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LEO I AND THE THEME OF PAPAL PRIMACY

AMONGST the popes of late antiquity Leo I has only in more recent years been given the credit that is due to him. Erich Caspar has not inappropriately said of Leo that he stands before us 'nicht wie ein einsam und plötzlich emporragender Berg, sondern wie eine krönende Spitze eines Gebirgsmassivs'.¹ It may indeed be maintained, both from the historical and doctrinal point of view, that the fixation of papal primacy was the achievement of Leo I, a task which appears all the more noteworthy as, apart from some isolated assertions or suggestions made by some of his predecessors, there was in papal literature little to facilitate his argumentation. Equally, it can be said without fear of contradiction that his authoritative language, his peremptory commands, his unbending and unyielding attitude, mark him out from his predecessors: none of them uses so consistently such strong and commanding language as Leo does. His is the *modus loquendi* of the *gubernator*: he orders, decides, reprehends, deposes, corrects, threatens, defines, sentences, suspends, prescribes—he insists on *obedientia*,² on *coercitio*,³ on *corrigerere inobedientiam iusta correctione*,⁴ on enforcing *canonum praecepta*⁵ or *apostolica et canonica decreta* or the *statuta apostolicae sedis*⁶ or the *regulae* or on the execution of the *decreta synodalia quae apostolicae sedis confirmat auctoritas*⁷—in short, Leo's language is the language of him who possesses the *gubernacula ecclesiae universalis*: his tone is the tone of him who governs.

To say that this is the result of utilizing to the full the potentialities inherent in the Petrine commission is to state an obvious half-truth. Every unbiased reader of the papal literature preceding Leo must agree that the *crux materiae* had been the establishment of a link between St. Peter and the pope. It is perhaps not without some significance that Leo was the first pope who spoke of himself as *vice Petri fungimur*,⁸

¹ E. Caspar, *Geschichte des Papsttums* (Tübingen, 1930), i, p. 423.

² *Ep.* xiv. 11. The references are throughout to the Ballerini edition in *P.L.* liv.

³ *Ep.* vi. 1.

⁴ *Ep.* xiii. 2.

⁵ *Ep.* xix. 1.

⁶ *Ep.* xii. 5.

⁷ *Ep.* i. 2.

⁸ E. Caspar, *op. cit.*, i, p. 428. Cyprian, it should be noted, spoke of all priests as functioning vicariously for Christ: 'sacerdos vice Christi vere fungitur' (*Ep.* lxiii. 14, in *C.S.E.L.* iii. 713, ll. 12 ff.). It seems that the otherwise little-known author, Aponius, perhaps in the early fifth century, was the first who made St. Peter a *vicarius Christi*, though the bishops (and emperors), too, were according to him *vicarii Christi*. For the former see, for instance, this passage: 'apostolorum principi revelata est Petro (Matt. xvi. 16) . . . quem princeps pastorum Christus mundo vicarium dereliquit: si amas me, pasce oves meas', cited by

although this is certainly not the most telling statement made by him. The real difficulty was how to establish this function of the pope: that none of the preceding popes had undertaken this—for the papacy—most essential and vital task is well known. True it is that the primatial position of the pope had been acted upon (so-called *Primatsübung*); it is true also that a Calixtus or a Stephen I in the third century operated with the special and pre-eminent position of the Roman Church; it is true above all that the presence of Peter in Rome and his martyrdom there has played its not insignificant role in maintaining the papal claim to primacy. But what needs emphasizing is that all this says as yet nothing about the precise link between Peter's powers and the pope's powers or about the nature of this link. We must bear in mind that Leo—as well as some of his more recent predecessors—fixed attention on, and very greatly stressed, the continuity of Petrine powers in the pope: Peter speaks through him; Peter lives in him; Peter acts in and through him. What does this really mean, if one wishes to detach oneself from this metaphorical language? How can a person *inter mortuos* be said to speak and act through, and live in, a person *inter vivos*? It would indeed be difficult to maintain—and I believe has not been maintained by any pope—that the function and position of the pope, that is, the continuance of Petrine powers in him, could conceptually be deduced from the merely historical contingency of Peter's sojourn and death in Rome. In other words, from Peter's presence, death, and tomb no juristic continuity of the powers appertaining to his office can be argued.¹ Equally,

