THE RELIGIOUS ROLES OF THE PAPACY: IDEALS AND REALITIES
1150-1300

edited by

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If, for the moment, we take our stand at the end of the thirteenth century, when the college of cardinals had perhaps reached the apogee of its development, we shall find ourselves in the presence of an oligarchy of great dignity, influential in the distribution of a large amount of patronage, exerting wide political influence, and viewed at the time, whether with favour or not, as men of great wealth and power. We shall also be confronted with some well developed metaphors about the successors of the apostles, pillars of the church of God; part of the pope’s body; the cardines—the hinges—upon which the great door of the universal church swings; senators of the church, reminiscent of the senators of the Roman empire now absorbed into the Christian body politic; patres conscripti, as Francesco Petrarca would later call them, of the Christian church. There were other more material signs of their importance: the red hat that Innocent IV allowed them to wear with the many other symbols that marked them off from other churchmen;
and their display of high rank in the large number of attendants who accompanied them in public, churchmen and laymen alike, who by the fourteenth century would dress in the livery of their masters. They enjoyed a special legal status given them by Pope Honorius III who defined an attack on the person of a cardinal as *lèse majesté*. There were also institutional features that underlined their status, the most important being their very own *archa*, or common treasury, into which went half the regular revenues of the Roman church to be shared equally by all the cardinals present in the papal court.

Whatever the definition of the papacy that the cardinals now entertained, it had been shaped by their relationship with the pope over a long period of time, from the eleventh century on. Originally marked out because they performed special liturgical services in certain Roman basilicas, the cardinals acquired great importance as a group after they were given sole control of papal elections. Beginning in the reform period of the eleventh century, they were continuously in the presence of the pope, assisting and advising him. As individuals they performed missions outside Rome on his behalf; some wrote treatises in support of the reform ideas being championed by the Roman church. Pope and cardinals were in constant consultation, and it would not be long before the cardinals began to take on administrative and judicial roles which gave to their title “cardinal” a new significance.

The cardinals had two functions that determined the way in which they came to view the papal office and their part in it: as papal advisers; and as papal electors. There was never any doctrine on the college of cardinals that was universally acceptable, and opinions on the precise nature of both their electoral and advisory functions would tend to change during our period. It

1245], anno secundo, Cluniacum ivit cum rege Francie et ipsius fratribus locuturus; ubi domini cardinales primo capellos rubeos receperunt. In ipso concilio fuerat ordinatum. This *ms* was owned by Francesco Petrarca, who wrote in the margin at this point: “pillei rubei patrum conscriptorum.” For Cardinal Luca Fieschi’s white mule, see K. H. Schäfer, *Die Ausgaben der apostolischen Kammer unter Benedict XII, Clemens VI, und Innocenz VI (1334-1362),* Vatikanische Quellen zur Geschichte der päpstlichen Hof- und Finanzverwaltung, 1316-1378, 3 (Paderborn, 1914), p. 47.

5 C. Coquelines, *Bullarium... Romanorum pontificum amplissima collectio* (Rome, 1740), 3: 239, no. 76.


was assumed by the cardinals themselves, however, that the Roman church, the head of all other churches, comprised the pope and themselves. They were therefore at one with the pope in encouraging the development of the authority of the Roman church, which could only enhance their own dignity and authority. It was their union with the pope, the product of two hundred years of intimate collaboration, that near the end of our period, in the second half of the thirteenth century, would allow the great canonist Hostiensis (Cardinal Henry of Susa) to say with an air of impressive authority: “today the Roman church holds that there is no greater dignity than that of the cardinalate, since the cardinals together with the pope judge all, but cannot themselves be judged by anyone other than the pope and their colleagues.”

ECCLESIA ROMANA

There is much evidence to indicate that the central direction of the church in the twelfth century was undertaken by the pope only in the closest cooperation with his advisers. Increasingly, the papacy as such was referred to as “papa et cardinales.” While cardinals did not lack ideas about the papal office or their role as part of it, such ideas rarely received direct expression. Consequently we often have to search for them as they are reflected in events. We are fortunate, however, in one exception, an almost unanimous expression of the cardinals defining the Roman church, made at the very beginning of our period in the middle of the twelfth century. It was reported by Otto of Freising in his Deeds of Frederick Barbarossa, in the midst of his discussion of the synod of Rheims in 1148. This was the synod presided over by the Cistercian pope Eugenius III, in which Bernard of Clairvaux and others sought the condemnation of Gilbert, bishop of Poitiers. Bernard’s activities disturbed and upset the cardinals, who complained to Eugenius “as though with one voice”:

8 Hostiensis, Comm. ad Decret. 2.24.4: “... papa et ipsi [cardinales] romanam ecclesiam consistunt....” The identification of pope and cardinals as the Roman church was already a commonplace when enunciated by the canonist Huguccio late in the twelfth century: “Romana ecclesia dicitur papa et cardinales,” cited in B. Tierney, Foundations of the Conciliar Theory (Cambridge, 1955; repr. 1968), p. 42.
9 Comm. ad Decret. 3.5.19.
11 From the beginning of the pontificate of Eugenius III it was a rare exception when references to the pope’s taking advice implied prelates other than the cardinals (Maleczek, Papst und Kardinalskolleg, pp. 307-308).
You should know that, having been elevated to the rule of the entire church by us, around whom, like pivots [cardines], the axis of the church universal swings, and having been made by us from a private person into the father of the universal church, it is necessary from now on that you belong not just to yourself but to us; that you do not rank particular and recent friendships [an allusion to Bernard of Clairvaux] before those which are general and of ancient standing. You must look to the welfare of all and care for and watch over the dignity of the Roman court, as an obligation of your office. But what has this abbot of yours done, and the French church with him? With what insolence, what daring, has he raised his head against the primacy and the supremacy of the Roman see? For it is this see alone that shuts and no man opens, opens and no man shuts [Is 22:22; Apoc 3:7]. It alone has the right to judge matters of catholic faith and cannot, even when absent, tolerate anyone impinging on this unique privilege. But look—these Frenchmen, despising us to our very faces, have presumed to write down their profession of faith relative to the articles which we have been discussing these past few days as though they were putting the last touch to a final definition without consulting us. Surely, if this business were being treated in the east before all the patriarchs—in Alexandria, say, or Antioch—they could establish nothing firm and final without our authority. On the contrary, according to the decisions or precedents of the ancient fathers, it would be reserved to Rome for final decision. How then do these men dare in our presence to usurp what in our absence is not permitted to those more distant and more distinguished? We want you therefore to stand up against this rash novelty, and punish their insolence without delay.\(^\text{12}\)

Eugenius was reminded that he owed his office to the cardinals, that he had become part of another body greater than himself—a body comprising himself and the cardinals, the Roman church. His obligation as pope, derived from what the cardinals viewed as the history of the office, was to exalt the Roman church over the rest of Christendom. Furthermore, it was not to the synod, not to some mere gathering of local churchmen, but to this Roman church, i.e., pope and cardinals, that the definition of faith belonged, than which there could be nothing more primatial. This had been so in the distant past, when the canons of the great eastern councils of antiquity received whatever validity they possessed only from their acceptance by the Roman see; and it was so now in Rheims.

John of Salisbury reported the same controversy, in terms somewhat more favourable to Bernard of Clairvaux. He records the preliminary meeting held

by Bernard and others, including Suger of St. Denis, Theobald archbishop of Canterbury, and Henry of York, where certain doctrinal statements were agreed upon ahead of time, which so irritated the cardinals:

As far as I recall there was not a single cardinal except Alberic bishop of Ostia of holy memory who was not wholeheartedly opposed to the abbot in spirit and deed; ... But as the abbot could not fail to hear of the cardinals' conspiracy, he forestalled them all, and going to the pope as a friend, urged him to put on zeal and manly courage in the Lord's cause, lest the weakness of the body of Christ and wounds of the faith should be found to be in the head. ... it was certain that some of the cardinals were filled with envy of him, and could not refrain from slander.  

