

More arguing about infallibility
I'm afraid. Best wishes
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INFALLIBILITY AND THE MEDIEVAL CANONISTS:
A DISCUSSION WITH ALFONS STICKLER

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BY
BRIAN TIERNEY

AND A

REJOINDER TO PROFESSOR TIERNEY

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A REJOINDER TO PROFESSOR TIERNEY

BY

ALFONS M. STICKLER

I have carefully considered the comments that Professor Tierney has made on my review of his book, *Origins of Papal Infallibility, 1150-1350*. He calls them "some interesting points of historical scholarship which deserve further consideration." I am happy to go more deeply into our discussion in a spirit of friendly exchange of ideas on the strictly scholarly level.

Anyone who has read my review attentively will understand why I now prefer to invert the order of my reply, that is, to deal first with historical methodology and then with the canonical texts.

Dr. Tierney is certainly correct in saying that the real difference (although I would rather say one of the real differences) between our positions derives from our different ways of viewing contemporary theology in the area of infallibility and the position of a historian in studying it. He illustrates his position, in this regard, with the case of the matter required, in the decree of the Council of Florence for the Armenians (November 22, 1439), for the sacrament of Holy Orders, where the methodological principles that I laid down in my review to dispute his arguments and conclusions, would rather demonstrate that my position was in error. I am glad that my friend, Dr. Tierney, has given me, with such a concrete example, the opportunity to explain my position better.

First of all I would like to make clear, with respect to the methodological principle that I invoked, that I take the concept of infallibility in a very precise sense and therefore distinguish nicely the science of theology with its various exponents from the ordinary magisterium of the Church which determines something to be held in the area of faith and morals and also from the magisterium which determines, without the possibility of doubt, that a truth must be believed by every Catholic as a truth of faith and which, therefore, is unchangeable. It is only to these last decisions that I apply arguments and conclusions on infallibility.

Now I have never affirmed or believed that the science of theology is infallible and that theologians cannot err even as a group. Indeed, I must confess that one of the greatest consolations when confronted with

the mass movements of present-day theology is precisely my historical consciousness which assures me that they are mistaken.

Nor have I ever questioned, furthermore, that the authority in the Church which decides in matters of faith and morals can, in principle, also change its opinion and that in such a change it can sometimes also err or be led to make the change because it has erred. To be sure, in that hypothesis I am rather wary of speaking of "error" because it is historical consciousness itself that tells us that such decisions have generally been conceived as applications to determined exigencies and conditions of the time and that as they changed, a different direction of leadership also became necessary.

However, I have always thought that when it is a question of final and definitive decisions in matters of faith and morals that prove and must prove to be truly such, a historian who accepts the Catholic faith finds himself confronted not so much with an impassable road-block as rather with certain data that help him to interpret the evolution of historical facts in a sure way, because he has the certainty, which is valid even from the point of view of scholarship, that a dogma, which is clearly such, constitutes a truth which permits him, without fear of error, to trace even the most remote elements of the evolution without ever having to renounce the principles of the most rigorous historical method. On the contrary, by applying the canons of pure historical research and by accepting all the sure and certain findings of general history and of all the other sciences, he can more easily discover any error or deviation or wrong evaluation in the history of ideas.

Having thus stated precisely the concept of historico-theological methodology to which I drew Dr. Tierney's attention in my review and which in his reply he wished to clarify better, I would like to apply it to the very same example that he cites and illustrates. It is the pure science of history itself that enables us to evaluate correctly, in the context of papal infallibility, the decision of the decree for the Armenians of November 22, 1439. A few months earlier (on July 6) in the decree for the Greeks the pope, with the council, did not impose on them the handing over of the instruments in sacred ordination, and it is known that Greeks were ordained even in Rome only with the laying on of hands. And the Western theory and practice itself has never denied—indeed, it has always demanded—the laying on of hands in sacred ordination along with the handing over of the instruments. It cannot be said, therefore, that in the fifteenth century the handing over of the instruments was alone held to be the essential matter of sacred ordination, or—worse yet—that in that agreement with the Armenians the Church intended to define that the handing over of the instruments was alone the essential matter of sacred ordination. Consequently, it would be ingenuous to say