A. Harnack, 'Vicarii Christi vel Dei bei Aponius', in *Delbrück-Festschrift* (Berlin, 1908), pp. 37 ff., at p. 46, who comments that Peter was therefore the vicar of Christ *κατ' ἐξοχήν*. The edition of Aponius's work by H. Bottino and J. Martini (Rome, 1843) is reprinted in Migne, *P.L.* Supplementum i. 799-1031. Cp., furthermore, F. Heiler, *Altkirchliche Autonomie und päpstlicher Zentralismus* (Munich, 1941), pp. 271-2; M. Maccarone, *Vicarius Christi* (Rome, 1952), p. 43; J. Ludwig, *Die Primatsworte in der altkirchlichen Exegese* (in *Neutestamentliche Abhandlungen*, xix. 4, 1952), p. 89 n. 26, with further literature. See also B. Altaner, *Patrologie*, 5th ed. (Freiburg, 1958), p. 420.

¹ This may be seen from the reaction to the stand which Victor I took in the matter of Easter computation against the churches in Asia Minor; it seems that he referred as a reason for the exercise of his *auctoritas* to the Roman possession of the apostolic tombs, as becomes clear from the protest of Polykrates who could equally refer to *καὶ γὰρ κατὰ τὴν Ἀσίαν μεγάλα στοιχεῖα κεκοίμηται*: Eusebius, *Hist. eccl.* v. 24. 2 (ed. E. Schwartz, in *Die griechischen christl. Schriftsteller der ersten drei Jahrhunderte* (Leipzig, 1903), ii. 1, p. 491, ll. 13 ff.). On the case itself see Caspar, i, pp. 20, 576 (here also further literature, to which should be added: H. Dieckmann, 'Das Zeugnis des Polykrates für die Apostelgräber in Rom', in *Z. f. kath. Theol.*, xlv (1921), pp. 627 ff.); see, furthermore, A. Harnack, 'Ecclesia Petri propinqua', in *Sitz.-ber. der Preuss. Akad. d. Wiss., Phil.-hist. Kl.*, 1927, pp. 139 ff., at p. 141, who remarks that there is no proof that Victor had referred to Matt. xvi. 18 f.

occupying the same 'chair' as St. Peter did—the *cathedra Petri*¹—cannot be the ground upon which the continuation of Petrine powers in the pope could be asserted.² What we are here dealing with are abstract notions, such as authority, function, office, in short power; and in order to establish the missing link between St. Peter and the pope in this respect, it is not enough to have recourse to the naïvely factual thesis of the pope's occupying Peter's chair. Quite apart from the difficulty presented by the Antiocheene Petrine chair, the sitting on the episcopal chair is merely the symbolic expression and sign of the episcopal position, not the latter's presupposition.³ The *cathedra*, in other words, is a symbol and as such merely represents, or stands for, something else, and cannot in itself be the *causa* or *ratio* of something else.⁴ Conceptually it would therefore be a somewhat arduous task to maintain that the chair of St. Peter 'conferred' Petrine powers,⁵ and that the papal theme of primacy is to be constructed upon the mere fact of the pope occupying the same chair which St. Peter was said to have occupied. This problem must be

¹ Cp. the feast for 22 February in the Roman Calendar of 354: Natale Petri de cathedra, see the *Feriale ecclesiae Romanae*, ed. in *MGH. Auctores antiquissimi*, ix. 71, l. 8: 'VIII Kal. Martias'. On the further history and meaning of this feast see Th. Klauser, *Die Cathedra im Totenkult der heidnischen und christlichen Antike*, in *Liturgiegesch. Forschungen*, ix (1927), pp. 152 ff., although his views on the origin of this feast are disputed by J. M. C. Toynbee in *American Journal of Archaeology*, lxii (1958), p. 127 (book review), a reference kindly supplied by Professor H. Chadwick. That the term *cathedra Petri* is of Cypriatic origin is too well known to be specifically stated.