What is inescapable is that the cardinals made a careful distinction between the person of the pope and the Roman church, the joint body of pope and cardinals. It was a distinction which threatened to limit the personal authority of the pope. It was not universally accepted, however, or rather, the consequences that the cardinals would seek to draw from it were not universally accepted. It was undoubtedly to counter their views that Bernard of Clairvaux spoke to the pope "familiariter" at Rheims, and would soon insist, in his De consideratione, that the cardinals enjoyed no authority except that bestowed by the pope. While at one time, when warning the cardinals about Peter Abelard's errors, he would acknowledge that they were men of great influence, and had written to them in conventional fashion that "there can be no doubt that it is for you especially to rid the kingdom of God of scandals, to cut down the thorns, to settle complaints,"  and would even refer to them as "iudices orbis,"  he would tell Eugenius that they had "no power except that which you grant them or permit them to exercise."  And he was particularly scathing when dealing with the pretensions of cardinal-deacons who, because of their proximity to the pope, claimed precedence over priests. "Non hoc ratio habet"—it makes no sense; "non antiquitas habuit"—it derived from no tradition; "non consentit auctoritas"—it had the support of no authority. 

16 Ibid., 4.4.9 (Leclercq and Rochais, 3: 455).
17 Ibid., 4.5.16 (Leclercq and Rochais, 3: 461). At this time it was still held to be inappropriate for cardinal-deacons to take precedence over bishops. When Pope Eugenius III proposed to promote to the priesthood John Paparo, a cardinal-deacon, preparatory to his going to Ireland as a papal legate, John refused. Eugenius suspended him, whereupon John
Nevertheless, for the cardinals it was their union with the pope that defined for them the nature of the papacy. The language of this union was often cast in anthropomorphic terms, an echo of the apostle Paul’s unity of all Christians in Christ (1 Cor 12:12), and as such was in common use. It was a language familiar to and frequently used by the canonist Hostiensis (d. 1271). The cardinals were part of the pope’s body; while the pope might be thought of as general head of the universal church and individual Christians his “members” in a general sense, he was the special head of the cardinals, who were then his “members” in a special sense. He and the cardinals together formed a single body. Cardinals did not have to take an oath to the pope like other ecclesiastics, because they were all one body; they were part of his very bowels, so to speak— “cardinales tanquam sibi [pape] inviscerati”; that is why cardinal-legates were said to come from the pope’s side— “a latere”— as though from his very body. Hence the pope loves the cardinals as “himself.” Between pope and cardinals the union is so close that they consult together on all things; the cardinals are so united to the pope that together they are one and the same thing— “unum et idem est.”

The biological metaphor remained a popular one. Cardinal John Lemoine saw the cardinals not only as part of the pope’s body, but, in somewhat more detail, members of his “head” whereas other prelates were only members of his “body”; the union of pope and cardinals was therefore even closer than the union of pope and bishops.

threatened to lead a rebellion in Rome. Finally the other cardinals prevailed upon him to make his peace with the pope and accept the priesthood, “pointing out that it was not seemly for a deacon to bless archbishops, and that the lord pope would not give the Irish legation to anyone who was not a priest”; see John of Salisbury’s Memoirs, tr. Chibnall, p. 71.


19 Comm. ad Decret. 5.33.23.

20 Ibid., 5.6.17: “Cardinales ... sunt membra capitis: caeteri prelati sunt membra corporis”; cf. Martinus Laudunensis, Tractatus de cardinalibus ad modum singularis digestus per centum quaestiones, q. 5, in Tractatus illustrium in utraque ... iuris facultate iurisconsultorum, 13, pt. 2 (Venice, 1584), f. 60r; Andreas de Barbatia, Tractatus de praestantia card., ibid., f. 71r.

21 In his commentary on the Extravagantes, col. 328, on Dudum of Benedict xi. Pope John xxii, in a letter about the occupation by Roman noble families of houses and palaces in Rome belonging to the cardinals’ churches, wrote: “cum ipsi qui fore noscuntur capitis nostri
A different though equally effective way of describing the union of pope and cardinals could also be made in legal terms. Corporation theory, developing swiftly in the thirteenth century, especially as it was applied to ecclesiastical bodies such as cathedral chapters, allowed the Roman church, i.e., pope and cardinals, to be described as a single legal body, a corporation of head and members, whose function it was to rule the universal church. The comparison to be made between bishop and chapter on the one hand, and pope and cardinals on the other, allowed one to apply the rights of chapters within their corporation to the college of cardinals within theirs. Hostiensis insisted that the cardinals were not merely a collection of individuals, belonging to individual churches, their “tituli” in Rome; rather, they formed a college or corporation, “universitas,” whose head was the pope and whose church was the church of Rome. They possessed the usual attributes of a corporation: they had their own treasury, one of the members serving as camerarius; their right of papal election was a right held in common—a corporate right, not the right of individuals; and finally, they were generally recognized as a corporate body, and a sacred one at that: “sacrum collegium vulgariter et communiter nominatur.”

COMMUNIS SOLlicitudo

These various attempts to describe and define a unique relationship between pope and cardinals undoubtedly grew out of the challenges of the twelfth century: imperial hostility, Roman rebellion, the perverse disobedience of many ecclesiastics, and below the surface of all this the constant fear of papal schism, which must have brought pope and cardinals close together as though under siege. The popes of the twelfth century seem never to have been without the company of their cardinals, and never to have acted without consulting them. In the thirteenth century, with the rapid evolution of the idea of a papal plenitude of power connoting rulership over the entire church, it was almost inevitable that some would see the cardinals sharing in that plenitude. One way of expressing this was to contrast the relationship between pope and cardinals with the relationship between pope and other prelates: the pope had a general responsibility for the church; the bishops shared only in a part of that responsibility, within their particular dioceses (“vocati in partem sollicitudinis”). Where did the cardinals stand in such a

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membra...”; A. Theiner, Codex diplomaticus dominii temporals s. sedis (Rome, 1861), 1: 506, no. 669.

23 Comm. ad Decret. 5.6.17.
scheme? Hostiensis maintained that they shared the pope's general responsibility for the church at large: "Cardinales communem impendunt solicitudinem pro statu ecclesie generalis, sicut et papa."24 Cardinal John Lemoine, early in the fourteenth century, would follow this lead, holding that it would be absurd if chapters of cathedral churches share in the responsibilities of their respective prelates while the cardinals, "in tota sollicitudine," could not share in that of their prelate, the pope.25

The term "sollicitude" to describe pastoral responsibility had a long history. Pope Leo I (440-461), oppressed by the burdens of his office, recognized the necessity of sharing his general responsibility for the church with others. It was on the occasion when one of these, a vicar in Illyricum, went beyond his mandate that Leo chastised him by reminding him that he had been "in partem ... vocatus sollicitudinis, non in plenitudinem potestatis." What began as an expression to put a papal subordinate in place would later, in the pseudo-Isidorean decretals, take on new dimensions of juridical, and ultimately theological, importance, by emphasizing the general jurisdiction of the pope over the church at large and the notion of Rome as the foundation of all churches. Rome exercised a plenitude of power; other churches were called to share in the pope’s sollicitude. In time, there emerged from all this two senses of the sollicitude exercised by pope and prelates: the sense that each exercised the same kind of authority, that of the prelates limited in area, that of the pope universal, each derived directly from God—the sense reflected in Bernard of Clairvaux’s De consideratione;26 and the sense of an authority ordered hierarchically, whereby the power of a bishop could be explained as being derived from the pope, without, as Innocent III would have it, any diminution of the plenitude that the pope enjoyed.27 In thirteenth-century usage the term increasingly bore this second sense,28 in the growing awareness of the special significance now being given to the term "plenitudo potestatis"; for example, Innocent III explained why only the pope could use the pallium at all times, because he had a plenitude of power, while other prelates could do so only on special occasions,