that the science of history in the seventeenth century discovered the "error" of the magisterium at Florence. What the explanation is of the fact that the Church imposed on the West, for a certain period up to the time of Pius XII, the handing over of the instruments as necessary matter, and also of the fact that the decree imposed this rite on the Armenians is another question. To this, perhaps, the most correct answer is the very one already given in the middle of the eighteenth century by that great pope whom one of the sternest opponents of papal infallibility, Johann Friedrich von Schulte,¹ acknowledges as having in his work adopted the historical method in an excellent form; Benedict XIV (Prospero Lambertini) addresses himself to our question thus: "Necesse est igitur fateri Eugenium locutum de materia et forma integrante et necessaria, quam optavit ab armenis superaddi manuum impositioni iam diu ab illis adhibitae, ut ecclesiae latinae moribus se prorsus accommodarent ac rituum uniformitate firmiter ei adhaerent."² It is not necessary, therefore, even in the light of pure history, to speak of an error in that decree and in addition one compromising the infallibility of pope and council.

Here it becomes clear, moreover, that it does not foster calm historical research to let oneself be guided by present-day theology or to sacrifice a certain, higher principle of the history of theology for the sake of historical uncertainties, doubts, and controversies or of theological opinions. In this regard, Dr. Tierney certainly did not grasp my thought when he wrote that according to my methodological principles no historian would have been able to contribute to our present knowledge. Just the opposite: it would have been not only possible but also to be hoped that true history would have ascertained the real meaning and significance of that decree and of that decision. Thus it could have helped to clarify the true and correct concept of infallibility and the errors of theological science on the subject without involving the ordinary magisterium itself in the "error."

All this does not mean to "write apologetics." The most and solely valid apologetics is that given by the true science of theology which will be aided by the science of history only if it follows its own proper method in its various fields. I would not want Dr. Tierney to misunderstand me on this point: if the (Catholic) science of historical theology recognizes a dogma, certainly such, as an unquestionable point of reference even for historical research, it is not engaging in apologetics nor is it renouncing the historical method, but rather it is trying to explain in the light of the certainty attained what was possibly left obscure or

¹ *Die Geschichte der Quellen und Literatur des canonischen Rechts*, Vol. III, Part I (Stuttgart, 1880), p. 507.

² *De Synodo Dioecessana*, L. VIII, c. 10, n. 8.

disputed. But it cannot reject a truth now theologically certain because of obscurity in the knowledge of its development, of difficulties of explanation, or of different opinions of the doctrine in the past or in present-day theology.

Having offered these explanations, I trust that I may be brief in replying to Dr. Tierney's objections regarding the canonical texts.

I believe that I have already stated clearly enough, but now, both to put our disagreement in better focus and to set in the proper light my interpretations of the texts which have not convinced my interlocutor, I repeat that, unlike Dr. Tierney, I think that the texts of the Decretum and the glosses of the decretists, as well as the later ones of the decretalists, contain, in a more or less developed, although still debated, implicit, and asystematic form, all the elements of infallibility rightly understood. The *quaestio* of Olivi which Dr. Tierney judges to be a substantial novelty is only the most complete systematic synthesis which, until then, according to our present knowledge, was produced in the sciences of theology and canon law on the subject of infallibility. All the arguments of the *quaestio* turn out to have been taken from the Decretum and the decretists and therefore pre-exist the *quaestio* itself. In fact, we can see a modest anticipation in that canonical *quaestio* of a century earlier which I cited in my review (page 434).

In the light of all this I submit my reply to the individual points of Dr. Tierney's comments. He does not see the reason why I mentioned and quoted the texts that declare the Roman Pontiff to be the authoritative judge in question of faith. Now let me make clear that the significance of these texts must be seen in their history as a whole and in the meaning that they assumed in it. The canonists reflect the Decretum, and the Decretum reflects the first millennium of the Church; and it is in the light of that tradition that it appears clearly that the pope stands for the Church which has never erred, which cannot err, in questions that involve eternal spiritual salvation. Therefore, he is the absolute (and, consequently, implicitly infallible) guarantor of the truth which one who wishes to be Catholic must profess. The fact that he can personally err is held by Dr. Tierney to be a clear refutation of that interpretation, while according to the documented argumentation of my review it is a quite positive proof: if the pope really errs in matters already defined (and this is something to be proved because it is often erroneously asserted), he is no longer pope and therefore does not compromise and cannot compromise papal infallibility. This persuasion of all is, therefore, on the contrary, the proof that implicitly the Roman Pontiff was regarded as infallible in his valid decisions.

