.2.3 on p. 94. 24. See §.4.1.2 on p. 93. 25. Lupold, c. 11, pp. 377–78. 26. See §.4.2.3 on p. 94.

Romans, and the king of the Franks, holds that, although the aforesaid may be true at least in the part about the king of the Franks and about Charlemagne insofar as he was king of the Franks, yet it is not true regarding either the king of the Romans or Charlemagne insofar as he was king of the Romans. For, Charlemagne, although he was king of the Franks and the patrician of the Romans before the anointing, imperial coronation, and translation of the Empire to him, just as is clear in di. 63, c. *Adrianus* (2),²⁷ and in c. *In synodo*,²⁸ nevertheless he was not king of the Romans earlier on. And, for that reason, insofar as he was king of the Romans, he had all the power that he had insofar as he was an emperor, and he was not king of the Romans before he was emperor. Therefore, his successors do not have any other power insofar as they are kings of the Romans and insofar as emperors, and they do not have power in any lands and provinces whatsoever insofar as they are kings of the Romans, and not insofar as they are emperors. In the same way, Charlemagne did not have any other power in any land in which he was emperor which he did not have in it insofar as he was king of the Romans. For, there was no distinction for him: neither as regards as the reality (*rem*), nor the appellation, that, namely, he was called king of the Romans before emperor, or that he was nominated or elected as king of the Romans before emperor, or that some special solemnity occur regarding him insofar as he was king of the Romans, not insofar as emperor. Therefore, there ought to be no distinction in his successors with regard to power between the king of the Romans and emperor.

But perhaps someone will say that, at least with respect to the lands, [15] which Charlemagne obtained before he was emperor, and there should be some distinction with respect to some other things. For he had royal power in those lands and provinces before he was emperor. Therefore, the emperors who succeeded him have, before /132/ they are emperors, royal power in the lands and provinces that Charlemagne had before he was emperor

According to the [second opinion](#),²⁹ one says to this that Charle- [16] magne, before he was emperor, occupied some lands and provinces insofar as he was king of the Franks by hereditary right, he occupied some insofar as he was a conqueror and subduer of certain unjustly held provinces and lands, which, on account of tyrannies and injuries, which

27. D. 63 c. 22 (1:241). 28. D. 63 c. 23 (1:241). 29. See §.4.2.3 on p. 94.

they wrongly committed against innocent people, were deserving of being deprived and completely rid of every significant (*prevalente*) temporal power (*potentia*) by a licit war. In the first lands and provinces, Charlemagne had a royal power by the same right that other kings are adorned with in their kingdoms by royal power. In the second [set of] lands (as it appears to some) Charlemagne, before he was emperor, did not have royal power.

- [17] For although people who wage just wars often make whatever they take from an enemy and his supporters their own, this is not universally true in all conceivable situations but includes some exceptions. One of these is, according to some people, when the person waging (*habens*) a just war only accepts from enemies what provides (according to good conscience) satisfaction for him from all the damage given, along with the work and labour of him and his men. Another is when he who wages a just war does not have jurisdiction over those against whom he brings the just war, but only fights because another person invaded him. For then it is not licit to seize the goods or person of the adversary, nor to detain the invader. But he who fights justly can claim and recoup the things of which he was despoiled. Another exception can occur when the person possessed of a just war seizes another person's property (*res*), which was unjustly detained by the enemy: for the property and slave of an innocent man, or even an innocent man, if it be detained by the enemy and is subsequently seized by one who fights justly, it does not pass into the lordship of the seizer. Another exception can occur when slaves, subjects, or vassals of some lord fight with cause or by the authority against invaders or detainers of things, movables, immovables, or men of their lord, and they take the property or men of their lord from the hand of the detainers or occupiers. For those possessed of a just war make their own what they seize, because their lord does not lose through this the lordship of his property and men. Charlemagne, therefore, although he occupied many provinces and lands by means of just wars, he was nonetheless not able to make them his own through such just wars, for they pertained to the right and lordship / 133 / of the emperor, and perhaps some of those things to the right and lordship of some others, who could not be deprived of the right that they had in them by Charlemagne. Nevertheless, Charlemagne was able to occupy those lands licitly and receive their fruits to the extent that they would satisfy him for his and his men's damages, labours, expenses, and efforts,

especially if the true lords of those lands were not recalling them in due manner. Moreover, just as he could not acquire lordship of those things, at least the principal lordship, through such an occupation, nor could he obtain royal dignity in them through occupation. But after he was made emperor, he gained imperial and royal power in them.

On this account, because the successor emperors of Charlemagne [18] did not succeed him insofar as he was king of the Franks, nor insofar as he occupied some lands and provinces by means of just wars, but only insofar as he was the emperor, who, dividing the lands that he occupied, assigned some to the Empire so that his successor emperor would possess them all by the same right, he conferred some on a certain son or grandson (*nepoti*).³⁰ For that reason, emperors or kings of the Romans, the successors of Charlemagne, possess, by the same right or different, all lands subject to them, that Charlemagne possessed insofar as he was an emperor, and over which they ought to preside insofar as they are kings of the Romans or emperors.

Now, in order that it be known why 'by the same right or different' is [19] said, it is said that one must know that Charlemagne, just like any other emperor, did not have the exact same right or power in all lands subject to him. For only some were of the Empire, not of some other king, prince, or lord, which had been assigned to the emperor as a sort of tribute (*stipendia*) for imperial labours and even for those duties (*exequendis*) that pertain to the imperial office, concerning which he had the power of doing whatever he wished, especially where he sees something that will help the commonwealth and [will] in no way lead to the destruction, injury, or diminution of the imperial authority. But other lands belonged to other kings, princes, or lords. In these lands, because the other kings, princes, and lords were not servants of the emperor but free men; if it were to be the best principate, the Empire was principally instituted on account of their and other peoples' utility, then he did not have so much power that he could do whatever he wished to or regarding them beyond what had been established for them. For, if the Empire was the best secular principate, he could not accept by right anything beyond the

30. Ockham is referring to Charlemagne's son, Pepin, and grandson, Bernhard. Cf. §-4.5.22 on p. 105, below.

ordained tribute from unwilling people except for the sake of procuring public utility. /134/

- [20] It is gathered from these that Charlemagne, before he was emperor, did not have regal power in Italy, and, therefore, Italy was never adjoined to the kingdom of Germany as an dependent kingdom on the principal one,³¹ especially if Italy includes also Rome, which is the head of the Empire. But, at some time, both Italy and Germany were deputed to the Empire for the said reasons (*causis*) for bearing the burdens of the Empire.

CHAPTER V

- [21] But, still, someone will say against this second that, according to it, it would follow that the kingdom of the Franks ceased to be after Charlemagne. For it seems that no one succeeded him in the kingdom of the Franks unless he were an emperor. But, as the aforesaid opinion says, no emperor succeeded Charlemagne insofar as he was king of the Franks, but only insofar as he was emperor; therefore, the kingdom of the Franks ceased to be at that time.

- [22] It is responded to this that the kingdom of the Franks, which was its name in the beginning, of which its head and origin (*principium*) was in Theutonia, and on which, before he was emperor, was king Charles, the kingdom ceased to exist after the death of Charlemagne. In fact, Charlemagne did not divide only the kingdom of the Franks at that time, but also the Empire. For, as it is held in some chronicles:³² 'When Charlemagne was burdened by illness and old age, with the nobles of Aachen solemnly gathered together from the whole kingdom of the Franks, on everyone's advice (*cunctorum consilio*) he established his son, Louis, king of Aquitaine, his partner (*consortem*) of the whole kingdom and heir of the imperial name in the year of of the Lord, 813; and, with the crown placed on his head, he ordered that he be called emperor and Augustus. And he put Bernard, his nephew, the son of Pipin, his own son, in charge of Italy, and ordered that he be called king. And, after this, Louis himself, at the death of his father, [and] holding a general meeting at Aachen in the year of the Lord, 817, he made his first-born son, Lotharius, a partner

31. Cf. Lupold, c. 2, pp. 336–37. 32. Lupold, c. 2, pp. 336–37 (abbrev.). Lupold bases himself largely on Fratolf-Ekkehard, Chron. univers., MGH SS vi, 170–2.

(*consortem*) of his name and Empire; and as for the rest—called kings—he put one, sc. Pipin, in charge of Aquitaine, the other, sc. Louis, of Bavaria. After these actions, he granted Germany, Rhetia, and Burgundy to the fourth son, sc. Charles. But, / 135/ in the year of the Lord 841 among the pagan Altissiodorenses in the place which is called **Fontanich**, after the death of Emperor Louis, and after his elevation of Pipin, the same Lotharius entrusted to a most burdensome war with Louis and Charles to the son of his brother Pipin due to a disagreement between them about the division that had arisen about the division of the kingdom of the Franks. However, Louis and Charles were victorious, though not without grave cost. After this war, however, in the year 842, the aforesaid brothers, having made peace amongst themselves, divided the kingdom and imperial authority of the Franks in this way: Charles had the western kingdom of the Franks, from the **sea of Britany** to the **river Mosa**, and he was called the king of Gaul; Louis had the eastern kingdom of the Franks, sc. the whole of Germany to the **river Rhene**, and several cities and adjacent regions (*pagis*) across the Rhene, and he was called the king of Germany, with Pannonia, Bohemia, and Mosa included; but the first-born Lotarius was called emperor, and he was assigned Belgian Gaul from Mosa to the river Rhene, basically marching alongside between the two; even today, this region is accustomed to be called **Lothoringia** from his name'. He also held Provence (*Provinciam*) and 'all the kingdoms of Italy together with the city of Rome. But, Aquitania yielded to the aforesaid vicar Pipin, the son of their brother. After these events, the aforesaid Emperor Lotharius, when the nobles of the kingdom had been called, he gave Italy to his son Louis in the year of the Lord 855, and established him emperor. But he granted the Lothariensen kingdom to his son Lotharius, which is so called from his name.'

It is gathered from these things and many others that the kingdom of the Franks ceased to be a kingdom and that the lands, which were immediately subject to Charlemagne, both of the imperial authority and kingdom of Franks, were divided in many ways. And, for that reason, neither in the kingdom of the Franks nor in some other part of it, did someone succeed Charlemagne insofar as Charlemagne was king of the Franks. But one of his sons succeed him insofar as he was emperor in the part of the Empire and in the kingdom or in parte of the kingdom of the Franks. Yet he was not called king of the Franks, but only emperor, or both emperor and king of Aquitaine for this reason: because he was king

of Aquitaine before he was emperor. But another son of Charlemagne, or nephew, succeeded Charlemagne in the part which was of the Empire, insofar as Charlemagne was emperor, having the power of separating a part of the Empire from the Empire, so that it was not subject to the emperor immediately, but mediately. For Italy, which was earlier part of the Empire immediately subject to the emperor, having no other king or lordship; then it was given to Bernard, nephew of Charlemagne, who was established king over Italy. Later, the kingdom of the Franks was divided in other ways, just as is clear through the aforesaid, yet in such a way that later in those times (and many others) no one was called king of the Franks, and Italy, which was earlier immediately separate from the lands immediately subject to the emperor, was united later. /136/

CHAPTER VI

[23] Three questions can be raised concerning the aforesaid. [1] The first is: how could Charlemagne be able to diminish the Empire since he was called Augustus from increasing.³³ [2] The second: by what power or right could he establish his son emperor. [3] The third: whether some emperor, successor of Charlemagne, had or has some power as far as those two.

[24] [Ad 1] It is responded to the first of these questions according to the [second opinion](#)³⁴ that Charlemagne, insofar as he was emperor, had both full administration in the affairs of the Empire, so that he could deal with them according to the judgment of his own will whatever would contribute (*conferret*) to the common good, but also so that he could deal with them whatever was not to the detriment of the common good. And, for that reason, because the separation of Italy from other lands and provinces immediately subject to the emperor was not to the detriment of the common good; rather, perhaps Charlemagne saw that it was expedient for the common good, he could separate it from other lands, especially since he had subjected the kingdom of the Franks immediately to the emperor, which was not immediately subject to him, and thus he could deservedly be called Augustus from increasing the Empire, not withstanding that he had separated Italy, which was small in respect of

33. Ockham is hinting at an etymology of the name Augustus. Cf. Gl. ord. to Inst. prooem, s.v. Semper Augustus 34. See §.4.2.3 on p. 94.

the other lands. Hence, just as he could make some cities free without detriment to the Empire, so he could separate Italy in such a way from the other provinces immediately subject to the emperor.

[Ad 2] It is responded to the [second question](#)³⁵ that Charlemagne [25] could establish his son as emperor by the same right and power that Julius, the first Caesar, and Octavianus, the first Augustus, and however many other of their successors sometimes made their sons, sometimes made others their successors, sometimes their partners (*consortes*) in the Empire. Since the Empire was translated to the Germans in the person of Charlemagne, all right and all power that the earlier emperors had, Charlemagne also had.

And if it be said that the Roman Empire was not translated to Charlemagne because, if the Roman Empire had been translated to him, the Roman Empire would not have remained with the Greeks, but it nevertheless did remain with them. [26]

Hence it is even read in a certain Chronicle:³⁶ ‘Besides seeking his [27] friendship and fellowship, Nicephorus, Michael, and Leo, the emperors of Constantinople, sent many legates to him; yet, when it was strongly suspected by them because the name of emperor was taken up by him, as if he wished to wrest the Empire from them, he made a most strong alliance [with them] so that no occasion for offence (*scandali*) would remain among any of the parties.’ And it is held below of the same man:³⁷ ‘Coming to Rome,’ sc. Charlemagne, ‘to repair the status of the Church, which had been greatly disturbed, he spent the whole winter there. He received the name of emperor and Augustus at this time, which, at first, he was so opposed [to the idea] that he insisted that he would not have entered the Church on that day even though it was an important holiday if he could have foreseen the Pope’s plan. Still, he bore with great patience the envy of the received name while the Roman emperors were jealous about it, and conquered their contumacy with his magnanimity (in which he was undoubtedly their superior), sending frequent embassies to them, and addressing them as brothers in his letters.’ It seems to be held from these things that emperors who lived in Constantinople were not only emperors, but were even Roman emperors after Charlemagne was made emperor; and, consequently, the Roman Empire was not translated from the Greeks to Charlemagne, since what is transferred from one to

35. See §.4.6.23 on p. 107. 36. Einhard, *Vita Karoli Magni*, MGH SS rer. Germ. in us. schol., ed. sexta, 1911, 19–20 37. Ibid. 32–33

another does not remain with the one from whom it was transferred after the translation.