24 Comm. ad Decret. 5.6.17.
21 Ad Sext., 5.11.12: "absurum enim esset quod capitula ecclesiarum cathedralium, quorum prelati in sollicitudinis partem sunt vocati, haberent in illa parte sollicitudinis ... et ceterus cardinalium in tota sollicitudine non haberet."
26 2.8.15 (Leclercq and Rochais, 3: 423-424).
28 "[Apostolice sedis prelatus] ... vocatur ... summus pontifex quia caput est omnium pontificum, a quo illi tanquam a capite membra descendunt et de cuius plenitudine omnes accipiunt, quos ipse vocat in partem sollicitudinis, non in plenitudinem potestatis"; William Durantis, bishop of Mende, Rationale divinorum officiorum, 3.1.17 (Venice, 1599), f. 31'.
If, then, some cardinals now describe themselves as "vocati in communem sollicitudinem," it is because they see themselves as part of the papacy, partners in the government of the church, sharing fully in papal authority, participants in his plenitude of power. It is true that this "common" solicitude of pope and cardinals was a conception with no real future, given the rapid growth of the pope's personal sovereignty. But its corollary, that the cardinals shared in some sense in the papal plenitude of power, would still be echoed in the fourteenth century by no less than pope Clement vi who, in his collatio marking the creation of his seventeen-year-old nephew and namesake, Pierre Roger, as a cardinal deacon, turned to the book of Job (9:13) to liken the cardinals to giants shouldering the world, bowing down only before the vicar of Christ, adding that cardinals were appointed not only to share in the papal solicitude for the church but, in a fashion, to share in the pope's plenitude of power.

In the Middle Ages there was an almost universal conviction that taking advice was important in government. "Do all things with counsel," Bernard

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29 So Innocent iii, Decretales, 1.8.4; also in PL 215: 294d. Cf. ep. 320 (PL 214: 286c): "cuius [sc. Romanae ecclesiae] pastor ita suas aliis vices distribuit ut, caeteris vocatis in partem sollicitudinis, solus retinae plenitudinem potestatis, ut de ipso post Deum alii dicere possint: 'Et nos de plenitudine ipsius accepmus'."

30 "Non solum papa sed et cardinales includerentur etiam in expressione plenitudinis potestatis"; "Participant ergo cardinales plenitudini potestatis"; Hostiensis, Comm. ad Decret. 4.17.13. The "universality" of the cardinals' solicitude was not unknown abroad; see the letter to the cardinals from the convent of Christ Church, Canterbury, in Chronicles and Memorials of the Reign of Richard I, vol. 2, Epistolae Cantuariensis: the Letters of the Prior and Convent of Christ Church, Canterbury from A.D. 1187 to A.D. 1199, ed. William Stubbs, rs 38, part 2 (London, 1865), p. 434, no. 469: "Ad vos omnium spectat sollicitudo ecclesiarum..." and to cardinal Gratian in 1159 (ibid., p. 503, no. 538): "Quia igitur amodo coram religionis vestrae praesentia jus nostrum prosequi compellimur, cui universalis sollicitudo incumbit ecclesiae, clementiam vestram affectuosa cordis devotione deprecimus, ut..." When discussing questions touching on the deposition or excommunication of cardinals, and marshalling arguments to limit arbitrary action by the pope ("papa per se non potest ipsum deponere, sed et plures testes requirunt ad eum convincendum"; and again: "Papa non consuevit, nec etiam potest secundum quosdam, aliquem de cardinalibus excommunica vel ei aliquod preceptum facere sine aliorum suorum fratrum consilio et consensu"), Hostiensis would still recognize that in the pope alone resides a plenitude of power: "Quicquid tamen dicitur, hoc de plano fato, quod in solum papam plenitudo resedit potestatis ... contra scribere non intendo..."; Comm. ad Decret. 3.4.2. Note that the power "resided" in the pope, not in the college of cardinals; but the cardinals shared it, i.e., they helped the pope to exercise it.

of Clairvaux told Eugenius III; "afterwards you won't be sorry."  

At the root of this conviction lay the idea that there was too much at stake to risk the independent decisions of one person no matter how venerable, how reliable, or how feared. It was a concern that was often expressed. When one discussed rulers and rulership one almost always had recourse to the notion that there was safety in numbers, frequently reinforced by a favourite text from Proverbs: "ubi multa consilia, ibi salus."  

When dealing, for example, with the question whether a minor might be permitted to take up the reins of government while still under age, a fourteenth-century curial lawyer gave it as his opinion that the young ruler "non potest errare propter multos sibi stantes," a pretty example of a bureaucrat's touching faith in advisory committees.

Of all the rulers of the Middle Ages, there was none whose authority was more often discussed than that of the pope, and just as often as secular princes were urged to consult their natural advisers, their great vassals, so too the pope was enjoined again and again to consult his natural advisers, the cardinals. Leaving aside the personal idiosyncracies of this pope or that, they needed little urging. Often they themselves bemoaned the immense practical difficulties of their position and described their pressing need for reliable advisers who would help them not only in the performance of their many liturgical, legal and administrative functions, but also in the wide range of ecclesiastical and political problems which constantly beset the papacy. "Since we cannot handle the entirety of ecclesiastical affairs ourselves," Eugenius III writes, "we entrust to our brethren [the cardinals], in whose discretion we have confidence, the completion of certain matters having respect to time and place."  

John of Salisbury mentions the fact that although as a Cistercian Eugenius generally favoured his order, a request from it to restore to the priesthood a Cistercian who had once supported the anti-pope Anacletus II had no success: "although the pope seemed to lend a favourable ear to their appeals, he always referred the matter to the cardinals; and they maintained that no concession could be made on account of the constitution of Pope Innocent III condemning in perpetuity all who had received ordination from Peter Leonis [Anacletus I], and the decree of Eugenius himself just promulgated in the council of Rheims."  

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32 De consid. 4.4.11 (Leclercq and Rochais, 3: 457), citing Eccles 32:24.
34 Oldradi de Ponte Laudensis ... Consilia seu Responsa (Frankfurt am Main, 1576), con. 52.
would look upon the advisory role of the cardinals as so important that it could take the place of a church synod.\textsuperscript{37} On one occasion, being approached by the ambassador of Frederick Barbarossa who asked for a private audience, Alexander replied that it was quite useless to speak to him privately since he would not reply without consulting his cardinals.\textsuperscript{38} Popes frequently expressed themselves on the consultative role to be filled by the cardinals they appointed. Martin IV, when appointing a new cardinal, cited Jethro’s advice to Moses who was trying to judge his people without any assistance: “provide from all the people able men who fear God, in whom there is truth, who hate avarice.”\textsuperscript{39}

One of the clearest expressions of a pope on the subject of the advisory role of cardinals comes from Nicholas III in the thirteenth century: “It is fitting,” he said, “that the pope receive from his brethren, the cardinals of the holy Roman church, who assist him as coadjutors in the execution of his priestly office, counsel freely given. It is fitting that he not vacillate in his judgment in any way, so that the fear of no secular power frighten them, no momentary passion absorb them, no alarm threaten them, nothing restrain them from giving real, solid advice.”\textsuperscript{40}

This need to recruit reliable advisers was not in itself incompatible with the growing notion of a papal world monarchy and a sovereign pope of unlimited authority. Nevertheless, the pope’s regular, systematic consultation with the body of cardinals in all important matters led many to believe that he could not, in fact, act legitimately in such matters without at least first asking for their advice. It was not only the cardinals who thought so. William Durantis, for example, who was no champion of cardinalatial prerogatives, said that the pope should make no important decisions or do anything of consequence without first taking the advice of the cardinals, and made the obvious comparison with the lay advisers of kings and princes: “for it is certain that those who rule in spiritual and temporal affairs are human, and

\textsuperscript{37} Ep. 34 (\textit{PL} 200: 107): “... quamvis negotium arduum et sublile non frequenter soleat nisi in solemnibus conciliis de more concedi, de communi tamen fratrum nostrorum consilio ... censuimus....” The matter had to do with the canonization of Edward the Confessor.