² That there was in existence at Rome an episcopal chair in the second half of the second century is proved by the Muratorian Canon: 'sedente *cathedra* urbis Romae', cited by E. Stommel in *Jahrbuch f. Antike und Christentum*, i (1958), p. 71 n. 98; idem in *Münchener Theol. Z.* iii (1952), pp. 26 f. Hence the conclusion that the episcopal chair and the enthronization developed independently of the Roman-imperial ceremonial and had derived from Jewish sources. Against this is H. U. Instinsky, *Bischofstuhl und Kaisertum* (Munich, 1955), pp. 26–37. But before Constantine there was, in Rome, neither a church specifically associated with the bishop nor any recognizable ecclesiastical centre (Caspar, i, p. 57).

³ Cp. also E. Stommel, art. cit., p. 71: 'Sitzen auf der cathedra ist der Ausdruck der bischöflichen Stellung.'

⁴ When we say that the cross is the symbol of Christianity, we mean thereby that the cross stands for Christianity, and not that Christianity takes its origin from the cross, so that the latter appears as the *causa* or *ratio christianitatis*.

⁵ The liturgy of consecrating a bishop shows the purely symbolic character of his ascending and sitting on the throne, at all times the last symbolic act. Cp. also Instinsky, op. cit., p. 27, and further literature, p. 108 n. 2. What seems of some significance is that the enthronization of a bishop in the West followed the practice of Rome. Cp. L. Eisenhofer, *Liturgik*, 5th ed., by J. Lechner (Freiburg, 1950), p. 290: 'Die Enthronization und die Prozession durch die Kirche haben sich wohl nach dem Vorbild des Herkommens bei der Weihe des Papstes eingebürgert (Ordo Romanus IX) und erst im Laufe des Mittelalters allgemeine Einführung gefunden.'

clearly separated from the historical fact of 'apostolic succession' of the bishops of Rome, that is, their following St. Peter in chronological sequence. This 'apostolic succession' (of the bishops in general and of the pope in particular) has little in common with the juristic succession of the popes to Petrine powers. And it was precisely on this point that Leo I took the decisive step. 'Apostolic succession' embodies the charismatic element and also the element of uninterrupted temporal sequence, whilst for juristic succession neither of these elements is essential.¹

In order to act and to speak as St. Peter would have spoken, it was therefore necessary to rely upon something firmer, something more profound and better grounded than the mere fact of Peter's death in Rome or his chair or his tomb: but this presupposed the realization and recognition of the abstract theme of juristic succession, and the question resolves itself into: How can the pope be said to have succeeded St. Peter? And since we are here dealing with jurisdictional powers, we must ask, How can the pope be considered to be in the possession of Petrine jurisdictional powers? It is perhaps remarkable that the idea of papal succession to Petrine powers was only rarely and in isolated instances put forward by Leo's predecessors. Only through the juristic element of succession—for which the historical fact of Peter's death in Rome or his tomb may or may not be necessary²—could the theme of Petrine powers

¹ Any other view would have to explain why it was never a requirement for the exercise of papal powers that the pope had to be consecrated, nor why it was that the pope is said to succeed St. Peter immediately, that is, without intermediaries: in other words, the juristic succession excludes any idea of powers being 'handed down'. For a typical example of succession in a non-juristic sense, cp. Cyprian, *Ep. lxxviii. 5* (*C.S.E.L.* iii. 748) to Pope Stephen: 'Servandus est enim antecessorum nostrorum b. martyrum Cornelii et Lucii honor gloriosus, quorum memoriam cum nos honoremus, multo magis tu, frater carissime, honorificare et servare gravitate et auctoritate tu debes, qui *vicarius et successor* [i.e. of Stephen's immediate predecessors, Cornelius and Lucius] factus es.'

It should furthermore be noted that before the eleventh century no one could become a pope who was already a bishop; that at all times it was the simple fact of election which made the candidate pope, without any additional sacramental ceremonial; and that, most significantly, down to the thirteenth century the candidate immediately after his election took possession of the two curule chairs (and not of an episcopal chair): no symbolism could be more expressive.

² In this context the observations of O. Karrer, 'Apostolische Nachfolge und Primat' in *Z. f. kath. Theol.* lxxvii (1955), pp. 129 ff., at p. 161, should be heeded: 'Die theologische Wahrheit vom obersten Hirtenamt der Kirche hängt nicht [original italics] an der geschichtlich maximalen Wahrscheinlichkeit des römischen Aufenthalts Petri, und streng genommen ist die cathedra Petri auch nicht nach ewiger Glaubenswahrheit mit dem römischen Aufenthalt des heiligen Stuhles verbunden'; on p. 162 he quotes with approval the statement of M. Nicolau-J. Salaverri, *Theologia fundamentalis*, 2nd ed. (1952), that the proof for the primacy of the bishop of Rome is entirely independent of the fact of Peter's Roman sojourn. Similarly J. M. C. Toynbee, loc. cit., p. 126: Christ could have ordained 'that

continuing in the pope be established. And as long as this juristic link was not forged, the primatial claim of the papacy rested upon somewhat insecure and brittle foundations.