[28] It is **responded**³⁸ that the Roman Empire was truly translated from the Greeks to Charlemagne, and, for that reason, after Charlemagne was the true Roman emperor, and no Greek was the true Roman emperor. And, for that reason, the earlier emperors were deprived by that translation of their right and power, which the first emperors had over the whole world; and Charlemagne acquired that right and power through the same translation.

[29] To what was adduced by that Chronicle about the friendship, fellowship, and association of Charlemagne with the emperors of Constantinople or Rome and the frequent embassies between them all, it is responded that Charlemagne tolerated those [[individuals]] of Constantinople in Greece to possess Greece and call themselves Roman emperors in order to avoid scandal and many inconveniences; and he wanted to have friendship and fellowship with them for this reason. Still, he alone was the true Roman emperor, holding all the right and power that the first emperors and other successors of them had before Charlemagne.

[30] And if it be asked by whom the Empire was translated from the Greeks to Charlemagne, /138/ it is responded that there are diverse opinions on this. One is that the said translation was made by the pope; but there are diverse opinions about which pope. This opinion is supported by the decretal *Venerabilem, Extra, de electione*.³⁹

[31] Some say that the translation was made principally by the Roman people, of which part is the pope and even clergy. A certain Chronicle seems to suggest this where it is read:⁴⁰ ‘On that most holy birth day of the Lord, when the king rose up from the oration to mass before the confession of blessed Peter the Apostle, Pope Leo placed the crown on his head and it was acclaimed by the entire Roman people: “Live and victory for the” most serene “Augustus Charles, the great and pacific emperor of the Romans, crowned by God”’ These words seem to suggest that Pope Leo crowned Charlemagne with (*de*) the will and ordination of the Roman people (to whom making orders [*ordinare*] about the Empire pertains). Thus, the translation of the Empire from the Greeks to the Germans was made by the Roman people, not excluding the pope and clergy. This seems able to be proved in this way: the translation of the

38. Cf. §.4.6.26 on p. 108. 39. X 1.6.34 (2:80). 40. Annales regni Francorum, MGH SS rer. Germ. in iu. schol., p. 112

Empire belongs (if it ought to be transferred) principally to those by whom the Empire was instituted; but it was instituted by the Romans and not by the pope; therefore, the translation of the Empire ought to be done by the Romans, and not by the pope (except as by a part since he is a part of the Romans). This is confirmed: the translation of the Empire pertains to the temporal power; but the pope (insofar as he is pope) ought in no way involve himself in temporal affairs, at least regularly, lest he seem to derogate from the rights of seculars. Therefore, although the pope could translate the Empire due to necessity while the Romans are deficient (because, namely, they did not wish to translate the imperial authority in a case of necessity), even so, when the Romans had been prepared to translate the Empire out of necessity [and] for the common good, the pope should not translate the Empire on his own authority, although he could translate the Empire together with other Romans insofar as he is a Roman. Since, therefore, as is clear from the previously mentioned Chronicle, the Romans had been prepared then to translate the Empire, the pope could not then translate the Empire by his own authority.

And it is responded to the decretal *Venerabilem* that the words of [32] Innocent III, just like many other words of his there and elsewhere, are to be explained such that contrary things are not demonstrated by the words in other places. And so it can be said that he says for this reason /139/ that the Apostolic See ‘translated the Roman Empire from the Greeks to the Germans in the person of Charlemagne’,⁴¹ because the pope crowned Charlemagne as emperor on the authority of the Romans, because the Roman people allotted to the pope, as the more eminent person among them, the power of translating, or because the pope and clergy translated with the Romans, or because the pope persuaded and counseled that the translation to the Germans occur.

Why that translation was made is not to be treated now. It is not [33] even necessary to discuss what the effect of that translation was. But it suffices for now to say briefly according to the [second opinion](#)⁴² that Charlemagne was not only exempt through the translation from the obedience and subjection of the emperor, his predecessor, from whose obedience and subjection he had not been exempt, although he had not held him as his superior, because not having an emperor for a superior

41. X 1.6.34 (2:80). 42. See §.4.2.3 on p. 94.

does not free someone from subjection. But he was even made the lord of the one who was emperor before him, and of all regions, lands, and provinces of which they were lords, who held absolute rule of the Empire (*monarchiam imperii*). And for that reason Charlemagne had power by right through that translation, although not de facto, over all the lands that had been subject to Octavianus; [and] he had imperial power over the provinces also, which he had made subject to himself earlier in licit wars, over which he had not previously had, by right, imperial or regal power. Yet he acquired imperial power over those lands and provinces that he possessed by paternal succession, [and] over which he earlier had only regal power. For all these [claims], one brief allegation (one which which is implicitly had in the proceeding ones in some way) can be adduced. For when Charlemagne was elevated to the imperial summit, in no way at all was a new Empire established; rather he acquired an empire of the sort that had preceded him. Otherwise, the Empire would not have been translated from someone or some people to him. And so, he obtained through the translation all the power over those lands that his predecessors had; thus, he acquired imperial power over the entire world.⁴³

[34] But perhaps someone will ask how the Empire was translated to the Germans. Was it so because no one but a German ought ever be emperor? To this it is responded that, just as the Roman Empire was not translated from the Greeks such that no Greek ought ever have been emperor, it was not translated to the Germans such that no one ought ever be emperor but a German. For such an ordination or translation would obviate the best way of providing for the imperial authority from the emperor. /140/ For it would derogate not a little from the power of the emperor: because then neither Charles nor anyone else after him would have had the power of promoting as emperor another than a German, since (although de facto) some others besides Germans were elected afterwards. For Richard,⁴⁴ the brother of the King of England, Henry, great-grandfather of Edward, who now reigns in England, was elected and crowned as king of the Romans, or emperor. Also, Alfonso⁴⁵ was elected fourth king of **Castille**. Yet neither of these two were German. But it was translated to the Germans because Charles, who was made

43. Reading *orbe* for *oreb*. 44. Richard of Cornwall (1209–72), brother of Henry III, great-grandfather of Edward III. 45. Alfonso X of Leon and Castille, four of his name to reign in Castille, elected King of the Romans in opposition to Richard in 1257.

emperor at that time, was German by birth, whose mother tongue was Teutonic.⁴⁶

[Ad 3] To the third question proposed at the [start of this chapter](#),⁴⁷ [35] [\[and\]](#) according to the [second opinion](#)⁴⁸ that each successor emperor of Charles had the same power that Charles or every predecessor of Charles had, both with respect to giving away some part of the Empire to another (provided sufficient lands and provinces remain in the Empire for sustaining all the burdens of the Empire), and with respect to the power of establishing his own son or someone else as emperor. Both of these is proved through the allegation that was induced [above in chapter 2](#)⁴⁹ for another conclusion. For 'he who succeeds to the right of another person' can 'use the very same right that the other' [\[used\]](#):⁵⁰ otherwise, there was indeed no true succession. Therefore, each emperor of Charles who succeeds can use the very same right and power that Charles or any of his predecessors used with respect to those two things, just as he can with respect to all other things.

And the second is especially proved, sc. regarding the power of est- [36]ablishing the emperor, through this: that often de facto (which cannot be disproved by reason) Charles' successors, both before the institution of the princes-elect and afterwards, established their sons and others as emperors, partners of the Empire, or successors, just as is read and held in the Chronicle of Otto of Freising and in many others, as well as in certain Gesta of the emperors right until after the most recent Frederick. For Louis I, son of Charlemagne, made his son, Lothar, an emperor, and the same Lothar established his own son, Louis, emperor, who were Augusti at the same time. Hence, as it is held in di. 63, Leo IV wrote to Lothar and Louis, Augusti, /141/ the decree, *Reatina*.⁵¹ Likewise, it is read of Conrad:⁵² 'Conrad, by election of all, 79th from Augustus, accepted the kingdom', namely of the Romans, 'at whose counsel and command, Henry, Duke of Saxony, son of Duke Otto, was carried to the kingdom.' Likewise, so it is read of Otto I:⁵³ 'Otto I, 81st from Augustus, established his son, Otto, as king while he was still a youth.' Likewise, so it is read of another Conrad:⁵⁴ 'Conrad, 85th from Augustus, made his son Henry king in the second year of his reign.' Likewise, so it is held

46. Lupold, c. 3, pp. 340–341. 47. See §.4.6.2.3 on p. 107. 48. See §.4.2.3 on p. 94. 49. See §.4.2.4 on p. 95. 50. VI 5.12 reg. 46 (2:1123); see also above p. 73 n. 36. 51. D. 63 c. 16 (1:239). 52. Frutolf-Ekkehard, Chron. univers., MGH SS 6.175. 53. Frutolf-Ekkehard, Chron. univers., MGH SS 6.184 and 189. 54. Frutolf-Ekkehard, p. 195. Ockham is referring to Conrad II.

of Henry:⁵⁵ 'Henry III, the son of the emperor Conrad, established a king a long time ago, while his father was still alive, succeeded his father, 86th from Augustus. He also established his son, Henry, as king, with the election of the Roman Pontiff, the other bishops (*pontificum*), and princes of the kingdom.' Of Henry IV, it is read:⁵⁶ 'Henry IV made his own son, Henry, king.' Likewise, of another Conrad [III] it is read:⁵⁷ 'Contra, 90th from Augustus, left the seat of his kingdom to his cousin.' Of Frederick I, so it is read:⁵⁸ 'Frederick I, 91st from Augustus, accepted the kingdom, more from the delegation of his uncle than by election of the princes.' He 'designated' his son, Henry, 'to become emperor, who accepted the Crown at Aquitaine on the consent of the princes.' Having 'procured' this, 'nearly all the princes of Germany (*Alemanniae*) elevated his little son'—sc. Frederick—as king, while still crying in his cradle, and swore an oath of fidelity to him.' Hence, afterwards, 'the princes of Germany (*Alemanniae*), viz, the king of Bohemia, the duke of Austria, the duke of Bavaria, the landgrave of Thuringia, and many other counts elected Frederick, King of Sicily, as emperor-to-be,⁵⁹ swearing fidelity to him long ago, while he was still in his cradle.' Of Henry, son of Frederick, so it is read:⁶⁰ 'Henry VII', son of Frederick, 'being about eight years old, at the intervention of' certain 'ministers (*ministerialium*) and other princes, was established king by his father and the princes, and crowned at Aquitaine, when he was about to obtain the Empire from his father.'

[37] From these passages, it is gathered that emperors after Charles created emperors who had the same power in all things that Charlemagne and his predecessors had, who frequently made emperors. Indeed, the emperors, kings of the Romans, Caesars, and Augusti named below were created by emperors:⁶¹ Octavianus, who was the first /142/ Augustus, Antonius, Lepidus, Drusus, Gaius, Piso, Lucius Annius, Lucius Commodus, Antonius, Alexander, Philippus, Decius, Volusianus, Gallienus, Cornelius, Claudius, Carinus, Numerianus, Maximianus, Constantius, Galerius, Maximinus, Severus, Constantinus, Licinius, Crispus, Licinianus, Maxentius, Constantinus, Constans, Constantius, Dalmatius, Gallus, Iulianus, Valens, Gratianus, Valentinianus, Theodosius, Honorius, Arcadius,

55. Frutolf-Ekkehard, Chron. univers., MGH SS 6.195 and 197. 56. Frutolf-Ekkehard, Chron. univers., MGH SS 6.210. 57. Burchard Urspergensis, Chronicon, ed. O. Holder-Egger and B. von Simeon[?], MGH SS rer. Germ. in us. schol., ed. 2a, 1916, pp. 17, 20. 58. Burchard Urspergensis, Chronicon, pp. 22, 56, 71, 75, 199. 59. Literally, emperor-to-be-crowned (*imperatorem coronandum*). 60. Burchard Urspergensis, Chronicon, p. 115. 61. This list is put together from Frutolf and perhaps from Otto of Freising, Chronica, bks. 3–5.

Theodosius, Constantius, Valentinianus, Leo, Anthemius, Leo, Zeno, Theodoricus, Iustinianus, Tiberius Constantius, Mauricius, Germanus, Theodosius, Tiberius, Constantinus, Heraclius, Tiberius. And so, every emperor, if he is a true emperor of the Romans, succeeding the earliest emperors in the same Empire—and it is now the sort of Empire as it was from the start—can make others emperors, either so that they reign and command with him, or so that they only be his successors, because other emperors were established by emperors in both ways.

CHAPTER VII

But it is objected against the foresaid ¶arguments¶ in two ways. [1] First, [38] because, according to them, they became emperors through succession and not through election, which is opposed to the best manner of making provision for (*providendi*) an emperor, and, consequently, is opposed to the best principate (of which sort the imperial principate ought to be). [2] Second, it is objected because, according to those arguments, the emperor can ordain the apostolic see and make the pope, archbishops, and bishops because Charlemagne had that power, as is clear in di. 73, *Adrianus*.

[Ad 1] It is responded to the first of these objections according to [39] the [second opinion](#)⁶² that the best manner of providing for the emperor without qualification is through election and not through succession, and, for that reason, it is not read that someone was established emperor otherwise than through election. Hence even the sons of the emperors were made emperors through election; but not always through the election or those to whom a power of electing was regularly given when the Empire was vacant, but often by the election of the emperors themselves. For those very same emperors, who have the power of electing often elected their own sons or others as emperors because the emperor does not have a lesser power over the Empire than all the other inferiors have over it.

[Ad 2] It is responded to the second objection in various ways. For [40] it is said [a] in one way that each emperor after Charles and after Otto I had a power of electing the highest pontiff. Because, just as is clear in di.