\textsuperscript{38} \textit{PL} 200: 36.

\textsuperscript{39} E. Martène and U. Durand, \textit{Veterum scriptorum ... collectio} (Paris, 1724), 2: 1283. The biblical text is from Ex 18:21. For a discussion of the formula \textit{de fratribus nostrorum consilio} up to and including the pontificate of Innocent III, see Maleczek, \textit{Papst und Kardinalskolleg}, chapter 7 (pp. 297-324).

being human easily fail.” Pope Clement IV would himself testify to the hold
that the practice had; when recommending to the king of Naples the value
of consulting trusted advisers, he had this to say about what he himself did:
“Believe me, my beloved son, I often find it the case, in this see over which
I preside, unworthy as I am, that having sounded the opinions of the
cardinals, I have followed their recommendations even when I thought the
opposite course to be better, provided the matter was such that no sin was
involved; and the reason is that I thought it rash to set my own opinion
against the judgement of so many prudent men.”

At the very time, then, that theorists were erecting the structure of papal
absolutism, the customary practices of the curia itself suggest a real limitation
of the pope’s personal authority by a “papacy” which still included the
cardinals. In fact, by the end of our period there was no longer any question,
if there had been before, that in important matters—in what were called ardua
negotia or cause ardue—the pope had to consult the cardinals. Contempo-
rarities cited as evidence the fact that Boniface VIII revoked some independent
acts of his predecessor because they had been undertaken without such
consultation, and Boniface’s successor, Benedict XI, in turn suspended some
of Boniface’s acts for the same reason.

41 “Certum namque est, quod presidentes spirituali et temporali potestati sunt homines. Et
ideo tanquam homines de facili possunt labi.” See his Tractatus de modo generalis concilli
celebrandi, i, 3 (Paris, 1671), p. 17: “nec dominus papa sine consilio fratrum aliquid aget
notabile,” ibid., iii, 27 (p. 278). Ptolemy of Lucca, in his Determinatio compendiosa, while
acknowledging the unlimited authority of the pope to make new law, urged him not to change
old law without taking advice. Prelates had councils, he said, just as princes had parliaments.
The ancient Romans had required their consuls to consult with the Senate. Now the place of
the Senate was held by the cardinals, and the pope should consult with them. See Charles
T. Davis, “Roman Patriotism and Republican Propaganda: Ptolemy of Lucca and Pope
Nicholas III,” Speculum 50 (1975) 422. The Glossa palatina, a compilation of glosses on the
Decretum, probably written by Laurentius Hispanus (cf. Alfonso M. Stickler, “II decretista
Laurentius Hispanus,” Studia Gratiana 9 (1966) 461-549), had already insisted that the pope
could not legislate for the whole church without the cardinals; see Tierney, Foundations of the
Conciliar Theory, p. 81.

42 E. Martène and U. Durand, Thesaurus novus anecdotorum (Paris, 1717), 2: 407
(no. 380); cf. O. Rinaldi, Annales ecclesiastici, 14 (Rome, 1648), Clement iv, an. 1266, c. 21.

43 “Scio quod Celestinus papa V, multos abbatias, episcopatus, et superiores dignitatem,
contulit sine fratrum consilio ... et scio quod dictae collationes fuerunt cassatae praesertim quia
cetus cardinalium erat in hac possessione quod ardua negotia erant de eorum consilio
tractanda...”; so cardinal John Lemoine, ad Sext. 5.2.4; cf. Annales de Wigornia (Worcester),
in Annales Monastici, 4, rs 36 (London, 1869), p. 518; Annales de Dunstaplia, ibid., 3
(London, 1866), p. 383; Bartholomaei de Cotton Historia Anglicana, ed. H. R. Luard, rs 16
(London, 1859), p. 268; and see Jacopo Stefaneschi’s Opus metricum, 2, c. 10, in Franz
Xaver Seppelt, Monumenta Coelestiniana. Quellen zur Geschichte des Papstes Coelestin V.,
Quellen und Forschungen aus dem Gebiete der Geschichte, 19 (Paderborn, 1921), pp. 69-71.

44 Theiner, Codex diplomaticus, 1: 393-394, no. 578; cf. Rinaldi, Annales ecclesiastici, ad
an. 1304, para. 12.
The strength of these ideas may be measured by the fact that well into the fourteenth century popes would refer to the custom of consultation in terms such as to indicate that they were powerless to take action without it. We may prefer to think of these protestations of incapacity as convenient fictions whereby the pope could avoid some undesirable action without giving undue offence, but this is to ignore the force of their repetition and the authority they derive from their origin. Clement v told Philip iv of France that in the matter of conceding tithes to lay princes, the pope is not accustomed to act without the advice of the college of cardinals, and that in the present instance, in 1306, he could do nothing because most of his cardinals had not yet joined him.45 Clement vi alleged the unanimous opinion of the college of cardinals in order to justify with the sovereigns of Europe his refusal to extend the benefits of the jubilee indulgence of 1350 to someone who did not actually go to Rome.46 Innocent vi referred to the translation of a bishop from one see to another as \textit{res ardua},47 adding that it therefore was \textit{consistorialis}, meaning that it needed the formal approval of the college of cardinals.48 Indeed, Innocent’s reputation for acting only after discussion with the cardinals and other competent persons was sufficiently well known as to be commented on in one of the major chronicles of the Avignon popes in the fourteenth-fifteenth centuries.49 Urban v told a papal legate who had been negotiating with Bernabò Visconti of Milan that he was personally willing to accept a candidate of Bernabò’s for appointment to the see of Brescia, but that he could not deal with the matter without first consulting the consistory, i.e., the cardinals.50 On another occasion, he told King John II of France that it was an old custom (“ab antiquo”) that a cardinal not be sent away from the curia on business “nisie de aliorum fratrum consilio,” to explain why he had to turn down the king’s request for having Cardinal Talleyrand of Périgord sent to France as a legate.51

47 Traditionally so, but by the fourteenth century a routine business.
51 Ibid., p. 62, no. 475.
What was thought in the curia to fall within the category of *res ardua*, such that the cardinals had to be consulted? The list is long and impressive: the summoning of church councils; the granting of tithes to secular rulers; the canonization of saints; the suspension of bishops from office; the publication of papal decretal collections to be studied in the universities; the preaching of crusades; the appointment of papal legates and nuncios; the coronation of emperors; the appointment of senators of the city of Rome; all questions having to do with episcopal elections and translations; the authorization of new universities; all matters of political importance involving the princes of Europe; everything pertaining to possessions and incomes of the Roman church; the relations of the papacy with its feudal dependencies; and a wide range of matters of a domestic or administrative nature; in short, everything that expressed the primacy of the papacy. We have some idea of the mechanics of such consultation from Jacopo Stefaneschi, whom Boniface viii appointed to the college. He had a great interest in liturgy and ceremonial, and spent much of his time revising and up-dating the protocol of the papal curia, describing the many rituals associated with the court and the person of the pope. He has pictured for us the manner in which the pope consulted the cardinals in consistory. Unfortunately, his description is limited by his interest in the ceremonial, external aspects of the process: the placing of chairs, the order of speaking, the role of seniority in the college, and so on.