In the realization and recognition of this need lies the historical and doctrinal importance of Leo I. It is perhaps not without deeper meaning that in his voluminous output there is so little significance attached to the physical presence and the burial-place of Peter in Rome, but all the more significance is attributed to the abstract function and the office of the pope on the one hand, to the position and function of St. Peter himself on the other hand. And what is furthermore not without interest is that his argument has stood the test of time and his very expressions have adorned the thousands of papal letters from the Middle Ages down to the present day.

The theme of a papal succession to Peter had been, as I have already indicated, propounded before Leo.¹ In his remonstrance against the

St. Peter's primacy should pass to the bishops of Rome without the apostle ever visiting the capital city in person'.

¹ I am not in a position to take a stand in the controversy between Caspar on the one hand and A. Harnack and K. Adam (in *Theol. Quartalschrift*, cix (1928), pp. 161 ff.) on the other hand, concerning the Tertullian-Callixtus dispute. According to Adam, Tertullian did not specifically refer the power of the keys to St. Peter alone, but to the whole Church: 'in Petrus die *gesamte kirchliche Schlüsselgewalt gestiftet*' (art. cit., pp. 180, 184; original italics). Tertullian wrote in his protest against Callixtus of the bishop of Rome as having referred to Matt. xvi. 18 f. 'aber nicht direkt als successor Petri, sondern indirekt als Bischof der Kirche, auf welche durch Besitz des Apostelgrabes die Vollmacht Petri übergegangen ist' (Harnack, loc. cit., p. 149); cp. also J. Ludwig, op. cit., pp. 15 ff. What seems clear is that Tertullian had not in mind any exegetical analysis or consideration of Matt. xvi. 18 by the pope, but simply the *fact* of the Roman Church possessing the tomb of the apostle. I think it would lead to all sorts of complications and useless combinations if one were to adopt Harnack's view that 'für die antike und naive Auffassung umschliesst das heilige Grab nicht nur Gebeine, sondern etwas Lebendiges, und an diesem Lebendigen setzten sich sowohl die Wunder des Heiligen fort als auch seine Rechte und Vollmachten'. This somewhat bold and 'halsbrecherische' (Adam, p. 179; also p. 198) construction does not differentiate between the public and private cult and the veneration of tombs and the saints buried in them on the one hand, and purely abstract notions, such as succession, authority, functions, &c., and the exercise of powers, on the other hand. It may be open to doubt whether a tomb can confer 'Rechte und Vollmachten' and whether in the fact of its possession functions are continued. But whatever the truth of this matter may be, nowhere did Tertullian say of the pope that he was a *successor* of St. Peter. In *De pudicitia*, xxi (C.S.E.L. xx. 269) he says this: 'De tua nunc sententia quaero, unde hoc ius ecclesiae usurpes . . . [citation of Matt. xvi. 18 follows, though with 'dedi' instead of 'dabo'] . . . idcirco praesumis et ad te derivasse solvendi et alligandi potestatem, id est, ad omnem ecclesiam Petri propinquam.' But a derivation of powers and a succession to powers are two quite different things. To take an example from another field: the theocratic king derives his powers from God, but does not succeed God.

pope, Firmilian of Caesarea writes: 'Stephen who proclaims that he possesses *through succession* the chair of St. Peter.' It is therefore worth noting here that if Firmilian rendered the expression of the no longer extant papal letter correctly, we appear here confronted with one of the earliest papal statements which makes the possession of Peter's chair the consequence of succession: *per successionem*, that is, as a result of, or by means of, a succession the pope occupies the chair. The possibility must certainly be envisaged that the concept of succession was here used in a purely juristic sense.² However, no doubt can arise about the theme of a juristic succession in the first properly juristic product which the papacy had issued, in the decretal of Damasus I, actually dispatched by his successor Siricius. Here we read:³

Portamus onera omnium, qui gravantur; quinimo haec portat *in nobis* beatus apostolus Petrus, qui *nos* in omnibus, ut confidimus, administrationis suae protegit et tuetur *haeredes*.