62. See §.4.2.3 on p. 94.

63, c. *In synodo*,⁶³ a power of ordaining the pontiff of the highest see was given to Otto and his successors; whereby, the power of ordaining the apostolic see pertains to public right, because ‘public right is in sacred, sacerdotal, and civil (*magistratibus*) affairs’;⁶⁴ whereby, in emperors, who are known to obtain the highest position among magistrates. But one cannot derogate from public right, nor can one renounce a public right, *Extra, de foro competenti, Si diligenti*;⁶⁵ whereby, later emperors could hardly renounce such a right.

[41] [b] Otherwise, it is said that Charles’s and Otto’s privilege was personal, or at least that the emperors could renounce that privilege.

[42] [c] Otherwise, it is said that neither Charles nor Otto had the power of electing the highest pontiff insofar as they were emperors, because the first emperors (of whom Charles and Otto were successores) in no way had that power. And, for that reason, the power of electing the pope did not belong (*competebat*) to them insofar as they were emperors, but insofar as they were Roman Christians, to whom other Roman Christians had entrusted their fate (*vices*). One speaks in the same way about the investiture of bishops and archbishops: /144/ according to the opinion of some people, this has truth, especially with respect to the collection of temporals,⁶⁶ which the emperor—and not the pope—must do, particularly in the lands immediately subject to him.

[43] Which of these responses has a greater semblance [of truth] is not to be stated presently, because it would require a great discussion.

CHAPTER VIII

[44] The [first](#)⁶⁷ and [second](#)⁶⁸ opinions recited above disagree in many other aspects; they should not be treated of now, although I am going to discuss some them briefly [later on](#).⁶⁹ Thus, for now, it suffices to say how the second opinion responds to what was adduced above [in the first chapter](#)⁷⁰ for the first opinion.

[45] For, when one says that the king of the Romans is to be promoted to emperor later,⁷¹ it is said that this is not stated properly, but is said rather because the king of the Romans is to be called emperor later, whose

63. D. 63 c. 23 (1:241). 64. D. 1 c. 11 (1:3). 65. X 2.2.12 (2:252). 66. Cf. AP 7.8–40. 67. See §.4.1.2 on p. 93. 68. See §.4.2.3 on p. 94. 69. See §.8.1.4 on p. 155. 70. See §.4.1.2 on p. 93. 71. See §.4.1.2 on p. 93, above.

designation (*appellatio*) was, perhaps by some custom, not particularly reasonable for some time before the anointing and coronation, and not that it was omitted from the start. In fact, the first emperors and their successors (even for a long time after Charlemagne) were not called kings of the Romans before they were called emperors. It is, perhaps, unknown why they later began to be called kings of the Romans before being called emperors. And, therefore, it [sc. the title King of the Romans] perhaps should be set aside so as to remove dangerous doubts, which can arise from such designations. For, many things were established, as Augustine writes, as it is held in di. 12, c. *Omnia*,⁷² the ‘causes’ of which either ‘hardly or never can be found;’ he [sc. Augustine] ‘thinks that such causes that men have followed when establishing things ought to be restrained when the opportunity presents itself’. Therefore, it is concluded that, properly speaking, the king of the Romans was not going to be emperor; rather, properly speaking, the king of the Romans is emperor, although not always so called.⁷³

And so what is said in di. 23, c. *In nomine*,⁷⁴ about Henry, king of the Romans, that ‘it was hoped that he would be emperor’, ought to be understood with respect to the designation—that he would generally be so designated. [and] in a way that he was not generally designated at that time—not with respect to some power or jurisdiction, or right /145/ that he would newly receive: just as one he was elected pope (if he bishop before) has all power and jurisdiction from that election before being enthroned or coronation and all solemnity is subsequently owed to him; he will acquire the jurisdiction through being enthroned in the Apostolic See, or through the coronation or some other solemnity. For the pope has but a twofold power, sc. by reason of order and by reason of administration, as the gloss on di. 21 c. *In novo* suggests.⁷⁵ But having been elected as pope, he has both, before all other solemnity. Regarding the first, it is clear, as the gloss says: ‘Every bishop’ is ‘equal to the the apostolic [See] with respect to order and by reason of consecration: 24 q. 1 *Loquitur*’.⁷⁶ Regarding the second, it is clear in di. 23, *In nomine*.⁷⁷ And so the pope, if he was a bishop earlier on, attains no jurisdiction or power through the coronation, although he may subsequently be called ‘elect’. This is also proved by this: that blessed Peter have all power (insofar as

[46]

72. D. 12 c. 12 (1:30). Aug. Ep. 4.19 (PL 33:221). 73. Cf. the memorandum *Subscripta*, art. 2, ed. E. E. Stengel, *Nova Aemmaniae*, Berlin, 1921, No. 584, p. 402. 74. D. 23 c. 1 (1:78). 75. Cf. *Gl. ord.* ad D. 21 c. 2, s.v. ‘pari’. 76. C. 24 q. 1 c. 18 (1:971). 77. D. 23 c. 1 (1:78).

he was pope) immediately when he was made pope by Christ, and he did not receive any other new power later. But the canonical election of the pope with respect to his successors succeeded Peter in the place of the institution of Peter by Christ without any human ministry. Therefore, the pope, if he is a bishop, just like Peter before he was pope,⁷⁸ has all the power through canonical election that he will have later. Yet, if someone, who is not a priest or bishop, is elected as pope, it is necessary that he be consecrated as priest or bishop before he has power regarding those things that are of order. The king of the Romans is not properly promoted to emperor, and for that reason such a promotion is more verbal than it is real.

[47] And if it is said that this seems absurd and ridiculous, it is responded that it is not absurd and ridiculous: in what way many things occur which look more to solemnity than to truth, just as is clear in matrimony: *Extrase sponsalibus*, c. 1,⁷⁹ and in the ordinations of clerics and consecration of bishops, and even in mass and many other things—which are nonetheless not absurd and ridiculous. For to do in such things beyond what are of the substance of the thing, some of them, which are for the solemnity and propriety (*decorem*) and for extolling such people in the minds of men so that they are held in greater admiration, veneration, devotion, and reverence, is not absurd and ridiculous, but is often necessary, useful and proper (*decorum*). Although, according to one opinion in the present case it was useful and expedient that (having dispensed with the delay of the imperial name), the king of the Romans /146/ immediately assumed the imperial title and without delay behaved as the true emperor in order that some ambitious individuals who preferred private honour to the common good would not take the occasion of such a delay for asserting—to the injury of the commonwealth—that the king of the Romans did not immediately have the imperial fullness of power.

[48] And **when it is said**⁸⁰ that the law at that time was imposed on words and not things, and the distinction of names does not declare a difference of things, it is responded that sometimes names are imposed not to mark (*declarandum*) a difference according to the substance of a thing, but to mark a difference of solemnities, which are done with respect to the substance of a thing. Just as is clear regarding the pope, who first

78. Ockham is referring to the story that Peter was bishop in Antioch before he went to Rome. See §.2.7.27 on p. 75. 79. X 4.1.1 (2:661); cf. *Gl. ord.* ad X 4.4.1, s.v. 'Francorum lege'. 80. See §.4.1.2 on p. 93.

calls himself elect while holding the same power, and later calls himself pope, emperors are sometimes called Augustus, sometimes Caesar, and yet those names indicate no difference of power. Wherefore, since the intended sense (*mens*) is to be considered more than the words in *Extra, de privilegiis, Quanto*,⁸¹ because words serve the intention and not the opposite, *Extra, de verborum significatione, Intelligentia*,⁸² though the king of the Romans is not immediately called emperor, no power is to be taken away from him. Indeed, because the law is not imposed on words but things, the words need not always be attended to, but the words should be interpreted and understood in such a way that the thing is not lost but is valid, 'because a thing' ought 'not' be 'subject to speech, but the speech to the thing', *Extra, de verborum significatione, Intelligentia*.⁸³ And, for that reason, because the commonwealth would pass away in an acceptable manner (*mediocriter*) if the king of the Romans were not immediately emperor for this reason: that he calls himself king before emperor by virtue of a certain not quite rational custom, it is not to be said that there is a difference between king of the Romans and emperor on this matter.

CHAPTER IX

Regarding the principal question, we must treat now whether the election [49] of someone as king of the Romans or emperor gives him full administration because his power is immediately from God. There is a diversity of opinions on this question.

One of these holds the negative part for this reason: that it posits [50] the power of the king of the Romans or emperor is not immediately from God, because it holds that his power is from the pope. According to this, the opinion holds what /147/ is recited in [question 2, chapter 2](#).⁸⁴ And, for this reason, such an election does not give the elect full administration; rather it is necessary that he be confirmed by the pope.

There is another opinion, on which it is touched in that question, [51] [c. 1](#),⁸⁵ which seems to say that the election of someone as king of the Romans gives him full administration in Italy and other lands as well as the provinces, which had been subject to Charlemagne before unction

81. X 5.33.26 (2:867). 82. X 5.40.6 (2:913). 83. X 5.40.6 (2:913). 84. See §.2.2.5 on p. 63. 85. See §.4.1.2 on p. 93.

and imperial coronation because his power in those lands is immediately from God since the king of the Romans does not hold those lands and provinces from the Pope. But the election of someone else as king of the Romans or emperor does not give him full administration in the lands and provinces, which had not been subject to Charlemagne before unction and imperial coronation, because he holds those lands and provinces, and it is tacitly confirmed by the pope with respect to them, sc., because the pope anoints and crowns him.

[52] Further, because that opinion was declared by the aforesaid venerable doctor,⁸⁶ I pass to the second opinion, which was treated above in [chapter two](#);⁸⁷ which, just as it says that there is no distinction between the king of the Romans and emperor or between the kingdom or the Romans and Empire, so it holds that the power of the king of the Romans or emperor is immediately from God, sc. in a third way about which it was discussed in [question two, chapter three](#),⁸⁸ in the same way the power of the pope is immediately from God. For the king of the Romans or emperor has no superior in various lands and provinces in temporals, and he does not hold various other lands and provinces from someone other than from God; and, for that reason, it is said that the election of someone as king of the Romans or emperor gives him full administration, which belongs to him by right in other lands and provinces. For he does not have that same fullness of administration in lands immediately subject to the Empire than in other lands, just as the first emperors had a fuller administration in the lands immediately subject to them, which had been deputed to the emperor for enduring the burdens of the Empire than in other lands.

[53] An argument can be made for this conclusion of the second opinion in this way: Just as it was [alleged earlier](#),⁸⁹ he who 'succeeds' another in an Empire or kingdom, /148/ 'ought to use the same right that the first one used'; but one elected as king of the Romans or emperor succeeds the emperors who lived before both Charles and Constantine; therefore, he ought to use the same right that they used. The election, moreover, gave those emperors full administration, which belonged to them by right in various lands and provinces; therefore, the election now also gives full administration to the one elected as king of the Romans or emperor. For, otherwise, either the king of the Romans or emperor would not now be

86. Lupold, cc. 5–11, pp. 351–78. 87. See §.4.2.3 on p. 94. 88. See §.2.3.11 on p. 66.

89. See §.4.2.4 on p. 95. Cf. VI 5.12 reg. 46 (2:1123); above, §.36 on p. 73.

the true successor of those emperors, or the elector or electors would not now succeed or would not have succeeded to the right of the prior elector or electors.

But perhaps someone will say that that allegation supposes something false, sc. that emperors were always made through election, since there were many emperors through the succession of birth, both before Charlemagne and after. To this it is responded that no one was ever made emperor of the Romans except through election, and not, properly speaking, through the succession of birth. For, the sons of emperors, who had been made emperors, had been promoted to the summit of the Empire through the election of their fathers or other people. Hence, Louis, son of Charles, was made emperor not by the right of primogeniture, nor by any other right belonging to another, but through the election of his father. Thus, if his father had died and elected no one to the Empire, Louis, if he were first-born, then although he would have had a right of claiming the kingdom of the Franks by right of primogeniture (by which right the first-born succeed their fathers in western kingdoms), he nonetheless would not have had a right of claiming the Empire or kingdom of the Romans. On this [point], indeed, that no one gains the Empire or kingdom of the Romans through succession, but through election, it approaches more the best mode of regal monarchy than kingdom, which is had through the succession of birth. [54]

Secondly, it is argued for that conclusion in this way: If the emperor holds lands from the pope, which had not been subject to Charlemagne before his unction and imperial coronation, and not otherwise, then those lands and not others were subject to the jurisdiction and power of the pope. It is asked, therefore, by what right they were subject to the jurisdiction and power of the pope? Not by natural law, because by natural law one land is not more subject to the pope than another: for by natural law all things are common and there is a 'common possession of all things, and one liberty for all things', di. 1, *Ius naturale*.⁹⁰ Nor by divine law are some lands more subject to the jurisdiction of the pope than others: [1] first because, just as Augustine says on John and is recited in di. 8, /149/ *Quo iure*:⁹¹ 'By divine law "The land and its plenitude is the Lord's"; the Lord made poor and rich from one and same clay; and one and the same land supports the poor and the rich'; [2] second, [55]

90. D. 1 c. 7 (1:2). 91. D. 8 c. 1 (1:13) = Augustine, in *Ioann. Euang.* tr. 6.25 (PL 35:1437); cf. Ps. 23:1; AP 7.14–33n.

because 'we have divine law in divine writings', in di. 8, *Quo iure*. But in divine scriptures in no way is it found that God subjugated lands which had not been subject to Charles before imperial coronation, more to the jurisdiction of the pope than other lands; [3] because many of those lands were never the Christians', neither de facto nor by right, because their inhabitants were never converted to the faith, and, consequently, the pope had no jurisdiction over them according to that verse of the Apostle in 1 Corinthians 5: *What is there for us to judge about those who are without?* Nor by human law are those lands more subject to the jurisdiction of the pope than any other, for not by civil law nor canon law. Not by civil law, because nothing is had in civil law on this; nor by canon law, because the pope, whose role is to compose the canons, does not have such a power that he could subject kingdoms and provinces to himself, for then he could subject any kingdom to his jurisdiction, and thus he could subdue all kingdoms to his own power, and interfere (*turbare*) the rights of all the kingdoms, which he must nevertheless not do: *Extra, de iudiciis, Novit*.⁹²

1 Co. 5:12

[56] Likewise, other lands, sc., those which had not been subject to Charles before the imperial coronation, were not subject to the jurisdiction of the pope, neither by written or unwritten right. That it was not by written right is clear because such written right can hardly be found; nor by unwritten right, sc. by rational, approved, and prescribed custom, because no custom preceded on this. For, emperors, the predecessors of Charles, did not recognize those lands from the pope which were not subject to Charles than others. Nor is it found that they held some from the pope; rather it seems less that they held some lands from the pope, which were not subject to Charlemagne, than Italy and all western kingdoms, which were subject to Charlemagne. Because that chapter *Constantinus*, in di. 96,⁹³ seems to suggest that Constantinus gave to Pope Silvester and all his successors the provinces of Italy and western regions; wherefore, if the predecessor emperors of Charles held all lands from the pope, they should have held Italy and the western kingdoms from the pope most of all.