We know, however, from other sources that not only were many problems discussed in common and at length, and sometimes with a vigour bordering on violence, but also that the pope would sometimes ask cardinals to put their opinions in writing. These *consilia*, so called, are rare indeed for our period; but we have a dossier of such *consilia* from the 1320s having to do with an abortive proposal for a crusade which throws a great deal of light on the mechanics of pope and cardinals working together. Preliminary negotiations between Pope John xxii and King Charles iv of France had led to a French crusading proposal which the pope and cardinals discussed off and on for some six weeks, during which time John asked the cardinals to write out their opinions. We have 18 of these *consilia*, 17 of which carry the names of their respective authors. Their contents are of no interest here, but one or two observations can be made: many of them show distinct similarities, both of ideas and language, such that we can assume that continued discussions

went on amongst the cardinals even outside consistory; there is a high degree of concurrence among all of them, despite differences in length, argumentation, and style; some cardinals had much to say, while a few were quite willing to leave the discussion in the hands of others, merely indicating their general agreement; finally, the arguments, or many of them, determined the pope's response to the king, in which we often find points repeated that are to be found in one or other of the consilia.\footnote{A. Coulon and S. Clemencet, \textit{Lettres secrètes et curiales du pape Jean XXII relatives à la France} (Paris, 1900--), 2: 281 ff., nos. 1692 ff.}

It might be objected that consultation of this kind was not technically obligatory on the pope, and that therefore it was not seen as an infringement of his authority. But the fact remains that by the end of the thirteenth century popes invariably consulted their cardinals on all important matters, all those matters that marked the Roman church as the mother of all churches. They did so from long and respected tradition, from the weight of venerable opinion, and out of a conviction that the practical advantages were undeniable. Consequently, the cardinals saw themselves as necessary for the validation of papal acts in all important matters as part of the papacy.

\textit{... ET CONSENSU}

If the pope was in practice obliged to consult the cardinals, one might ask whether the unity of pope and cardinals was such that he was also obliged to follow their advice. The question is not merely of historic interest. It was current in the thirteenth century, and became increasingly uncomfortable for those cardinals who sought to maintain the prerogatives of their order. Cardinal John Lemoine asked whether the words "de fratrum nostrorum consilio"—the formula invariably found in papal letters dealing with \textit{cause ardue}—meant that such consultation depended merely on whether the pope happened to ask for it or not, or was required by some standing agreement between pope and cardinals, or was thought to be the fitting or proper thing to do, or was a legal requirement.\footnote{Ad \textit{Sext.} 5.2.4: "Quaero an haec sint verba voluntatis, congruentiae, decentiae, vel necessitatis."} That Nicholas III had already said "dece\textit{t}"\footnote{Above, n. 40.} he seems to have overlooked, perhaps deliberately. He cited examples of papal acts being cancelled because they had not been made on the advice of the college (so implying that it might be a matter of "necessitas"), but then on the other hand he conditioned the Roman law maxim that the prince is not bound by the law by suggesting that it was fitting that he
should live according to the law (so implying instead that it was only a matter of “decentia”); finally he refrained from reaching any conclusion whatever!

John’s question would continue to be asked by others. On the surface it was merely whether the pope was required to consult the cardinals, not whether he was required to follow their advice once consulted. But the phrase “de fratrum nostrorum consilio,” when it appeared in a papal act, did not refer merely to an act of consultation, did not mean that the cardinals had simply been consulted, but that in some general sense it was on their advice that the pope was acting, that the pope and cardinals were acting together. As we shall see, Gregory x (1271-1276) consulted the cardinals about his proposed legislation on papal elections in 1274. The finished constitution, Ubi periculum, lacked the formula “de fratrum nostrorum consilio.” The reason was not because the cardinals had not been consulted—they certainly had—but because they did not approve. The appearance of the formula implied acceptance.

There was one class of cases, however, that seems to have required the explicit consent of the cardinals. When it came to questions of finance, or the alienation of the property of the Roman church, we find that not only was the pope required to consult the cardinals, but that he sought their explicit consent before acting. The reason for this lies in the principle that “what touches all must be approved by all,” and in the financial history of the college of cardinals whose corporate income was drawn in large part from the regular incomes and the patrimony of the Roman church. In 1234 Gregory IX allowed that there would be no further alienation from the patrimony without the advice and unanimous consent of the cardinals. During much of the previous year some of the cardinals had remained separated from the pope. This suggests that there may have been serious disagreements between Gregory and his cardinals, possibly respecting papal policy toward Frederick II. The concession that he made, in effect allowing

57 Guillaume de Montlauzun, ad Sext. 5.2.4, who said that consultation was certainly a necessity with lesser prelates and their canons, and then went on to follow John Lemoine on the pope and cardinals, likewise without any final resolution. Cf. Guido de Baysio, App. ad Sext. 1: 168 (cited by Watt in MedS 33 [1971] 144) on the continued debate in the college: “Saepius vidi in curia queri quod operentur ista verba de fratrum nostrorum consilio.”
58 Below, pp. 430-432.
59 Rex excelsus, in L. Auvray, Les Registres de Grégoire IX, 1: 945, no. 1715; Theiner, Codex diplomaticus, 1: 102-103, no. 124: “... de patrimonialibus sine communi fratrum consilio et assenso alienatio nulla fiat, sitque uni facultas, quod ex causa legitima obstaculum libere contradictionis opponat.”
them a veto over the alienation of property belonging to the Roman church, seems to have been the price he had to pay for a united curia.
Nor was this his only concession. About the same time, he would acknowledge that the papal states had been mismanaged by the rectors whom he had previously appointed, and now provided for their future government by the cardinals themselves. This provision may never have been put into full effect. The appointment of cardinals as rectors of the papal states, which was one of the provisions of the constitution, remained a hit-and-miss affair. However, throughout the rest of the thirteenth century the college seems always to have been consulted in all matters pertaining to the papal states, probably because their incomes were affected. There is one notable exception which proves the rule: shortly before his death, Boniface VIII promulgated a statute respecting the March of Ancona without consulting the cardinals, which a few months later was withdrawn by his successor for that very reason.

Meanwhile the cardinals also received more papal concessions respecting their common income. Gregory IX set aside one-third of the income of the papal states for them. In fact, his financial concessions seem to have gone even further than this, for although we lack other constitutions we know that the cardinals claimed to have been given half the annual tribute of 1000 marks that the kings of England owed the papacy ever since the time King John turned his kingdom over to Innocent III and received it back as a fief.

We know of still other concessions made to the cardinals later. For instance,

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61 "... ut semper deinceps aliqui ex fratribus nostris per tempora totius patrimonii regimini deputentur, qui gubernantes in equitate ac iustitia universa diligentii custodia servent, habita occupata defendant et alienata sollicite revocent et restaurare non negligent dissipata, papa qui pro tempore fuerit de fratum suorum consilio ministrante...." in the constitution Habet utilitias stimulo, to be found only in the Summa dictaminis of Cardinal Thomas of Capua; it has been published by Karl Hampe, "Eine unbekannte Konstitution Gregors IX. zur Verwaltung und Finanzordnung des Kirchenstaates," Zeitschrift für Kirchengeschichte 45 (1926) 192; cf. Daniel Waley, The Papal States in the Thirteenth Century (London, 1961), pp. 122, 139, who feels that it may have been an unpromulgated draft, because the terms of the constitution seem not to have been observed.