As far as I can see, it is for the first time that the papacy used the very

Succession means transfer of power in its totality, derivation refers to the source of power.

¹ Firmilian's letter is incorporated in Cyprian's collection of letters: *Ep. lxxv* (C.S.E.L. iii. 810 ff.; the reference is to cap. 17, at p. 821). He writes in criticism of Stephen I: 'Atque ego in hac parte iuste indignor ad hanc tam apertam et manifestam stultitiam quod qui sic de episcopatus sui loco gloriatur et *se successionem Petri tenere* contendit, super quem fundamenta ecclesiae collocata sunt . . . Stephanus, qui *per successionem* cathedram Petri habere se praedicat, nullo adversus haereticos zelo excitatur.' On the case itself cp. Caspar, i, pp. 80-82, and J. Ludwig, pp. 32-34.

² The pseudo-Cyprianic 'tract' *De aleatoribus* (C.S.E.L. iii, Appendix, pp. 92 ff.) causes some difficulty. Here in cap. i (p. 93) we read in the opening paragraph: '. . . quoniam in nobis divina et paterna pietas *apostolatus ducatum* contulit et *vicariam Domini sedem* coelesti dignatione ordinavit, et originem *authentici apostolatus* super quem Christus fundavit ecclesiam, in superiore nostro portamus, *accepta simul* potestate solvendi ac ligandi et curatione (!) peccata dimittendi salutari doctrina admonemur. . . .' The one thing which I think is certain is that this is not papal language, which also seems to be the consensus of opinion. H. Koch, 'Zur Schrift adversus aleatores' in *Festgabe für Karl Müller* (Tübingen, 1922), pp. 58 ff. (here also further literature), holds it to be of African origin in the mid-third century, a sermon preached before the Donatist troubles. F. X. Funk, 'Die Schrift adversus aleatores', in *Kirchengesch. Abhandlungen & Untersuchungen* (Paderborn, 1899), ii, pp. 209 ff., though also denying papal origin, would be inclined to say that there is 'great probability' that the tract was written in the fourth century, a view which, for reasons irrelevant here, has everything in its favour. One might go so far as to say that this sermon was not written before the fifth century. According to Altaner, *Patrologie*, 5th ed. p. 158, this piece was written 'about 300'.

³ *Ep. i. 13* (Siricius) (P.L. xiii. 1132); cp. also W. Ullmann, *Growth of Papal Government* (London, 1955), p. 6 n. o, P. Batiffol, *Cathedra Petri* (Paris, 1938), p. 56, and E. Caspar, i, p. 261, who remarks that Siricius was 'gleichsam der Vollstrecker seines [Damasus'] Testaments' and that the text of this decretal

significant term *haeres* for the pope, and this in no lesser place than its first decretal, in itself a formidable juristic document establishing a number of important points of law. This term *haeres*¹ and its underlying idea reveals like a flashlight the thoughts animating the papacy and the direction they were taking.

One might well say that this decretal is in itself merely a symptom of the juristic complexion of the papacy, and the readiness with which the following pontificates operated with this form of governmental action and instruction would indeed prove how fertile the soil was for juristic argumentation. This applies with particular force to the present topic: the decretal letters of the popes, because they lay down the law, deepened the idea of a juristic succession to St. Peter, and once this was recognized it was not too difficult to draw some far-reaching consequences, with the result that the primitive and localized conception of the Petrine *cathedra* fades into the background and its place is taken by a rationalistic argument, although the papal invocation of the *Tu es Petrus* is still the exception rather than the rule.² For instance, the 'derivational', descending view which, certainly since Leo I, has played a major part,³ is coupled by Innocent I with the idea of the pope's Petrine succession:

Praesertim cum sit manifestum, in omnem Italiam, Gallias, Hispanias, Africam atque Siciliam et insulas interiacentes, nullum instituisse ecclesias, nisi eos quos venerabilis apostolus *Petrus aut eius successores* constituerint sacerdotes.⁴

'wurde deshalb noch von den Päpsten des hohen Mittelalters mit Vorliebe als Fundgrube sentenziöser Wendungen für ihre eigenen Schreiben benutzt.' The work of E. C. Babut, *La plus ancienne décrétale* (Paris, 1904), was not accessible to me.