[57] But perhaps someone will say that, by virtue of the translation of the empire to Charlemagne made by the pope, Charles held those lands from the pope. For, he had a previous imperial power in them, and not

92. X 2.1.13 (2:243). 93. D. 96 c. 14 (1:342).

in others; but he had only imperial power only through the translation of the Empire made through /150/ the pope, wherefore he had them from the pope in particular; on which account he held them from the pope and not others.

It is responded to this in different ways. [1] In one way,⁹⁴ that that translation was not made by the pope, but from the Romans,⁹⁵ from the beginning of whom the Empire was and from whom emperor first received the Empire; who had all his power from the Roman people, who, although they regularly translated to the emperor all their power of ruling regularly for the sake of the common good, they did not translate to him, however, a power of exercising lordship or ruling despotically, nor did they abdicate from themselves all power of disposing with regard to the Empire casually. For, if they would have done this, they would have made themselves slaves of the emperor (taking the word 'slaves' most strictly), and thus in one way would they have remained free. And, consequently, the emperor would not have had a regal principate, but a purely despotic one. Wherefore, according to that response, the emperor holds no lands of the Empire from the pope by virtue of that translation. [58]

[2] It is responded in another way that, assuming that the translation had been made by the pope, it would still not follow from this that the emperor should hold any lands from the pope. For, according to those think in this way, just as the pope translated the imperial authority from the Greeks to Charles, so he translated the kingdom of the Franks from Hilderic to Pipin, the father of Charles, for, as they say, he deposed the one [sc. Hilderic] and substituted the other [sc. Pipin] for him. But, notwithstanding such a translation of the kingdom of the Franks, neither Pipin, nor Charles, nor some other successor of his held the kingdom of the Franks from the pope. Therefore, in like manner, due to the translation of the Empire by the pope, it was not said that the emperor held any lands from the pope. [59]

But someone might say: everyone transferring some thing by right from one to another has, by right, some power over that thing.⁹⁶ If, therefore, the pope translated the Empire by right, he had at least some casual power over the Empire. But it does not follow from this that the emperor must hold imperium or some lands of his from the pope; because, just as some thing can be translated by right from one to another, [60]

94. Cf. §.4.6.31 on p. 109. 95. Cf. Dig. 1.4.1; Cod. 1.17.1.7. 96. Cf. Dig. 50.17.56; VI 5.12 reg. 79 (2:1124).

so it is hardly held from the transferor after it has been translated, just as is clear in gift and /151/ sale (*venditione et donatione*), through which a translation of lands and rights often happens, which are not held by the transferor afterwards. And so, if the pope made the said translation, Charles should have recognized the imperial authority from the pope as from the one from whom he had the Empire in the beginning, not as from the one from whom he afterwards held the Empire or some lands of his—in the same way the donee of a gift (*donatarius*), if he wishes to be thankful, is bound to recognize the given thing from the doonor as from the one from whom he had it, not as from the one from whom he holds it, for often the donee does not hold land or some other given thing from the donor.

[61] The last point, and, consequently, the principal conclusion, is confirmed in this way: A word used without restrictions (*indiffinite prolatum*) generally ought to be understood and is not to be restrained in some way: di. 19, *Si Romanorum*;⁹⁷ but in the Chronicles and in the decretal, *Extra, de electione, Venerabilem*,⁹⁸ it is indifferently said that the imperial authority was translated from the Greeks to Charlemagne; therefore, it ought to be understood generally so that it is not restrained for such a mode of transferring that the emperor held some lands from the pope and other ones he did not. Therefore, the emperor either held all lands of the Empire from the pope or none. But he did not hold all lands from the pope; therefore, he holds none [from the pope].

[62] But perhaps someone will say that not only words used without restrictions, but even words used generally ought to be restrained, just as it could be openly proven not only through civil and canonical rights, but also through divine scriptures.⁹⁹ It could be said to such a person that, although even generally used words should often be restrained, nevertheless, because 'it is fitting that favours be augmented', *Extrade regulis iuris, Odia*, in the Sext,¹⁰⁰ words used without restriction on a favourable matter ought to be augmented rather than restricted, unless the restriction can be evidently shown by reason or authority that one is not permitted to deny. But imperial authority is a favourable thing because it was instituted for the utility of all mortals; wherefore, words used without restriction in favour of the Empire should be augmented, not restrained. And if someone says that such a restriction can be proven

97. D. 19 c. 1 (1:60); cf. *Gl. ord.* ad D. 19 c. 1, s.v. 'dicendo'. 98. X 1.6.34 (2:80). 99. Cf. *Gl. ord.* ad X 2.28.65, s.v. 'tertio appellare'; §. on p. 92. 100. VI 5.12 reg. 15 (2:1122).

through reason because promotion to the Empire would be in some way verbal, it is responded that, [even] granting that unless the king of the Romans, when he is crowned with the imperial crown, received some power anew (*de novo*), such a promotion would only be verbal, yet it could not be proven from this that Charlemagne had some lands from the pope insofar as he was emperor, for Charlemagne was not the king of the Romans before he was emperor of the Romans. / 152/

CHAPTER X

And so, this opinion holds that, although it is not necessary from the nature of anyone's election that the election gives also a small administration, still less a full one (for many¹⁰¹ elected canonically and rightly [*rite*] have altogether no administration before confirmation), and, for that reason, it could be ordained that the election of someone as king of the Romans and emperors should not give themselves full administration; indeed, [they have] none. But [it may be ordained] that the approbation of someone or some people is expected, which has a sort of force (*quasi vim*) of confirmation; or that before an appointed time the elect would not acquire administration (whence many people even seem to have elected some emperors the Empire, in such a way nevertheless that they would succeed them and have no administration while the electors were still living): Even so, because it was not held (nor is it agreed) that the election or power of electing the king of the Romans or emperor was given or granted in such a way to the elector-princes, but that the power of electing had been given to them absolute and without restriction, that opinion therefore says that,¹⁰² since the power of the king of the Romans or emperor is immediately from God in that way that he holds the Empire from God alone in such a way that he has no superior in temporals, so the election of someone as king of the Romans and emperor gives full administration in a mode that the elect immediately: because it is legitimately established that he was elected, without any other confirmation or approbation or examination or coronation or any unction has a full power of administrating, which is due by right [63]

101. Bishops, according to 3.2 Dial 2.28. 102. Cf. the imperial law *Licet iuris* of 6 August 1338, ed. K. Zeumer, *Neues Archiv* 30 (1904-5), pp. 100-02; the memorandum *Subscripta*, arts. 2-4, ed. cit., No. 584, p. 402

to the king of the Romans or emperor after some sort of unction and coronation, in so much that no custom in the contrary is valid to derogate in this elect, but that he could take away by right such a custom from his fullness of power and go (*venire*) against it. Nor should we distinguish between 'lands' and 'lands subject to him', except between lands immediately and mediately subject to him or the Empire with respect to this: that, although he has all power of administrating over both immediately (*statim*) by right (though not *de facto*), which [power] the emperor has by right after some sort of unction and coronation, the elect nevertheless has a greater power of administrating in the lands immediately subject to the Empire than in others, because he can do more things by right in those lands than in others, which are immediately subject to kings and other princes and lords—because the kings and other princes are free and not mere (*puri*) servants of the emperor. In fact, according to some, if the imperial principate were merely regal, /153/ [it would be] completely mixed with a despotic principate and every other principate that is established by human beings would have no one wholly (*pure*) a servant, who was not free, unless someone became his servant through [his own] fault, although he would have many servants so-called from serving or ministering (of which servitude Aristotle speaks in *Politics* 1 when he says that some are servants naturally¹⁰³).

[64] And so, it seems that it can be proven in many ways that the election of someone as king of the Romans and emperor gives in that way full administration to the elect. [1] First, in this way: In things indefinitely said or granted, a more reasonable and agreeable (*commodior*), or useful, interpretation is to be embraced: [a] first, because, just as 'the more benevolent are to be preferred', ff. *de regulis iuris*, l. *Semper*,¹⁰⁴ so also are the more reasonable and useful to be preferred; [b] then, because, just as there ought to be interpretation in obscure things so that it is harmful to none, so there ought to be interpretation such that it certainly benefits the common good. But it is reasonable and useful that the election of someone as king of the Romans or emperor gives the elect full administration. For, it is clear that this is reasonable from this: that the king of the Romans or emperor does not have a superior in temporals; wherefore, it is reasonable that something special is established with respect to his election—namely, that the elect lacks no other confirmation, but imme-

103. Aris., *Pol.* 1.5 1255a1-2, ed. Susemihl, p. 21. 104. Dig. 50.17.56.

diately has full and free administration, in the same way on this account that the pope does not have a superior to whom recourse can be had: as soon as he has been elected, he should be considered the Roman Pontifex: *Extra, de electione, Licet*.¹⁰⁵ This is agreeable and useful, lest, on account of the expectation of [further] confirmation, approbation, unction, and coronation, dissention, wars, and other evils emerge in some part of the Empire, which, if the elect immediately had full power, either they would completely cease or could be quickly and easily wiped out or pacified. Through the providence of the elect, also, many useful things could be procured, which would either be entirely impeded through the expectation or it would be necessary that they often be differed dangerously. Wherefore, since it is not agreed that the power of electing be given and limited to the electors in such a way that the elect does not immediately have full administration, so it should be understood that the power of electing was given to them for the sake of a common utility in order for the elect to have full administration immediately. This allegation is confirmed: for a less full interpretation should not be made in indulgences or concessions or privileges, which were granted for the sake of the common good than in benefits; but 'in benefits a most full interpretation' should be made: *Extra, de donationibus, Cum dilecti*;¹⁰⁶ therefore, the privilege /153/ of the princes-elect, whereby they are granted, for the sake of the common good, to have the right of electing the king of the Romans or emperor, is to be interpreted most fully, so that they have the right of making that election whereby full administration is given to the elect.

[2] Secondly, it is alleged for the same [conclusion] in this way: [65] the faithful king of the Romans or emperor must not be of a worse condition than was the faithless king of the Romans or emperor whom he succeeds; but the faithless emperors had full administration immediately upon election; therefore, faithful emperors also have full administration immediately.

[3] Likewise, election does not give the one elected as emperor less [66] than succession by birth (*successio generis*) to other kings; but succession by birth gives other kings full administration; therefore, election also

105. X 1.6.6 (2:51). 106. X 3.24.6 (2:535).

gives the one elected as king of the Romans or emperor full administration.

[67] Many things could be opposed against the aforesaid, but the manner in which this second opinion would respond to them is clear from what was said or recited in Question One, especially in chapter 6 and 7, and Question Two, chapters 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16, and Question Three, chapter 4, and some of the following ones.

QUESTION FIVE

CHAPTER I

Fifth, it is asked whether a succeeding hereditary king receives some [1] power over temporals because he is anointed, consecrated, and crowned by an ecclesiastic, or whether he only attains the grace of a spiritual gift from this. This question includes two articles: [1] The first is in regard to the power over temporals; [2] the second is in regard to the grace of a spiritual gift. Regarding the first, three articles can be formed: of these, [a] the first is whether a succeeding hereditary king receives any power over temporals because he is anointed by an ecclesiastic; [b] the second is whether [he acquires any power over temporals] because he is consecrated; [and] the [c] third is whether [he acquires any power over temporals] because he is crowned.

Regarding the first, there is one opinion [i] that a king succeeding [2] hereditarily receives some power over temporals because he is anointed by an ecclesiastical power. For such an opinion, one can argue as follows: Just as regal unction is related to the king, so sacerdotal unction is related to the priesthood and episcopal unction is related to the episcopacy. But some power is received through sacerdotal and episcopal unction. Therefore it is the same through regal unction. But not spiritual power; therefore, a king received some temporal power because he is anointed; therefore, he receives some power over temporals. /155/ Likewise, just as ‘nature does nothing in vain’,¹ so a person working reasonably does nothing in vain; thus, such an anointing of the king is not done in vain. But it would be done in vain and foolishly if the king were not to receive some power through it. And he does not receive any power through it except over temporals; therefore, etc.

CHAPTER II

[i] Another opinion is that a king succeeding hereditarily does not receive [3] any power over temporals because he is anointed by an ecclesiastic. This opinion maintains two conclusions: [A] the first of these is that the king

1. Aristotle, *Pol.* 1.2 1253a9, ed. Susemihl, p. 8.

does not receive any power over temporals because he is anointed; [B] the second is that [he does not receive any power over temporals] because he is anointed by an ecclesiastic.

[4] One may argue for *the first*² in this way: all kings succeeding hereditarily in their kingdom have the same power over temporals in the same kingdom. For, otherwise, one would not be a true successor and true heir of the other. But in many kingdoms there were many kings succeeding hereditarily; of these, some were anointed and some were not anointed: indeed, some were faithless and pagans, who were not anointed because the kings of pagans are not anointed. Some others were faithful, both Christian and anointed, because Christian kings generally are anointed. Therefore, on this basis: that a king succeeding hereditarily is anointed, he receives no power over temporals.