63 Also in Habet utilitias stimulo.

64 Henry III of England wrote to the cardinals (25 February 1235), rehearsing their complaint that he had not divided the latest payment of the tribute in half and sent them their share of 500 marks direct. He excused himself on the grounds that his father's original concession had said nothing of such a division. He suggested that if he was to make such a division in future the cardinals would have to get a written mandate from the pope on the subject. Obviously Henry was not going to get mixed up in an internal squabble of the curia. See Thomas Rymer, Foedera, 2nd ed. (London: J. Tonson, 1727), 1: 337.
in 1272 Gregory X gave them half the Sicilian tribute, soon afterwards, Nicholas III (1277-1280) gave them half the common services. There is evidence that even before this time the cardinals had some share in the common services paid by newly appointed prelates, whether half or not is not known. The well known concession of Nicholas IV in 1289 giving the cardinals half the ordinary incomes of the Roman church was in large part a confirmation of concessions won by the college during the previous decades, the material measure of the cardinals' share of the papacy.

PAPAL ELECTIONS AND PAPAL POWER

The constitution on papal elections promulgated by Alexander III (1159-1181) in 1179, Licet de vitanda, had finally settled two pressing problems, by ignoring distinctions of rank among the cardinals for purposes of the election, and by requiring a two-thirds majority. It had been a reform agreed to by the cardinals themselves, which is more than one can say about Gregory X's constitution Ubi periculum a century later. Gregory sought to fix the conclave as a permanent feature of papal elections. This "conclave" was the practice that had appeared in the thirteenth century, possibly under the influence of Italian communal elections, of locking up the cardinals and making life increasingly miserable for them until they produced a pope. Gregory, who had not himself been a cardinal, shared the widespread indignation over the long vacancy that had preceded his election, and in his constitution, among other features designed to hasten the choice of a new pope, explicitly denied to the cardinals any exercise of papal authority during a vacancy. He not only sought to reduce their freedom of action and independence, but also subjected them to local lay authority, undoubtedly awakening fearful memories of past conclaves some of which had been brutal affairs. No wonder that it lacks the formula "de fratrum nostrorum consi-

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63 J. B. Sägmüller, Die Tätigkeit und Stellung der Cardinale (Freiburg im Breisgau, 1896), p. 190; Baumgarten, Untersuchungen und Urkunden über die Camera Collegii cardinalium, p. cxxviii.

64 See Kirsch, Die Finanzverwaltung des Kardinalkollegiums, p. 6.


66 Celestis altitudo, in Theiner, Codex diplomaticus, 1: 304-305, no. 468.


68 For example, see K. Hampe, Ein ungedruckter Bericht über das Konklave von 1241 im römischen Septizionum, Sitzungsberichte der Heidelberger Akademie der Wissenschaften, Phil.-hist. Klasse, 1 (Heidelberg, 1913). For papal elections in the thirteenth century, Olga
lio." He had shown it to the cardinals when he had first drawn it up, no doubt in the hope of winning their approval. He met instead with strong opposition. They quarrelled, and their disagreement could not be hushed up. In fact, both the cardinals and the pope canvassed the fathers of the council at Lyons (1274) for support, the cardinals claiming that they had been given no sufficient reason for consenting to such a measure, the pope demanding and getting from the prelates of the council the obedience that was his due.71 

There can be no doubt of the need for some such legislation to deal with the problem of long vacancies. In addition, however, for those who saw in the old claims of the college a threat to the personal authority of the pope,72 that personal plenitude of power that excluded all others, here was an opportunity to get rid of the notion once and for all that the cardinals shared the papal plenitude of power or could exercise papal authority during a vacancy.

The idea that cardinals in some way inherited the papal authority during a vacancy had long held sway in the college, and would not be easily given up. Matthew Paris inserted a letter in his *Chronica majora* written by some eight cardinals in 1243 during the vacancy preceding the election of Innocent IV, not because of the subject matter itself, but because of what the letter revealed about the question of papal authority during a vacancy, which seems to have been a question of general interest at the time. The critical clause was "Nos autem penes quos potestas resedit, apostolica sede vacante, volentes..." etc.73 In this question, as in others, Hostiensis summarized the prevailing view of the college, giving it an air of legitimacy difficult to dispel. When the pope dies, he said, his power does not die with him. It remains within the Roman church which itself cannot die. Its exercise, however, ought normally to remain dormant until a new pope is elected. It was a power held in trust, so to speak, preserved intact to be passed on to the successor, and to be exercised by the cardinals only in emergencies or in matters of great moment. The argument that such exercise of authority by the cardinals might give rise to schism, scandal, or long vacancies might be valid, he agreed, if the concession were made without any limitation, but there was really nothing

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72 Whose criticisms were met head on by Hostiensis in his comments on the rights of the college: "Hec scribo ad confutandos illos qui potestatem cardinalium quasi omnino adnihilare videntur..."; *Comm. ad Decret.* 5.38.14: "Nota contra illos qui dicunt quod cardinales non habent ius capituli sive collegii, sed potius iure singulorum censentur tanquam homines a diversis mundi partibus singulariter vocati..." etc.; ibid., 5.6.17.

to fear provided it were restricted, as he suggested, to cases of necessity and the ultimate good of the church. He was able, therefore, to preserve the sense of a college of cardinals sharing in and in some sense inheriting the papal plenitude of power, while turning aside criticism that saw an irresponsible college of cardinals doing whatever it wished, as long as it wished, during a vacancy.  

Gregory's constitution, which came only a few years later, incorporated this view that the cardinals could act during a vacancy in emergencies. But it also required that to do so they had to be unanimous, which in effect paralyzed the college, depriving it of any real independence of action. Not all the cardinals would accept this. They persuaded Gregory's successor but one, Hadrian v, pope for only a few weeks in 1276, to suspend the constitution and promulgate a substitute, although three of their number—which three, we do not know—wanted it kept in force. Hadrian died before he could issue a new constitution, and soon after his death a rumour spread that he had even cancelled his suspension. An enquiry by his successor John xxii failed, however, to confirm this, and John continued the suspension. He too promised a new constitution on papal elections, but it was also prevented by his own early death when the ceiling of his library collapsed on

74 Comm. ad Decret. 5.38.14. Cf. Augustinus Triumphus, De potestate collegii mortuo papa (in Richard Scholz, Die Publizistik zur Zeit Philipps des Schönen und Bonifaz VIII [Stuttgart, 1903; repr. 1962], pp. 501-508), who also held that during a vacancy the papal authority rested with the college of cardinals, especially since papal power is perpetual and cannot die when a pope dies; but it rests with the college in a special way: "non in re sed tamquam in radice," a potential rather than an effective or active power. Just as a root, however, has a three-fold power of resisting opposition, of producing growth, and of sprouting, so the cardinals could (i) resist those who would injure the church, (ii) could elect a new pope, and (iii) so produce flower and fruit again. It was strongly to be doubted, however, that the cardinals could do with the pope dead what they could with him alive, else why elect a pope at all? Finally, "mortuo papa non videtur quod collegium possit tollere decreta et mandata facta per papam maxime illa que ligant eos." It is therefore impossible to credit Michael Wilks, The Problem of Sovereignty in the Later Middle Ages (Cambridge, 1963), p. 480: "... we find in his [Augustinus'] De potestate collegii an advocacy of the complete supremacy of the College over the pope."


76 For Hadrian's intention of promulgating a substitute for or an amended version of Ubi periculum, see Martini Oppavensis Chronicon pontificum et imperatorum, in MGH, ss 22: 443; also L. Duchesne, Le Liber Pontificalis (Paris, 1892), 2: 457.

him. Gregory's constitution remained in limbo for another seventeen years until by a truly farsighted act in an otherwise sorry pontificate Celestine v revived it. In all of this we can dimly discern a real difference of opinion within the college itself.

In the meantime, we have a good illustration of how the cardinals conducted themselves in conformity with cardinal Hostiensis' doctrine. In 1277, during the vacancy after John xxii's death, the cardinals wrote to Rudolf, king of Germany, to urge him to come to an agreement with the Roman church before undertaking an expedition into Italy. They were only too conscious that they were carrying on papal business without a pope. They were careful, therefore, to stress that what they were really doing was pursuing the policy of two popes, Innocent v and John xxii, originally undertaken on their own advice, and that they were doing so in pursuit of the public good and in what they called "fitting imitation" of the pope. They clearly had Hostiensis' doctrine in mind.