Dr. Tierney fears the opposition between *Sedes* and *Sedens* and asks me to explain my idea of the relationship between the person and the

office of the pope. Well now, according to the texts, a pope who has fallen into heresy is no longer the *Sedens* and therefore the opposition between the Church of Rome and the pontiff and between the person and the office is also ruled out. From the moment the pope does not exist or does not exist any longer, the Church of Rome continues, as a bridge, the function of guarantor of orthodoxy up to the next pope. He and the Church of Rome can never be conceived of as two disjunct or (even less) opposed things: the Roman Pontiff is, in this context, the Church of Rome, and therefore the inerrancy of the Church of Rome is the inerrancy of the Roman Pontiff. If the person of the pope becomes a heretic, he no longer holds the office of pope, just as a judge who has become clinically insane, even though he remains the same person, can no longer be regarded as a judge as far as the effects of the office are concerned. Consequently, there is no difficulty in referring to the pope, in fact principally to the pope, the affirmation of the same canonists who exclude the possibility of error of the Church of Rome ("quia Deus non permitteret").

Here it is necessary to emphasize once again, in regard to Dr. Tierney's difficulties, that it is not a question of decisions that do not constitute the proper object of infallibility and which could even be wrong without the pope ceasing to be pope, but rather it is a question of truths of faith and morals definitively established as such, of that final and supreme judgment that the cited texts reserve to the pope in the capacity of an absolutely sure guarantor of saving truths and of authority binding for all and forever.

Another series of texts concerns the infallibility of the pope in relation to new truths of faith. I noted a number of texts of the canonists who clearly say that it pertains to the pope to say what the truth is when there is a question of a doctrine not yet defined. If he has decided in such a case, his decision prevails over against all others. And therefore there cannot occur a case in which the pope would be called a heretic because of these decisions. The texts of Huguccio, of the *Summa "Et est sciendum,"* of the *Summa Lipsiensis*, and of the *quaestio* that I cited, as well as the decision of Alexander III (*Cum Christus*), demonstrate that it was the widely accepted opinion that it was the duty of the pope to decide definitively controverted questions, and thus it was impossible that he, in doing this, should become heretical by reason of the contrary opinion of others, no matter how well qualified they might be. And that too, it seems to me, remains a valid argument for infallibility, implicitly admitted by the canonists. If Dr. Tierney has been so kind as to refer to an article of mine for the correct interpretation of those canonical texts, he must permit me to dissent from his application in

this case, because in these texts, after having cited the various opinions, the glossator concludes with his *solutio*, that is, with his personal opinion. I beg to be excused if I insist anew on the fact that here we are not dealing with any doctrinal point whatsoever, but, from the context, with questions that alone form the object of infallible decisions.³

The discussion of the gloss of Johannes Teutonicus (which, as I said, is already found in the *Palatina* of Laurentius Hispanus) that Dr. Tierney supplies here, places in question only the relationship between the Roman Pontiff and the Church of Rome, of which I have already given an explanation above. Not only does it not throw doubt upon the implicit concept of the infallibility of the pope in the doctrine of the decretists which is still not evolved in its details, but in fact it confirms it.

I agree with Dr. Tierney when he says that "no eminent canonist of the later Middle Ages was willing to accept the new doctrine," if that is to be understood in the sense that the debates and different opinions continued to exist in the canonical literature, but not in the sense that there would not have been present in them all the essential elements of a doctrine which was certainly not created by Olivi but common elements of a tradition of organic development which really is present in its various stages even in the first millennium of the Church, as the First Vatican Council rightly (in my humble opinion) affirmed.

It is only to be hoped that sure historical (dogmatic, canonical, ecclesiological) data may be furnished to the modern theology on infallibility and to its difficulties, of which I did not deem it my duty to remind the readers of my review, so that these data may effectively help it to overcome the serious problems. This is precisely what I have tried to do, in a modest enough way, in my review and in this response to the new observations and difficulties of Dr. Tierney. I am happy to be able to agree with him without any reservation or hesitation when he refers to the necessity of coming to know more deeply the various ways in which the Church has understood the fundamental truths of faith in the course of its history. For I am convinced that in that which constitutes the true object of papal infallibility we can all adhere with the certainty of scholarship to what the glossators expressed with that sense of faith which did not permit them to believe that God would permit the error of the Church of Rome, that is, of the pope.

³ At this point I would like to correct a typographical error that occurred in the text of my review: on page 435 line 5, which was to be corrected, has remained in the text, repeating the corrected line 3, while the correct line 5 has been omitted; it should read as follows: "reason was already stated: *quia eo ipso videtur aliquid esse catholice dictum. . .*"