[5] For the *second conclusion*,³ sc. that a king succeeding hereditarily receives no power over temporals because he is anointed by an ecclesiastic, one may argue in this way. The same anointing, by whomever it is conferred, has the same effect: Just like baptism has the same effect whether it be conferred by an ecclesiastic or by a layman, or even by a woman. Therefore, regal unction has the same effect whether it be conferred by an ecclesiastic or by another. Therefore, anointing does not give the anointed any power over temporals because it was conferred by an ecclesiastic.

[6] But perhaps someone will say that regal unction cannot be conferred except by an ecclesiastic, just as sacerdotal and episcopal unction cannot be done. One might say to this that regal unction was introduced by the Old Testament. In the Old Testament, regal unction was sometimes conferred by a priest or Levite; in the New Testament, ecclesiastics / 156/ have succeeded them. In fact, Samuel, who was a Levite, anointed Saul and David as kings according to a command of God; and the priest Sadoc anointed Salomon as king. Sometimes regal unction is done by others: for Elias was commanded to anoint Azazel as king over Syria, and to he anoint Jehu as king over Israel. Some adolescent servant of the prophet,⁴ as it is read in 2 Kings 9 anointed Jehu as king over Israel. Even now, therefore, a king may be anointed by a non-ecclesiastic.

1 Sm. 10:1; 1 Sm. 16:13

1 Kgs. 1:39

1 Kgs. 19:15–16

2 Kgs. 9:4–6

2. See §.5.1.2 on p. 128. 3. See §.5.2.3 on p. 128. 4. That is, Elias. The servant in question is an unnamed youth, *puer adolescens*; later (§.5.4.10 on p. 131) Ockham calls him Elias' son, but that is probably not true.

CHAPTER III

This opinion responds to the concerns of the [first opinion](#).⁵ For it says [7]
to the first that it is not necessary that regal unction is, with respect to
all things, related to the king as sacerdotal unction is to the priesthood,
and episcopal unction to the episcopacy. Sacerdotal, and even episcopal
unction is indeed by divine institution; however, though it was in the
Old Testament at God's command, regal unction is nonetheless in the
New Law only by human institution. And, for that reason, unless it is
voluntarily ordered by human will, unction gives no power over tempor-
als. Wherefore, if it was not established through human ordination that
regal unction gives power over temporals, it shall give him none.

For the [second](#)⁶ it is said that regal unction is not done in vain even [8]
though the unction gives not power over temporals in the same way that
what are only for [the purpose of] a solemnity are not done in vain even
though they give no power. For regal unction could be done so that a
king is held in greater regard and reverence. In the same way great feasts
and other solemnities are held at the anointing and coronation of kings so
that the kings are held in greater honour, and so that regal magnificence
is demonstrated, just as King [Assuerus](#), as is held in Esther 1, *made a*
great feast [...] that he might show the riches of the glory of his kingdom,
and the greatness and ostentation of his power (potentia).

Es. 1:3-4

CHAPTER IV

According to the first opinion, one may respond on behalf of the second [9]
opinion to the motives adduced in [chapter 2](#).⁷ Indeed, one responds to
the first [opinion] in various ways when it is accepted that there were
many kings succeeding them in many kingdoms. Some of these were
/157/ anointed and some were not anointed. For it is said in one way
that pagan kings, who were not anointed, were not true kings because,
as Innocent IV says,⁸ outside the Church there is no true lordship; nor
is power ordered and granted, but only permitted. It is said in another
way that pagan kings, who were not anointed, were true kings because
pagans, just as they are not bound to ecclesiastical ordinances (*Extra*,

5. See §.5.1.2 on p. 128. 6. See §.5.2.3 on p. 128. 7. See §.5.2.4 on p. 129. 8. Innocent IV(?), *Eger cui lenia*, ed. Herde, 520-22.

de divortiiis, Gaudemus),⁹ so ‘they are not confined to the customs’ of Christians. Nonetheless, Christians cannot become true kings unless they are anointed because they are obliged to the customs of Christians from the fact that they are Christians, just as they are also bound to observe ecclesiastical customs.

- [10] To the [second](#)¹⁰—whereby it is proved that a king succeeding hereditarily receives no power over temporals because he is anointed by an ecclesiastic for this reason: that regal unction can be conferred by a person other than an ecclesiastic—it is responded that regal unction cannot be done by a person other than an ecclesiastic because what are exclusive to divine law must not be done except by ministers of the divine law—of which sort were the priests and Levites in the Old Testament and ecclesiastics in the New. And [when it is accepted](#)¹¹ that Elias had to anoint some people as kings, and the son of the prophet, who was neither priest nor Levite, anointed Jehu as king over Israel, it is responded that it is not maintained in the canon of the Bible that Elias and this son of the Prophet were neither priests nor Levites.

CHAPTER V

- [11] The [second article for the first part](#)¹² of the principal question is whether a king succeeding hereditarily receives some power over temporals because he is consecrated by an ecclesiastic. There can be diverse opinions on this, just like with the first. It can even have nearly the same and similar motives.
- [12] On this account, I think we should pass to the [third article](#),¹³ which is whether a king succeeding hereditarily receives any power over temporals because he is crowned by an ecclesiastic. This article seems to have a particular difficulty for this reason: not only Christian and faithful kings are crowned, but also pagan and faithless ones.
- [13] There is a diversity of opinions on this. [1] The first is that a king succeeding hereditarily receives some power over temporals because he is crowned by an ecclesiastic. One can argue for this in the following way. A dignity is greater to the degree a major solemnity (without which it cannot be had) should be celebrated (*adhiberi*) at its attainment. But a

9. X 4.19.8 (2:723). 10. See §.5.2.3 on p. 128. 11. See §.5.2.6 on p. 129. 12. See §.5.1.1 on p. 128. 13. See §.5.1.1 on p. 128.

regal dignity / 158/ is greater than a military campaign; yet, concerning a military campaign, when someone successfully concludes it, some solemnity ought to be celebrated (without which no one becomes a soldier); therefore, when someone becomes a king, by that much more ought some solemnity be celebrated on his behalf (without which no one can be king). Now that solemnity is the coronation because the coronation alone seems to be the solemnity that is common to all kings, which is celebrated for all of them, pagan and non-pagan. Therefore, because someone is crowned, he receives royal dignity. But royal dignity is not without power over temporals; therefore, a king succeeding hereditarily receives some power over temporals from the fact that he is crowned.

CHAPTER VI

[ii] Another opinion is that a king succeeding hereditarily does not necessarily receive any power over temporals from the fact that he is crowned by an ecclesiastic, although it could happen that he receives some power over temporals on this basis. [14]

In order to show this, one says that it ought to be known that, although there are diverse regal principates, just as Aristotle says in the *Politics*,¹⁴ [and] even though a regal principate is assimilated to a natural principate in many things, nonetheless no regal principate is natural. But every regal principate is from a positive act of establishment (*institutio*), either divine or human. Regarding divine establishment, it is clear in the Book of Kings, in which we have it that God established a regal principate through Samuel by laying out what the right of the king (who was to be established) ought to be. Regarding human establishment, it is clear in both the Old and New Testaments, and, even, in other histories and annals (*gesta*) where it is read how many people were made kings through the will of men. On this account, in order to know how, when, and on what basis a king succeeding hereditarily might have power over temporals, one must consider (if possible) how such a regal principate was established in the beginning. Now, if there is no memory of how such a kingdom was established in the beginning, then a still-remembered (*de qua existit memoria*) custom must be attended to; and it is to be observed, [15]

cf. 1 Kgs. 8:11–18

14. Aristotle, *Pol.* 3.14 1283a1–2, ed. Susemihl, p. 213

provided only that it is not irrational, iniquitous, or against the laws of a superior (to the observance of which such a king would be bound). If, however, such a custom is unknown for some reason, or the first king died before / 159/ it was ordained—either by those who establish the king at the beginning on their and their heirs' behalf, or by the king (who had acquired the kingdom in a licit manner)—what mode a king succeeding hereditary ought to observe, then that which is more reasonable and useful for the common good of the whole kingdom ought to be accepted and observed. For, just as 'more benign', reasonable and useful 'things are to be preferred'¹⁵—unless, perhaps, a king succeeding hereditarily wished and was able to yield the right that he could reasonably claim. On this basis, it is responded to the present article¹⁶ that, since a humanly established regal principate (of which type is every current principate) depends and proceeds from a human ordination, which can reasonably be changed with cause, it is not necessary that a king succeeding hereditarily receive any power over temporals from the fact that he is crowned, whether by an ecclesiastic or any one else.

[16] A regal principate can be established in three ways. [1] In one way, through the will and ordination of the people:¹⁷ because 'every people lacking their' own 'king', who is not subject to the emperor or other king or lord, 'can' establish 'a king for themselves by the law of nations'. [2] In another way, a regal principate can be established by an emperor or king who has diverse people subject to him. For an emperor can make new kings in provinces that do not have kings. A king even holding under himself diverse provinces can create new kings if it was not prohibited through a legitimate ordination of the people, his predecessor, or his superior. [3] A regal principate can be established in a third way through acquiring full lordship over a region, which can fittingly have a king. For if some powerful individual acquires full lordship over some province through purchase, just war, or some other manner, if he is not prohibited by his superior, he can assume for himself the name and office (*rem*) of king over that same province, or give it to another.

[17] If a regal principate is established in the first way, just as it belongs to the will of the people to order that kings are made through a succession of birth or election, so belongs to the will of such a people that (if it had ordered that kings were to succeed hereditarily) on the death of

15. §.4.10.64 on p. 125. 16. The third article of the first principle article; see above, §.5.1.1 on p. 128. 17. Lupold, c. 5, p. 352. Cf. §.8.1.4 on p. 155; Brev. 4.10.

the king, another about to succeed hereditarily has all due power over temporals before any coronation or any other sort of solemnity, or that he only receives such power through the coronation or other solemnity performed on him. The reason for this is because, just as everyone can impose the pact or law he wishes in the handing over or donation of his own things (*rei suae*), /160/ and in his own affairs (*re propria*) everyone is the moderator, manager, and decision-maker: *C. Mandati, In re mandata*,¹⁸ so the ones who voluntarily establish a regal principate and freely subject themselves to a king and his successors can impose the law they wish, provided only it is not irrational and iniquitous, or contrary to the rights of a superior. Wherefore, a people subjecting itself to someone as their king and his heirs can impose the law that every king who is going to succeed hereditarily has immediately upon the death of his predecessor all the power over temporals that he is about to gain, without any solemnity. A people will even be able to posit the law that a king about to succeed hereditarily may not have power over temporals before the coronation. And it is said on the basis of the same reason that whether the emperor or another king may establish a king in some kingdom, or the one acquiring full lordship over some region may establish the king, he can impose on the successors one law or another, so that, namely, a king succeeding hereditarily has—immediately or not—all power over temporals that he is about to have.

And, thus, some power over temporals can be conferred or not [18] through coronation or with the mediation of coronation. And if no power is conferred, a coronation only takes place for the solemnity that a king be held in greater honour, love, or fear. This is confirmed because women are crowned and called queens even though they receive no power over temporals through coronation. Therefore, it is not from the nature of the coronation that some power over temporals is given through it. And through the same [reasoning] it is proved that no power over temporals is given through anointing and consecration. For queens are anointed and consecrated, and yet they receive no power over temporals through anointing and consecration, since ‘women’, according to the laws, are ‘removed from all civil and public’ offices; hence, they are not ‘able to be judges or act as a magistrate’, adopt, ‘or make a legal claim (*postulare*)’, nor act as sureties, procurators, or witnesses,¹⁹ even though,

18. Cod. 4.35.21. 19. Cf. Dig. 50.17.2.

according to custom, they may be able to pass judgment (*iudicare*) in some regions.²⁰

CHAPTER VII

[19] There are diverse opinions regarding the [second principle article](#)²¹ of the previously posed question, namely whether a kingsucceeding hereditarily obtains the grace of a spiritualis gift from the fact that he is anointed, consecrated and crowned by an ecclesiastic.

[20] [a] One holds that through anointing and consecration a king especially / **161**/ gains the grace of a spiritual gift. One can argue for this in the following way: [i] Reverence, fear, and honour are owed to none except on account of some corporal, secular, or spiritual eminence. But reverence, fear, and honour are owed to an anointed and consecrated king, as King David testifies, who, as it is held in 1 Kings 24, did not wish to send his men (*mittere manum*) and kill King Saul, for he was the anointed of the Lord, saying: *The Lord be merciful to me that I not do this thing to my lord, the Lord's anointed: that I send my men against him, for he is the anointed of the Lord*. From these words it is held that David respected Saul for the reason that he was anointed (*christus*), that is, anointed of the Lord. Thus, on this account, he held him in such great reverence that *his heart struck* [David] *because he had cut the hem of Saul's robe*. He even killed the youth for this reason, who said that he had killed Saul, as is had in 2 Samuel 1, saying to him: *Why did you not fear to put out your hand to slay the Lord's anointed? And David, calling one of his servants, said, 'Approach, and fall upon him.'* *The servant struck him, and he was killed. And David said to him, 'Your blood is on your head. For your mouth spoke against him, saying, "I have slain the Lord's anointed"'*. And if it be said that David therefore held Saul in reverence and honour, and wished him to be held in fear because he was made king by the anointing, and, thus, he showed him such reverence and honour due to the royal dignity, and wished they be shown by others, this opinion excludes this [point], saying that David thought such things were to be shown to Saul not on account of royal dignity, but on account of that anointing (insofar as it was divinely instituted), according to those previously alleged words

cf. 1 Sm. 24:11

1 Sm. 24:7

1 Sm. 24:6

2 Sm. 1:14-16

20. Cf. Accursius, *Gl. ord.* ad Cod. 2.56.6, s.v. 'conventores' (cf. contemptores). 21. See §.5.1.1 on p. 128.

openly seem to indicate. It may also be proven through this: that David did not show such reverence and honour to other kings, who were only kings and not anointed, nor did he think that they ought to be shown by others: for he thought several of them were to be slain.