Not even Celestine's revival of Gregory x's constitution, and its formal insertion into the corpus of canon law by Boniface viii, would immediately unseat this doctrine. Cardinal John Lemoine, for example, would continue to hold the opinion that the cardinals inherited papal authority during a vacancy, and other cardinals would do the same well into the fourteenth

78 A. Potthast, Regesta pontificum romanorum (Berlin, 1875), 2: 1918, no. 23980; also John Lemoine (Johannes Monachus), Glossa aurea super Sexto Decretalium Libro (Paris, 1535; repr. 1968), fol. 63'.
79 "Sed ne interim, que per eosdem pontifices, precipue Innocentium et Johannem, de nostro consilio processerunt, non sine verisimili grandis discriminis negligere videamur, eorundem pontificum provisionem laudabilem de nostro consilio inchoatam imitatione commodis publici status accomoda prosequentes, Serenitatem Regium affectuose rogamus et hortamur...etc.; Theiner, Codex diplomaticus, 1: 201-202, no. 356. For another case of the cardinals acting vice the pope, in the consecration of and giving the pallium to the archbishop of Genoa (1292), shortly after Nicholas iv died, see G. Monleone, ed., Iacobi da Varagine chronica civitatis iauensis, Fonti per la storia d'Italia 85 (Rome, 1941), 2: 404.
80 Ad Sext. 5.11.2: "... penes quem [sc. cetum cardinalium] plenitudo potestatis sede vacante resided"; and again, ad Sext. 1.6.16: "... quia mortuo papa iurisdictione et iurisdictionis exercitium penes collegium cardinalium remanet." Cf. Johannes Andreae on the Clementines, Ne Romani, s.v. Verum, in the Lyons, 1584 ed., col. 32. Peter John Olivi also held that the cardinals had the power of acting "vicem pape defuncti saltem in casibus necessariis"; see Franz Ehrle, "Petrus Johannes Olivi, sein Leben und seine Schriften," Archiv für Literatur- und Kirchengeschichte des Mittelalters 3 (1887) 526. Stephanus Hugoneti, long in the service of cardinal Bertrand du Poujet, held the same view in his Apparatus super constitutionibus concilii Vienensis. Commenting on Ne Romani, he followed John Lemoine's argument that since Boniface viii restricted the cardinals during a vacancy from reinstating the deposed Colonna cardinals, the college must have general power or jurisdiction during a vacancy to have it so limited in this special case; if they had no such jurisdiction, then the limitation would make no sense. See Univ. of Pennsylvania, ms Lat. 95, fols 9r-10r; cf. Norman Zacour, "Stephanus Hugoneti and his 'Apparatus' on the Clementines," Traditio 13 (1957) 456-462.
century. A gloss on Cardinal Jacopo Stefaneschi's metrical life of Celestine v, made by the author himself, is quite clear in this respect: during a vacancy the power of the pope resides in the college. 81 In Perugia, after Pope Benedict xi died, Cardinal Matteo Rosso showed Vidal de Villanova, the emissary of James II of Aragon, a document drawn up by the cardinals in the conclave dealing, among other things, with the rights they thought they had during a vacancy. It included the claim that during a vacancy the college had all the rights of the pope, although there were many outside the college who disagreed. “E con la apostolical dignitatis vaga, lo collegii ha tot lo poder del papa. E, sejor, an aço a molt ben clergue en la cort, quin deneguen secretament, que non gosen parlar a paraules (?), que no lan lo poder, que els se donen.” 82 So the quarrel was still going on in the curia.

The idea of a residual authority in the college during a vacancy continued to draw sustenance from the actual practice of the college, whose acts of “fitting imitation” during a vacancy could be confirmed by the newly elected pope. Upon his election, Boniface viii confirmed everything the college had done during the vacancy respecting excommunication, interdict, and a fine of 2000 marks levied on Orvieto, 83 all acts that he himself had participated in as a cardinal. Even further, however, some cardinals thought that they could take advantage of a vacancy to modify the terms of Gregory x’s constitution on elections. This idea was so strongly held that Clement v had to legislate especially against it. In Ne romani, promulgated in the Council of Vienne and later published by his successor in the canonical collection called the Clementines, Clement reproved in unequivocal terms the notion that the cardinals could modify or cancel Gregory x’s constitution during a vacancy before proceeding to an election, and declared invalid and inane the idea that the authority of the pope while alive could be exercised by the college after his death, except in those particular cases allowed for in papal legislation. 84

81 Acta Sanctorum, May vol. 4, pp. 448-449.
83 Theiner, Codex diplomaticus, 1: 322-327, no. 494.
84 Clem. 1.3.2: “Ne Romani electioni Pontificis indeterminata opinionum diversitas aliquod possit obstaculum vel dilationem afferre: nos, inter cetera praecipue attendentes, quod lex superioris per inferiorem tolli non potest, opinionem adstruere, sicut acceperis satagern, quod constitutio felicis recordationis Gregorii Papae x, praedecessoris nostri, circa electionem praefatam edita in concilio Lugdunensi, per coetum cardinalium Romanae ecclesiae ipsa vacante modificari possit, corrigi vel immutari, aut quicquam ei detrahi sive addi, vel dispensari quomodolibet circa ipsam seu aliquam eius partem, aut eidem etiam renunciari per eum, tanquam veritati non consonam de fratrum nostrorum consilio reprobamus, irritum nihilominus et inane decernentes, quicquid potestatis aut jurisdictionis, ad Romanum, dum vivit, Pontificem pertinentis (nisi quatenus in constitutione praedicta permittitur), coetus ipse duxerit eadem vacante ecclesia exercendum.”
With the pontificate of Clement V we have gone beyond our period. Already, however, in Boniface VIII's time, it would seem that the old view of the papacy as embracing pope and cardinals was losing ground even in the college itself. Boniface made it clear that he thought he could act without the cardinals if necessary. Berengar Fredoli, cardinal bishop of Tusculum, told the ambassador of the king of Aragon not to bother presenting his case in consistory, since Boniface never brought anything up in consistory except what he chose not to do. He held weekly consistories for routine matters, but reserved all important affairs to himself and a small handful of trusted colleagues, and would brook no contradiction in consistory. There was clearly a growing antipathy between him and some of his cardinals, in part the residue of rivalries which had sprung up during the pontificate of Celestine V.

This came to a head during the quarrel with the Colonnese cardinals, James (d. 1318) and Peter (d. 1326), which dramatized a sovereignty of the pope's person so great as to leave no room for the aspirations or ambitions of the cardinals. Much of the complaint that the Colonnese made against Boniface was based on the assumption that the status or juridical character of the cardinals was perpetual. But Boniface, we are told, would have none of this:

Some might say that the cardinals do not have status. They do and they don't, since he who is established in plenitude of power over all and has the power to loose and to bind, as the vicar of Jesus Christ, is chosen by and proceeds from their canonical election. Indeed, there is no one, after the Roman pontiff himself, who has such an elevated status as this. It is well known that they are members of our head. However, they do not have the status of preeminence that the pope has. No one else has this kind of status except the pope alone, since he is not beneath that of anyone inferior to him. But the cardinals who have status are beneath

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85 "Si vos volets guardar la honor del rey Darago, vos no preposaret en consistory; que per certa sapias, quel papa no met res en consistory, si no ço que no vel fer"; Finke, Acta Aragonensis, 2: 586.
87 P. Dupuy, Histoire du differend d'entre le pape Boniface VIII et Philippes le Bel roy de France (Paris, 1655), p. 227: "Status cardinals is perpetuus, figurantur enim in vectibus de lignis setim, qui inducuntur in lateribus arcae, id est Ecclesiae, ut portetur in eis, et subditur, quod in circulis semper erunt, et nunquam extrahentur ab ipsis, ut patet Exodi 21 [corr. 25:10]."
the status of the Roman pontiff, who has power to correct and to punish them.88