[ii] One can argue for this opinion in a second way. A supernatural [2.1] cure of corporal affliction is the grace of a spiritual gift. The power of supernaturally curing and healing people suffering from scrofula is (so it is said) conferred on some kings such as of England and France. Therefore, a king acquires the grace of a spiritual gift through such an anointing.

CHAPTER VIII

[a] Another opinion is that a king succeeding hereditarily does not [2.2] acquire any grace of a spiritual gift through anointing, consecration, and regal coronation. [i] One can argue for this in the following way. Someone acquires the grace of a spiritual gift through the divinely instituted sacraments alone, not through those humanly instituted; /162/ but anointing, consecration, and regal coronation, which are done for kings succeeding hereditarily, are not divinely but human instituted: for, they were not instituted in the Old Testament (for then the Church would be judaizing to do such things), nor were they instituted in the New Testament, just as is clear to one who reads through the whole of the New Testament. Thus, someone does not acquire the grace of a spiritual gift in this way.

One can argue for the same point in a second way. [ii] Through [2.3] anointing, which was done in the Old Testament by a command of God, a king did not obtain the grace of a spiritual gift. Therefore, by that much more does a king succeeding hereditarily not obtain the grace of a spiritual gift through anointing, consecration, and coronation, which are done for kings through human ordination and not by a command of God. The consequence seems manifest because some acquires the grace of a spiritual gift less through human ordination than through divine ordination. The antecedent is proved because someone does not acquire the grace of a spiritual gift through what was common to faithful and faithless in the Old Testament. But anoint was done in the Old Testament by a command of God for an faithless king, for, as was alleged earlier in

chapter two,²² God commanded the prophet Elias to anoint the faithless king Azael over Syria. Therefore, a king did not obtain the grace of a spiritual gift in the Old Testament.

CHAPTER IX

[2.4] One may respond to the reasons for the *first opinion*²³ according to this opinion. [Ad a] Indeed, it is said to the *first*²⁴ that in the Old Testament reverence, fear, and honour is owed to an anointed king; not because an anointed individual attains any grace of a spiritual gift through the anointing itself, since such reverence, fear, and honour are owed to an anointed individual even without the grace of a spiritual gift. For although Saul, when he was anointed, had received such a grace, when he was *given unto a reproved sense* and agitated by an evil spirit, he would have nonetheless lost it, and David still wanted him to be have and be held in reverence and fear. And so reverence and honour was owed to him, not because of the grace of a spiritual gift, but because he received such anointing at God's command, and because royal dignity (from which he was not deposed while he lived) was conferred upon him through it. In fact, Samuel said this to Saul in 1 Samuel 15: *Because you have abandoned the word of the Lord, the Lord has cast abandoned you so that you are not king*. Similar passages should not be understood in such a way that Saul was deprived on his kingdom at that time, but so that the sentence was given then so that his /163/ descendents would not reign after him. For, so what follows is explained in the *History*: *'The Lord has rent the kingdom of Israel from you today: that is, from your descendents.'*²⁵ Hence, just like that which immediately follows—*And he gave it to a neighbour better than you*—should not be understood that, at the time when Samuel uttered those words the kingdom was given in fact to David, but because it was ordered in divine foreknowledge that it was going to pass to David himself following the death of Saul and completely removed from Saul's descendents, the preceding words should be understood in a similar way, such that Saul's sons were not going to reign after him. And so, according to an ordination of God, Saul was going to reign for as long as he lived; David held him in reverence and honour on that account, for he was not

cf. 1 Sm. 16:10–15

Ro. 1:28

cf. 1 Sm. 24:5–12

1 Sm. 15:23

1 Sm. 15:28

1 Sm. 15:28

22. See §.5.2.6 on p. 129. 23. See §.5.7.20 on p. 135. 24. See §.5.7.20 on p. 135. 25. Peter Comestor, Hist. schol., 1 Sm 15 (PL 198:1310)

to be deprived of his kingdom by him, nor slain. Certain other kings were due to be slain by a just judgment of God; and for that reason he did not hold them in as great reverence or honour.

To the [second reason](#)²⁶ it is responded that if the kings of England and France have the grace of curing people from scrofula, they do not have it due to their regal anointing because many other kings are not adorned with such a grace though they are anointed. Rather, they have such a grace for some other reason, which is hidden from us; And we cannot investigate [why they have it]. [25]

And so that opinion holds that, although he intends on the basis of a good intention and plan whereby the king is anointed, consecrated, and crowned, to undertake these actions for the honour of God and the utility of the people subject to him, if he is in charity, he may merit grace or an increase in grace, they still not need to confer some sort of spiritual gift, but they can benefit spiritually due to the good intention. All solemnities, even corporeal ones, which are done for new soldiers, weddings, wars, installment ceremonies of prelates and secular leaders (*potestates*) can benefit spiritually in the same way, even for masters when they incept (*magistrantur*), and for various other things that are done with a solemnity—if they occur without a mixture of vanity, dissolution, or wickedness with the appropriate circumstances for the honour of God and so that such things (that are deemed praiseworthy, useful, and necessary) are held with the owed devotion and veneration. [26]

CHAPTER X

According to the [first opinion](#),²⁷ we respond to the allegations induced for the [second opinion](#).²⁸ For it is said to [the first](#)²⁹ that one can attain the grace of a spiritual gift even through the sacraments, /164/ or sacramental things humanly instituted. For the sprinkling of blessed water seems to be only humanly instituted, and yet through it someone attains the grace of a spiritual gift. [27]

Similarly, through exorcism and catechism one attains the grace of spiritual gift. For, through catechism, the catechized individual acquires the rudiments of the faith; and through exorcism the power of the Devil is [28]

26. See §.5.7.21 on p. 136. 27. See §.5.7.20 on p. 135. 28. See §.5.8.22 on p. 136.

29. See §.5.8.22 on p. 136.

expelled from the exorcized. Hence Rhabanus says of catechism, and the Master of Sentences repeats in Book 4, distinction 6:³⁰ 'Before baptism the office of catechizing ought to occur in a man, so that the catechumen of the faith receives the rudiments, and learns to whom he is thenceforth made a debtor.' On exorcism (as the Master recites in the same place), Augustine says,³¹ 'Little children are perfumed and exorcized so that the power of the Devil may be driven from them, lest he strive even now to subvert them so that they not receive baptism.'

[29] Similarly, since they are ecclesiastical orders, an individual does receive the grace of a spiritual gift through the offices of subdeacon or acolyte (*subdiaconatum et acolitatum*), and yet they are not divinely, but only humanly instituted. Hence it is held in di. 21 of the *Decretum*:³² 'We read that the Levites were ordained by the apostles, of whom the greatest was blessed Stephen: the Church established for him subdeacons and acolytes in the days following.' But the Gloss objects against the text there, saying:³³ 'It does not seem to speak the truth, for some were subdeacons in the time of the apostles, as in di. 35, *Episcopus*,³⁴ for' that chapter 'is a canon of the apostles.' And it responds, saying: 'But say that the office of subdeacon existed then, but was not yet a sacred order.' It seems from this that the office of subdeacon was divinely, not humanly instituted.

[30] It can be said according to that opinion that God did not directly establish the office of the subdeacon, but that the Church did it for herself, though it did exist at the time of the apostles, because it could be established even in the time of the apostles by other prelates (with the apostles not contradicting, but approving it). It could even be instituted by the apostles themselves, not insofar as it was specially inspired by them (just as the establishment of the Levites was divinely and exclusively inspired for them), but insofar as they considered through human foresight (in which they excelled) that it would be expedient for the Church. And, for that reason, the institution /165/ of the office of subdeacon is not of as great authority as the establishment of the Levites. For not all apostolic acts are of equal authority, nor is the same veneration to be shown to them, just as not all apostolic dicta and writings are of the same authority, and one need not render the same fear and honour to them. For some of

30. Peter Lombard, *Sentences* 4.6–7, ed. Quaracchi, p. 784; Rhabanus Maurus, *de inst. clericorum* 1.25 (PL 107:310). 31. Lombard, loc. cit.; Augustine *de symbola et fide* 1.2 (PL 40:628).

32. D. 21 c. 1 (1:67). 33. *Gl. ord.* ad D. 21 c. 1, s.v. 'subdiaconos'.

34. D. 35 c. 1 (1:131).

their dicta and writings are contained in the canon of the Bible; others are not contained there. The writings that are in the canon of the Bible are of greater authority than the others, as is maintained throughout the entirety of di. 9.³⁵ Thus, the dicta and writings of the apostles that are contained in the canons of the apostles, of which a great doubt and altercation customarily exists about whether they should be received and in what way—as is clear in di. 16³⁶ are not of as great authority as other of their writings and dicta. Therefore, they can be attributed to human prudence, and not direct divine inspiration.

To the second allegation adduced for the second opinion in c. 8, one responds that the king obtains the grace of a spiritual gift through regal unction in the Old Testament, if he does not posit an obstacle, especially unfaithfulness or contempt. On this account, faithful kings obtained such grace, not faithless ones. [31]

35. D. 9 cc. 1–11 [16–18]. 36. Cf. D. 16 cc. 1–7 [41–44]

QUESTION SIX

CHAPTER I

- [1] Sixth, I ask whether a succeeding hereditary king is subject in anything to the person who crowns him. There can be contrary opinions regarding this question. [1] First, that a succeeding hereditary king is subject to his crowner in something. It can be alleged for this [[proposition]] in this way: because the examination of some person does not pertain to an inferior or an equal, but to a superior, a succeeding hereditary king is subject in some way to the one to whom the examination of the person of the king himself pertains. Indeed, the examination of the person of a succeeding hereditary king pertains to his crowner, as Innocent III testifies, who, as it is read in *Extra, de electione, Venerabilem*, says:¹ 'For, it is observed regularly and generally, that the examination of a person belongs to the one to whom the imposition of hands pertains'. Therefore, since the imposition of hands pertains to the crowner of the succeeding hereditary king, it follows that the examination of the person belongs to him, and, consequently, such a king is subject to his crowner in something. /166/

CHAPTER II

- [2] Another opinion [1] is that a succeeding hereditary king is subject in no way to his crowner. It can be alleged for this [[proposition]] in this way: [a] A succeeding hereditary king is subject in nothing to the one who allots no right or power to such a king. Indeed, the crowner allots no right or power to a succeeding hereditary king; therefore, etc. [b] Likewise, a succeeding hereditary king does not hold his kingdom from his crowner: first, because he is not his vassal since he does not offer him an oath of homage; second, because the predecessors of the succeeding hereditary king, who were unbelievers in many kingdoms (as is clear in the kingdoms of the Franks, English, and many others) did not hold their kingdoms from any crowner; and, consequently, nor do succeeding hereditary kings hold those same kingdoms from some crowner. For, otherwise, they would not be true successors of the first kings, and the faithful kings would be of a lower condition than were those faithless ones. Therefore,

1. X 1.6.34 (2:80).

the succeeding hereditary kings were subject to their crowners in nothing. [c] Likewise, no one is subject to one from whom he receives an oath of subjection and fidelity; but the crowner of a succeeding hereditary king does offer an oath of subjection and fidelity regarding the temporals that he holds from the king (just as do the other bishops of the kingdom). Therefore, the king is subject to his crowner in nothing.

[d] Likewise, being crowned is no more proof of subjection than [3] being annointed, consecrated, and ordained. But being annointed, consecrated, and ordained are not proof of subjection. For the pope, if he is not a priest or bishop when he is elected, is annointed, consecrated, and ordained later. And yet he is not subject to his ordainer in anything. A metropolitan, also, is consecrated by his suffragans to whom he is not subject. A bishop, too, is consecrated by other bishops to whom he is not subject. Many clerics, even, having dimissorial letters from their bishop are not ordained by their own diocesan, [[a person]] to whom they are not subject. Boys, too, of kings and others, both noble and and base-born (*ignobilium*), are baptized and annointed by priests to whom they are not subject. Therefore, being crowned is that much less proof of subjection.

[e] Likewise, many emperors were crowned by inferiors to whom they [4] had not been subject. Therefore, it cannot be proved that he is subject to someone by the fact that a succeeding hereditary king is crowned by him. [f] Likewise, the crowner of a king allots less right and power to the crowned king than electors do for an elect and those who make an emperor or king do for an emperor or king. But although an elect may not have right except through the electors, he is still not subject to them. For the pope, who has no right unless he be elected canonically, is not subject to the electors; /167/ nor does a bishop, other prelate, or secular official (*potestas*) frequently have any right unless he be duly (*rite*) elected; and yet they are not subject to the electors. Even the emperor, to whom the people transferred its power, did not have imperial right except from the people, and yet he was not subject to the people.² Similarly, the earliest kings of various kingdoms, who were voluntarily made kings by the people, did not have a regal right except by the people, and yet they were not afterwards subject to the people. Therefore, a succeeding hereditary king is that much less subject to his crowner.

2. Cf. §.4.9.58 on p. 122, above.

QUESTION SEVEN

CHAPTER I

[1] Seventh, it is asked whether a king would lose his title and regal power because he was crowned by an archbishop other than the one who was accustomed of old to do the crowning (or place the crown on him). When it says ‘he would lose his title because’ and so on, the question only seems to ask whether a king, if he were crowned by someone other than by the one who was accustomed to crown him, would, by that very fact, lose his title or regal power without [[any]] sentence. There does not seem to be as great a difficulty when the question is understood in this way as there would be if it were asking whether, he must or deserves to lose his title or regal power on this account with a sentence. And, for this reason, in order that a greater occasion for finding the truth, we must investigate whether such a king would deserve to be deprived of his title and regal power for such a fault.

[2] [1] And one opinion is that he does. One can argue for this in the following way. He who does not ascend to a dignity through the door does not acquire any right (*nichil iuris*). Thus, they are simoniacs acquiring ecclesiastical dignities simoniacally: because they do not enter through the door, they have no right. But he who is crowned by one other than he who was accustomed to crown him of old, does not ascent to royal dignity through the door; therefore he has no right, and, consequently, if he acts as a king *de facto*, he ought to be deprived of the royal dignity *de facto*. Likewise, he who ‘should attempt to alienate something of the church by right’ ought to be ‘punished by the loss of his honour’: 17 q. 4 *Quicunque*.¹ But such a king would alienate something by right to the church of that archbishop by whom he was accustomed to be crowned because he would take that right of the church. Therefore, he should be punished by the loss of his honour; consequently, he deserves to lose his title or regal power. Likewise, a king who /168/ ought to be condemned with perpetual infamy as well as incarcerated and deported into exile ought to lose his title and regal power. But such a king, since he is sacrilegious by diminishing or removing the rights of the church, ought to be condemned by perpetual infamy as well as incarcerated and deported

cf. Jo. 10:1

1. C. 17 q. 4 c. 1 (1:815).

into exile: 17 q. 4 *Attendendum*,² 16 q. 1 § *Novarum*.³ Therefore, he ought to lose his title or regal power.

CHAPTER II

[2] There is another opinion, which does say so indistinctly that such a king deserves to be deprived of his title or regal power for such a deed, but posits two distinctions, according to which it responds to the proposed question. [3]

[a] The first distinction is that some archbishop either crowns a king by right or from pure grace. This distinction is proved through this, that some archbishop crowning some king does not belong to him by divine law or natural law. For, as far as concerns natural law, all archbishops are partners and equals (*pares et aequales*); indeed, natural law is common to all: di. 1, *Ius naturale*.⁴ But in divine law, which we have in sacred writings, no distinction is made between archbishop and archbishop. Therefore, if some archbishop licitly crowns someone as king, or he has this [authority] from himself or from another. Not from himself, for by what reason one archbishop can have this from himself, so can another, because there is no greater reason about the one than about the other since all archbishops, especially if one is not under the other, are equals. But if he has it from another—whether he has it from a crowned or to be crowned king, from the people of the kingdom, from the emperor, the pope, from any other man or people, from a college or corporate body, or a community—he can have it from pure grace, which can be revoked at the will of the granter, or by the donation of some right of crowning such a king, which must not be revoked at the will of the granter or his successor, if the one granting in such fashion still has the power of granting such a right that neither he himself nor his successor may revoke it. For, there can be diverse opinions on this, especially regarding the emperor and the pope because, according to one /169/ opinion, neither emperor nor pope can grant anyone such a privilege, right, or liberty that his successor cannot revoke it; [and,] according to another opinion,⁵ just as the emperor and pope similarly can give temporal things that their successor cannot revoke, so can they [4]

2. C. 17 q. 4 c. 13 (1:818). 3. C. 16 q. 1 d.p.c. 40 (1:773). 4. D. 1 c. 7 (1:2). 5. Cf. *Gl. ord.* ad D. 63 c. 30, s.v. 'viculis' **viculis?**.

grant privileges, rights, and liberties, which their successor cannot revoke. And so, whether the right of crowning a king can be given to someone in this way, it can still be given in such a way that it can be revoked by no one inferior to the giver, and that he can use such a donation without a new donation or grace when the time is appropriate, unless it be prohibited by the granter or his equal. But if some archbishop were to crown a king from pure grace, it would not be the case that he could say that, if⁶ he needed to crown a second king who ought to be crowned, that he would need new grace for this. And so, notwithstanding the variety of opinions regarding the power of granting the right of crowning a king, the preceeding distinction is clear: namely, that the archbishop crowns a king from pure grace or by right.

[5] [b] The second distinction is that such king, crowned by an archbishop other than the one who was accustomed of old to crown him, or who places the crown on him, can be so crowned with or without fault. This distinction is clear from the preceding one, because if such an archbishop—out of pure grace and the donation of the crowned kings (especially with the previous **convening protestation**) or even out of the pure grace of the emperor, the people, or the one who had charge (*ordinare*) of the crowner—crowned the preceding kings, the succeeding king can be crowned by another without fault. For the crowning of a king ought not be deferred for too long a time in favour of an archbishop, especially if such a king, because he cannot exercise royal power before his coronation, because such favour would be unjust, iniquitous, dangerous, and even destructive to the commonwealth. Therefore, it cannot be granted by right. Now, even with that change (*etiam illa vice*), such a king could be crowned with fault by another, if the archbishop had the right of crowning him and no other reason appeared as to why he ought to be deprived of the power of crowning the king: because he is not without fault who deprives another of his right without fault or cause,⁷ especially of a right that does not come from the one who is doing the depriving.

[6] [3] The third distinction,⁸ is that such a king, who is not crowned without fault by another⁹ / 170 / than by the archbishop who was accustomed to crown of old, is either corrigible or incorrigible.

6. Reading *si* for *se*. 7. Cf. VI 5.12 reg. 23 (2:1122); see §.2.2.6 on p. 63, above. 8.

Perhaps Ockham is referring to the second sub-distinction; see §.7.2.3 on p. 144, above.

9. Reading *alio* for *a io*.

CHAPTER III

Diverse articles can be formed according to those distinctions; of these, [7]
the second opinion has to say what it thinks is good.

[1] The first of these is whether one would lose or deserve to lose his [8]
title or regal power if such a king were crowned by an archbishop other
than by the who who was accustomed of old to crown from grace alone
(*pura*) [and] not by right? To this [article] it is said no: because when
one is denied what he has only from grace, he experiences no prejudice.
For ‘someone can detain by his own authority what he did not supply
even though he paid it a long time ago’, as the gloss alleges in 10 q. 3,
Quia cognovimus.¹⁰ For time does not introduce an obligation: *Extra, de*
censibus, Peruenit,¹¹ and what someone gives from a grace ‘he can revoke’,
as is gathered in *Extra, de postulatione praelatorum, Bonae memoriae*; in
fact, no one ‘is bound to produce grace, unless he intends that no one
unwilling is compelled to produce a benefit from his own [things]: 10 q.
2, *Precariae*’.¹² Therefore, if some archbishop was accustomed to crown a
king only from a grace, the king, if he is crowned, he does not deserve to
lose anything on that account.

But someone will ask: what if some archbishop was accustomed [9]
to crown such a king, and he does not know whether he had crowned
him from a grace or by right—should a king be bound to be crowned by
him? One can respond to this that a king is bound to be crowned by that
archbishop because the archbishop can claim (*allegare*) prescription for
himself.

CHAPTER IV

[2] The second article can be whether, if some archbishop has to crown [10]
such a king by right, can a king deprive such an archbishop of the this
sort of right of crowning for the fault of the archbishop or with cause?
And there can be a variety of opinions on this. [a] First, that a king can
deprive the archbishop of this sort of right of crowning for fault and
with cause. That [it may be done] for fault is proven in this way. The

10. *Gl. ord.* ad C. 10 q. 3 c. 6, s.v. ‘presumpta’. 11. *Gl. ord.* ad X 3.39.5, s.v. ‘census ignorantiae’. 12. **check**. Conflated from *Gl. ord.* ad X 1.5.3, s.v. ‘ex gratia’ and *Gl. ord.* ad X 1.5.4, s.v. ‘de gratia’. The quoted citation is to C. 10 q. 2 c. 4 (1:620).

right seems to be the same, regarding the revocation of the given right and the revocation of the given thing, because the reason seems to be the same for both. /171/ Indeed, 'where the reason is the same, the right ought to be the same', as noted in *Extra, de constitutionibus, Translato*.¹³ But a thing given to someone on account of fault and ingratitude can be revoked: *Extra, de donationibus*, final chapter;¹⁴ therefore, similarly, the right of crowning can be revoked by the king on account of fault and ingratitude.

[11] [b] Another opinion is that this sort of right cannot be revoked by a king, because he is impious (*sacrilegus*) who wishes to revoke what were granted to the churches: 17 q. 4 *Sunt qui* and c. *Sacrilegium*.

[12] [c] Another opinion replies by means of a distinction. For, either such an archbishop has a right of crowning such a king from the previous kings of this king, from a people, or from a superior (namely from the emperor or another to whom such kings are subject). If he has a right of crowning from the kings of his same kingdom, the king can deprive the archbishop for the fault of the archbishop by revoking this sort of right—particularly one repeated by many archbishops, [and] especially if it appears probable (*probabiliter*) from some causes that the successors will be imitators of the fault of their predecessor—such a right, which was gathered liberally from his predecessors (particularly if the predecessors of the king [have] the power of revoking), then they in no way abdicated from themselves the right of crowning by transferring it to the pope or someone else. For, if the deprived individual can revoke the given thing on account of certain faults, a king who has been established in the highest secular dignity after the imperial one, can revoke the things and rights given to him on account of certain faults. However, if an archbishop does not have a right of crowning from the kings of such a kingdom, but from the emperor or another to whom such kings are subject, a king cannot revoke such a right; but an emperor or one superior to the king can revoke such a right of crowning for such a fault. And, similarly, he can, with cause, revoke the right of crowning from a king, emperor, or another person superior to the king, because just as someone can be deprived of his right for fault, so is someone deprived of his right

13. *Gl. ord.* ad X 1.2.3., s.v. 'quod de uno'. 14. X 3.24.10 (2:537).

with cause even without fault, just as it is expressly had in the laws and canons.¹⁵

One may respond in various ways to the allegation adduced for the second opinion written *above*,¹⁶ when it is said that he is impious who wishes to revoke what were granted to the churches. [a] In one way, it is said that he is impious, who wishes to revoke without fault and without cause what were granted to the churches. For, however much some things are granted, if they begin to be harmful, they should be rooted out. For, if 'what lacks reason' is to be 'rooted out' (di. 68 *Chorepiscopi*),¹⁷ what is pernicious and harmful must be rooted out that much more. For this reason, /172/ if what were granted to the churches, whether they be rights, privileges, things, or liberties, if they begin to be onerous, they ought to be rooted out. For, as the gloss says, alleging on that chapter, *Chorepiscopi*: 'Whatever be instituted, by whatever the author, and however long it has obtained, if there is no underlying cause, or if it is onerous, it should be rooted out.'¹⁸ And, thus, in di. 63, § *Verum*, one reads the following: 'A great authority is held in the Church, so that, if some did something from our elders and predecessors, which could exist at that time without fault, and afterward they turned to error and superstition, let them be destroyed by their posterity with great authority and without any delay'¹⁹—where the gloss says on that word 'destroy': 'Argument that successors must change their actions and institutions of their predecessors, even good ones, if they see they can be pernicious as an example.'²⁰ Therefore, similarly, if those things which are conceded begin to be pernicious and evil, they ought and can be revoked.

[b] Likewise, 'he deserves to lose a privilege, who abuses the power permitted him': 11 q. 3 *Privilegium*;²¹ *Extra, de regularibus, Licet*.²² If, then, churches abuse the privileges granted to them, they deserve to lose them.

[c] Likewise, an ecclesiastical person ought to lose a clerical privilege on account of a fault. Therefore, similarly, a church can lose a privilege

15. Cf. VI 5.12 reg. 23 (2:1122); §.1.7.54 on p. 23. 16. See §.7.4.11 on p. 147. 17. D. 68 c. 5 (1:255). 18. *Gl. ord.* ad D. 68 c. 5, s.v. 'ignorans'. 19. D. 63 d.a.c. 29 (1:244). 20. *Gl. ord.* ad D. 63 d.a.c. 29, s.v. 'destruantur'. 21. C. 11 q. 3 c. 63 (1:660). 22. X 3.3.1.18 (2:576).

on account of a fault, because the same right is in the whole and in the part.²³

- [16] [d] Likewise, a church can lose a privilege and its right on account of the favour of another church: 22 di., *Renovantes*.²⁴ Therefore, a church can that much more lose its privilege, since someone is to be deprived much more of his own right on account of his own fault than on account of the honour of another. For, just as, 'one should not be enriched by the injury or loss of another', *Extra, de regulis iuris, Locupletari*, in the Sext;²⁵ and 'if one cannot be helped unless another be injured, it is more advantageous that neither be helped than the other be burdened': 14 q. 5, *Denique*;²⁶ and 'no one is to be looked after at the injury of another': 22 q. 2, *Primum*;²⁷ thus, someone is not to be honoured at the dishonour of another. Wherefore if, although not withstanding that neither church nor person ought to be regularly deprived of his rights and privileges for the favour of another, he still ought to be deprived on occasion (*casualiter*): since faults ought to be punished regularly and not only casually, much more strongly can (and ought) churches licitly be deprived of their privileges, rights, and liberties granted to them on account of fault on occasion. /173/

- [17] [e] Likewise, the privileges of those who do not fear to ignore (*obviare*) the precepts of their superior are to be curtailed, *Extra, de privilegiis, Dilecti*,²⁸ where a gloss says, over the word 'decurtabimus':²⁹ 'For, one's' rights 'are not to be preserved, who does not fear to violate the right of another'. And so, churches can be deprived of things granted to them on account of the fault of disobedience and irreverence.

- [18] [f] Likewise, a secular community can be justly deprived of the privilege and honour granted to it on account of fault. In fact, a city is deprived of its episcopal dignity on account of the killing of its bishops: 25 q. 2, *Ita nos*.³⁰ In this case, the church itself was also deprived of its episcopal honour—not on account of the offence (*delictum*) of the cathedral church, but on account of an offence of the city. Therefore,

23. Cf. 3.1 Dial. 2.1, with references to X 3.5.8 (2:466) and C. 14 q. 6 c. 14 (1:744). 24. D. 22 c. 6 (1:76). 25. VI 5.12 reg. 48 (2:1123). 26. C. 14 q. 5 c. 10 (1:740). 27. C. 22 q. 2 c. 8 (1:870). 28. X 5.3.4 (2:850). 29. *Gl. ord.* ad X 5.3.4, s.v. 'decurtabimus'. 30. C. 25 q. 2 c. 25 (1:1018).

much more strongly can a church be deprived of things granted to it on account of its own offence.