In the early stages of their struggle with Boniface, the Colonnese cardinals were not the only members of the college to oppose the pope. Several of their colleagues were in touch with King Philip IV of France, attacking Boniface behind his back. In April 1311, before an investigative commission set up by Clement v, the names of several of these emerged, the most prominent being John Lemoine, no friend of the pope. He admitted that he had told Philip IV that he thought Boniface was a heretic, presumably when he had been a legate in France, since he added that he could not remember having written to the king on the subject.89 Rumours flew of a serious split in the college and a bitterness among those who were, for one reason or another, at odds with Boniface.90 On the other hand there was a party of cardinals who stuck with the pope, one of whom, Matthew of Aquasparta, cardinal bishop of Porto, insisted that between pope and college there was no dissension, no differences, no division, but rather complete concord, peace and agreement, since whatever the pope wished the cardinals wished and vice versa.91

88 “Poterint aliqui dicere, quod cardinales statum non habant. Habent, et non habent; cum ex eorum electione canonica eligatur et procedat, qui est super omnes in potestatis plenitudinem constitutus et qui habet solvere et ligare sicut vicarius Ihesu-Christi; et certe non est aliquis post Romanum pontificem tam nobilem statum habens. Constat, quod ipsi sunt membra capitis nostri. Etenim non habent statum ut summis pontifex eminentem, cum non sit nisi solus papa aliquis alius habens statum, quia ipse non est sub statu alius inferioris eo. Sed cardinales statum habentes sunt sub statu Romani pontificis, qui habet eos corrigere et punire.” Finke, Aus den Tagen, p. 79, citing Gesta Boemundi archiepiscopi Treverensis, in MGH, ss 24: 479.


90 “His diebus post mortem domini Sabinensis fuit dictum inter cardinales et tractatum, quod nominaret aliquas personas papa, et quilibet, ut credo, rogabat cardinales et amicos et instruebat pro dominis et amicis suis. Tandem venit rumor ad papam et dixit: Aliqui dicunt et credunt, quod nos debeatus creare cardinales. Nobis videtur magis tempus aliquos deponendi quam creandi”; from a letter of Laurentius Martinic, at the papal curia, March 1302, in Finke, Aus den Tagen, Quellen: pp. IL-L. Cardinal Landulf Brancacci said that it was better to be dead than to live with such a man as the pope, who was nothing but eyes and tongue in a putrefying body; ibid., pp. 106 and cxxx.

91 “Verum est etiam quod quaedam littera secreta fuit facta de communi consensu summii Pontificis et fratrum, quia volo quod sciatis et dicam veritatem, et non mentiar, quia in Collegio inter summum Pontificem qui est caput nostrum, et inter Fratres, nulla est dissensio, nulla diversitas, nulla diviso, sed est inter nos omnis concordia, omnis pax, omnis uniformitas, quia quicquid vult dominus noster nos volumus, et quicquid nos volumus sui gratia vult et ipse, ita est testimonium Spiritu sancto in conscientia, illa litera [!] sic facta non fuit subito missa, sed fuit ad consistorium plures deportata, fuit lecta, relecta, diligenter examinata...” referring to a letter to Philip IV of France which Boniface vIII said was falsified by Pierre Flotte. See Dupuy, Histoire du differend, pp. 74-75.
After Boniface died, the king’s demands that a general council be summoned to investigate the charges against him revealed a clear division in the college between those who favoured such a council, mainly those who had schemed with the king shortly after 1295, and those who opposed it, cardinals who had been appointed by Boniface after his election. There were a few, however, who sat on the fence, like Landulf Brancacci who, when he was called in 1311 to testify about the defection of cardinals, said not only that he had not himself communicated with Philip about Boniface, but that he had never even heard of any other cardinal doing so! 92

The emergence of a party of cardinals in opposition to the pope gives some colour to one of the claims of the Colonnesi, that Boniface had altered the status of the college of cardinals. The language they used was, by and large, the traditional language used in the past to describe the cardinals. They could not be deprived of their office at the whim of the pope. Their duty was to disagree with and stand up to the pope when necessary, as a kind of loyal opposition—a duty which would go by the board if they were to be dismissed “sine causa.” 93

The pontificate of Boniface VIII made manifest a view of the papacy within which the cardinals were ceasing to play a central role. As late as Celestine III (1191-1198) it was still the sacrosancta Romana ecclesia that was endowed with a plenitude of power. 94 With Innocent the term was coming to mean the full personal sovereignty of a ruler in his realm, albeit still the realm of the spirit. 95 It would be enlarged yet further by his successors. As expressed by Boniface VIII, the idea of the pope’s personal sovereignty would have serious implications for the college of cardinals which suffered a sharp diminution of status. The following century, beyond the scope of this present study, saw two events which would reveal the role which the cardinals sought to reserve to themselves, given the limitations with which they now had to contend.

The first was the vacancy preceding the election of Innocent VI in 1352, during which the cardinals drew up a capitulatio, a written agreement to limit the future pope in the appointment of new cardinals, to restrict his discipli-

92 Ibid., p. 68.
93 Ibid., pp. 226-227; “Cardinales suntconiudices Romani pontificis et sunt membra non tantum corporis Ecclesiae sed capitis” (p. 236).
94 PL 206: 1075-1076.
95 Gerhart B. Ladner, “The Concepts of ‘Ecclesia’ and ‘Christianitas’ and their Relationship to the Idea of Papal ‘Plenitude Potestatis,’ from Gregory VII to Boniface VIII,” in Sacerdozio e regno da Gregorio VII a Bonifazio VIII, Miscellanea historiae pontificiae 18 (Rome, 1954), pp. 64-68. The decline in the number of papal acts with the formula “de fratrum” during the pontificate of Innocent III is an indication of that pope’s tendency to emancipate himself from the tutelage of the college as a whole; see Maleczek, Papst und Kardinalscolleg, pp. 315-316.
nary power over them, to guarantee their regular sources of income, to ensure
their share in the supervision of the papal states, and in all such matters to
require the concurrence of two-thirds of the college, or one-half, as the case
might be. There was some doubt within the conclave that what they were
doing was legal, for the oath that each swore, to uphold the capitulation if
elected, was taken by some only with the stipulation: “scilicet, si et in
quantum scriptura hujusmodi de jure procederet.” 96 And indeed, upon
election, Innocent VI declared their agreement void, not only because it was
in contravention of papal constitutions which forbade dealing with any
business other than the election itself during a vacancy, but also as redoun-
ding to the “diminution and prejudice of the plenitude of power granted from
the lips of God to the Roman pontiff alone.” 97

The second was the double election of 1378, by which the college sought
to exploit their one privilege, so firmly embedded in canon law as to be
virtually untouchable—the election of the pope.

As dramatic as these events were, and as significant for an understanding
of the oligarchical tendencies of the college of cardinals, neither marks any
kind of return to the concept of the papacy as a union of pope and cardinals.
The first had to do with personal privileges, incomes, and the cardinals’
control of the membership of their college; the second was an attempt to
enlarge their electoral function to include the power to depose. While there
were large forces at work during the ensuing conciliar period that sought to
locate ecclesiastical sovereignty elsewhere than in the person of the pope, it
was to the church at large, represented by the universal council, not to the
college of cardinals, that reformers would henceforth look.

96 Pierre Gasnault and M. H. Laurents, eds., Innocent VI: Lettres secrètes et curiales (Paris,
97 Ibid. They also refined some of the rules pertaining to the process of papal election; see