[g] Likewise: 'he seeks his due in vain who does not pay what he owes', as the gloss alleges, in di. 95, *Esto*;³¹ to prove this, the gloss alleges various canons.³² And so, if the churches do not pay the laymen they owe, then they seek in vain for their rights to be observed by them. [19]

[h] Likewise, laymen, especially emperors, kings, princes, and other eminent persons, who glorify (*illustraverunt*) their churches with honours, rights, privileges, and liberties from devotion alone, are not more subject to such churches than subordinates to their lords, because the churches do not exercising lordship over such laymen according to that verse of Peter, Not *lording over the clergy*; and, consequently, much less over the people. But, as the gloss says over the chapter *De forma* in 22 q. 5:³³ 'one is bound to his subordinate by the same faith as is a subordinate to his lord, as in di. 95 "Esto subiectus", *Extra, de iureiurando*, "Pervenit", and 32 q. 6, "Nichil iniquius", and 32 q. 6, *Nichil iniquius*, and if you did not do it, he is deprived of the lordship that he has over a vassal, and he crossed over the land to his superior, as in the book *De feudis, Quemadmodum feudo amittatur*'.³⁴ Therefore, churches can justly be deprived of things granted to it that much more if there were not faithful laymen who grant them honours, rights liberties, and privileges. [20]

[i] Likewise, faith is not to be kept (*servanda*) for an enemy who does not keep the faith, since there is no faith kept for one who lives against the faith: *Extra, de iureiurando, Pervenit*.³⁵ And so, if churches begin /174/ to persecute them while not keeping the faith for laymen, and, consequently, they can be deprived of what was granted to them. [21]

But perhaps someone will respond to all these things in one way, saying that, although people can commit a fault for the church, nevertheless churches cannot incur any fault; for, just as the church cannot err against the faith, so a church cannot be stained by some fault since it is without stain and without wrinkle. But this response is attacked. For, although the universal church, which is a general congregation of all the faithful, so it cannot err against the faith, nor be stained by mortal fault such that there be no one in true faith and charity. Still, particular churches can err against the faith and good customs in such a way that they should be [22]

cf. Eph. 5:27

31. *Gl. ord.* ad D. 95 c. 7, s.v. 'me'. 32. C. 28 q. 1 c. 7 (1:1081); C. 32 q. 5 c. 15 (1:1136); C. 32 q. 6 c. 2 (1:1139); D. 9 c. 10 (1:118); C. 10 q. 1 c. 12 (1:615); C. 22 q. 5 c. 18 (1:887); C. 18 q. 2 c. 18 (1:834). 33. *Gl. ord.* ad C. 22 q. 5 c. 18, s.v. 'vicera'. 34. *Lib. feud.* 1.5. 35. X 2.24.3 (2:360).

abandoned by catholics, as blessed Ambrose witnesses, who, as it is had in 24 q. 1 *Quae dignior*,³⁶ ‘If there is some church, which should reject the faith and not possess the basics (*fundamenta*) of apostolic preaching, it must be abandoned lest it be able to cast any blemish of perfidy.’ And so, churches can be deprived of what have been granted them on account of fault.

- [23] Otherwise it is said that, although no church should be deprived of what have been granted to it, still some person of the church should be deprived of what was granted to the church on account of fault. And, for that reason, each archbishop can be justly deprived of his power of crowning a king on account of fault, although the church should not be deprived of such power.

CHAPTER V

- [24] The third article can be whether such a king, who was crowned without his fault by an archbishop other than the one who was accustomed to crown of old, or put the crown on him, would lose or be worthy to lose, by this, his title or regal power, although he in no way appears obstinate and incorrigible in fault.

- [25] And the *aforesaid opinion*³⁷ holds that it is not because such a fault of the king would be sacrilege—not indeed by reason of the person of the sort of sacrilege someone commits when strikes or kills a cleric or religious person, but would only be sacrilege by reason of public right, because, sc., such a king would be a transgressor in this deed of public right, which consists ‘in sacred matters, priests, and civil offices’:³⁸ because, viz, he would take away the archbishop’s right, who was accustomed to crown the king. Now, the penalty of this sacrilege is a deposition from the kingdom neither according to secular laws nor according to the canons. /175/ Therefore, such a king, if he is corrigible, is not worthy on account of such a fault to lose his title or regal power, just as he is not worthy of such a penalty on account of other species or modes of sacrilege.

36. C. 24 q. 1 c. 26 (1:976). 37. See §.7.2.3 on p. 144. 38. D. 1 c. 11 (1:3).

CHAPTER VI

The fourth article can be whether a king is worthy of such a penalty on account of such a fault if he is incorrigible. And there is one assertion that he is. One can argue for this in the following way. As the gloss says on the chapter *Si papa*, in di. 40:³⁹ 'If his crime is at all (*quodcunque*) notorius and the church is thereby scandalized, and he is incorrigible, then' he can 'be accused', and, consequently, be deposed from the papacy, for 'a criminal accusation is intended for capital punishment, i.e., for degradation': *Extra, de accusationibus, Qualiter* 2.⁴⁰ Therefore, by that much more is everyone else, whether he be adorned with regal or any other dignity, is worthy to be deposed from his dignity for any crime if he is incorrigible. From this one concludes that such a king, if he is incorrigible, is worthy to lose his title or regal power for such sacrilege. [26]

Secondly, in this way: Each person, whether layman or cleric, of whatever state he is, including the pope, is to be deposed from his dignity on account of his heresy. For, the gloss says of others [[excommunicated]] by the pope, *Extra, de haereticis*, on c. *Excommunicamus*,⁴¹ that 'pope can depose all from their dignities on account of heresy, both laymen and clerics'. But such a king is excommunicate on account of such sacrilege, or can be excommunicated, and if he persists for over a year, incorrigible, in excommunication, afterwards he will be counted among the heretics, especially if he was excommunicated by the pope: because, if he was excommunicated by the pope and he is excommunicated, he will be numbered among the schismatics. Now, a schismatic persevering in his schism is considered a heretic, as is gathered from the gloss on §. 1, 24 q. 1, where it says:⁴² 'On the same day, regarding the schismatic, especially since there can be no schism without heresy (except perhaps in the highest pontiff), as if two were created and both believed that the church is with them'. This seems to be the intention of blessed Jerome, who, as is held in the same *causa*, q. 3 c. *Inter schisma*, says:⁴³ 'there is no schism unless it fashion some heresy for itself, so that it may be seen to have withdrawn from the church'. Where the gloss says:⁴⁴ 'It can be said /176/ that this difference between heresy and schism is one between disposition and habit. For it is called schism first, but when one has pertinacious adhered [27]

39. *Gl. ord.* ad D. 40 c. 6, s.v. 'a fide devius'. 40. X 5.1.24 (2:746). 41. *Gl. ord.* ad X 5.7.13, s.v. 'absoluta'. 42. *Gl. ord.* ad C. 24 q. 1 d.a.c. 1, s.v. 'Qui vero'. 43. C. 24 q. 3 c. 26 (1:997). 44. *Gl. ord.* ad C. 24 q. 3 c. 26, s.v. 'et schisma'.

afterwards to his sect, it is called heresy.' Hence the gloss speaks, assigning a reason why, as it was said, the pope can be accused from any notorious crime if the church may be scandalized thence and if he is incorrigible: 'for contumacy is called heresy'. From this, it can be gathered that such a king, if he is incorrigible and persists in his excommunication (especially one produced by the pope), is to be counted among the heretics. For this reason he deserves to lose his title or regal power.

CHAPTER VII

[28] Another assertion is that a king, although he is incorrigible, should not lose his title or regal power for such a sacrilege. One can argue for this in the following way. Such a king is incorrigible and cannot be deposed from the royal dignity without a most grave of scandal. However, in order to avoid a scandal, the rigour of judgment ceases, since even on account of scandal one must pull back from right: *Extra, de praescriptionibus, Nichil*.⁴⁵ And on account of scandal, even food, which is more necessary than that such an incorrigible king lose his title or regal power, should be sent away, as the Apostle says in 1 Corinthians 8: *If food scandalizes my brother, I shall not eat meat in eternity, lest I scandalize my brother*.^{1 Co. 8:13} Therefore, although such a king were worthy to lose his title or regal power, he still must not lose it.

[29] But perhaps someone will respond to this, saying that, just as when a scandal is born not from ignorance or infirmity, which is a scandal of pupils, but from malice, which is a scandal of the Pharisees, temporals are not to be sent away on account of scandal, so also on account of scandal, which is born from malice, the rigour of justice is not to be sent away, because this would harm the common good. For it would given the audacity of being delinquent to the wicked, for 'the facility of forgiveness allot[s] the incentive to be delinquent': *Extra, de vita et honestate clericorum, c. Ut clericorum*.⁴⁶ But if such a king were incorrigible, the scandal, which arose from his deposition from the kingdom. Wherefore, then, such a punishment ought not be overlooked.

[30] But, that response is attacked, because, as it is held in di. 1, *Ut constituetur*,⁴⁷ 'Where not the danger of this or that man lies, but the slaughter

45. X 2.26.2 (2:382). 46. X 3.1.13 (2:452). 47. D. 50 c. 25 (1:187).

of the people through grave fissures of dissension, something must be taken from the severity, so that /177/ sincere charity may come to the rescue of the greater ills in need of healing.' Therefore, whether a scandal arises from ignorance and infirmity or from malice, both temporals and the severity of punishment should be forsaken (*dimitti*), if the slaughter of the people lies: because we should love more the life of the people than the punishment of a single wicked individual or few and small temporal goods. Now, when they cannot be had simultaneously, what is to be loved less should be forsaken for the sake of what should be loved more. And so, if the slaughter of the people should threaten because of the deposition of such a king from his title or regal power, due to the scandal—however so much it might arise from malice—such severity is to be forsaken.

QUESTION EIGHT

CHAPTER I

- [1] Eighth, and lastly, it is asked whether a canonical election of princes-elect would put, by nature, as much regarding the elect than as does legitimate succession give a succeeding hereditary king. On this question, which seems to be related (*uicina*) to the fourth question, there is a variety of opinions. One is holding the negative side; concerning which there are diverse modes of proposing (*ponendi*).

ENGLISH–LATIN GLOSSARY

NB: This feature is experimental and probably still buggy...

The following list is meant to help readers who are interested in Offler's Latin edition of the *Octo quaestiones* see at a glance how I have translated certain frequently occurring terms. It is likely that Ockham did not mean to draw a strong distinction between synonymous terminology (cf. McGrade and Kilcullen 1995, 337–38), but I have tried to offer a unique English word or phrase for two reasons: first, it makes it easier for readers of this translation to decide for themselves how much of a difference Ockham may have meant by a given term; second, for T_EXnical reasons, it will make indexing (at this stage, still a desideratum) much easier. Readers may also be interested to note that the choices I have settled on are not always the same as those chosen for the other translations of Ockham's political writings, but I do not think they are at odds with one another either.

abdication • <i>abdicatio</i>	de facto • <i>de facto</i>
ability • <i>facultas</i>	despotic • <i>despoticus</i>
abuse (v.) • <i>abuti</i>	dignity • <i>dignitas</i>
administrate • <i>administrare</i>	discharge • <i>fungor</i>
administration • <i>administratio</i>	dispose • <i>disponere</i>
assume • <i>assumere</i>	domination • <i>dominatio</i>
assumere • <i>assumere</i>	dominative • <i>dominativum</i>
authoritatively • <i>potestative</i>	duke • <i>dux</i>
authority • <i>auctoritas</i>	elevate • <i>assumere</i>
by right • <i>de iure</i>	emperor • <i>imperator</i>
casually • <i>casualiter</i>	exercise • <i>exercitium</i>
coercive • <i>coactivum</i>	faithful • <i>fidelis</i>
command (v.) • <i>imperare</i>	faithless • <i>infidelis</i>
command • <i>praeceptum</i>	fullness • <i>plenitudo</i>
commonwealth • <i>respublica</i>	generally • <i>generaliter</i>
compose • <i>condere</i>	govern • <i>gubernare</i>
control • <i>ditio</i>	government • <i>regimen</i>
corporate body • <i>uniuersitas</i>	imperial authority • <i>imperium</i>
custom • <i>consuetudo</i>	imperial • <i>imperialis</i>
custom • <i>mos</i>	in charge, to be • <i>praeesse</i>
deed • <i>factum</i>	in charge, to put • <i>praeponere</i>

- judge • *iudex*
 judgment • *iudicium*
 jurisdiction • *iurisdictio*
 justice • *iustitia*
 kingdom • *regnum*
 king • *rex*
 law, canon • *ius canonicum*
 law, civil • *ius civile*
 law, divine • *ius divinum*
 law (*ius*) • *ius (law)*
 law, human • *ius humanum*
 law • *ius*
 law • *lex*
 law, natural • *ius naturale*
 law of nations • *ius gentium*
 law, of nature • *ius naturae*
 layman • *laicus*
 leader • *rector*
 liberty • *libertas*
 lord • *dominus*
 lordship • *dominium*
 lordship, to exercise • *dominari*
 office • *officium*
 order (*n.*) • *ordo*
 order (*v.*) • *ordinare*
 ordinance • *constitutio*
 ordinance • *constitutio*
 ordination • *ordinatio*
 ownership • *proprietas*
 papacy • *papatus*
 particular • *specialis*
 people • *gens*
 people • *populus*
 pope • *papa*
 possession • *possessio*
 possess • *possidere*
 powerful • *potens*
 power • *potentia*
 power • *potestas*
 preside over • *praesidere*
 priests • *presbyteri*
 prince • *princeps*
 principate • *principatus*
 private • *private*
 properly • *proprie*
 queen • *regina*
 reason • *ratio*
 regal • *regalis*
 regularly • *regulariter*
 reign • *regnare*
 religious • *religiosus*
 religious order • *religio*
 right • *ius*
 rights • *iura*
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 simple person • *rusticus*
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 tax • *vectigal*
 translated • *transfero*
 translate • *transfero*
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 translation • *translatio*
 tyranny • *tyrannis*
 use • *usus*
 utility • *utilitas*
 virtue • *virtus*

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COLOPHON

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