¹ It is indeed remarkable that the occurrence of this term in the decretal has not been noticed before. About the coining of the term *sedes apostolica* in Damasus' pontificate see below, p. 43 n. 2. The decretal letters of the immediately following popes teem with the expression *auctoritas apostolicae sedis*.

² Every student of the early papacy is well aware of the scarcity of references to Matt. xvi. 18 f. The explanation of J. Ludwig, *op. cit.*, p. 86, for this phenomenon is that it was taken for granted—'die grosse Selbstverständlichkeit der römischen Primatialtheologie'—but this would seem to be in need of proof. . . .

³ See below, p. 44.

⁴ *Ep.* xxv, in *P.L.* xx. 552. Cp. also *ibid.*, col. 561: 'Respondere curavimus ut ecclesia tua Romanam consuetudinem, a qua originem ducit, servare valeat et custodire.' That Innocent I was thoroughly familiar with the Roman law of inheritance follows from another decretal of his: he is asked for a ruling in the case of sons qualifying for inheritance who were born before their parents' baptism; in his answer (*Ep.* xvii. 5, col. 529) he employs exact juristic terminology: 'Quid de talium filiis percensetur? Numquid non erunt admittendi in *haereditatis consortio* [cp. the dicta of the classical Roman jurists as assembled in *Dig.* xvii. 2. 52 (8), and also below, p. 39] qui ex ea suscepti sunt, quae ante baptismum fuit uxor? Eruntque appellandi vel naturales vel spurii, quia non est *legitimum matrimonium* . . . quaero, et sollicitus quaero, si una eademque sit uxor eius qui

It is not surprising, then, that the term *gubernacula* makes its unheralded entry into the first Innocentian decretal.¹ The succeeding pontificate of Zosimus marks a very definite advance in the penetration into the texture of Petrine-papal powers: he very skilfully blends the *patrum traditio* or the *canonica antiquitas* which attributed to the *apostolica sedes* supreme jurisdictional power because of the *potentia* of Peter, with the juristic argument of the pope's *haereditas sedis*, according to which it can be said that between Peter and the pope there is a *par potestatis data conditio*; in support of this Zosimus quotes in barely concealed form the crucial words of *ligare* and *solvere*.² In consequential pursuit of this view Zosimus coins for the first time the statement (with a great future):

tamen cum tantum nobis esset auctoritatis, ut *nullus de nostrae possit retractare sententia*.³

And in the Council of Ephesus the Roman legate makes the pithy declaration that Peter

ad hoc usque tempus et semper *in suis successoribus vivit et iudicium exercet*, huius itaque secundum ordinem *successor et locum tenens* sanctus beatissimusque papa noster Caelestinus.⁴

The successorship of the pope is here, and for understandable reasons, bracketed with the exercise of judicial power.

ante catechumenus, postea sit fidelis . . . utrum sint fratres appellandi, an non habeant postea, defuncto patre, *herciscundae haereditatis consortium* . . . ?' For this last see the *actio familiae herciscundae* as a procedural means in *Dig. x. 2, p.t.*

¹ *Ep. i* (*P.L. xx. 464*): 'Ne eius ecclesia [scil. Dei] aliquantulum sine *rektoris gubernaculo* remaneret. . . .' Cp. also below, p. 45, n. 2.

² *Ep. xii. 1* (*P.L. xx. 676 = Avellana no. 50, C.S.E.L. xxxv. 115*): 'Quamvis patrum traditio apostolicae sedi auctoritatem tribuit, ut de eius iudicio nullus disceptare auderet, idque per canones semper regulasque [eadem sedes] servaverit, et currens adhuc suis legibus ecclesiastica disciplina *Petri nomini, a quo ipsa quoque descendit*, reverentiam quam debet exsolvat, *tantam enim huic apostolo canonica antiquitas per sententias omnium voluit esse potentiam, ex ipsa quoque Christi Dei nostri promissione*, ut et ligata solveret et soluta vinciret, [et] *par potestatis data conditio in eos, qui sedis haereditatem*, ipso annuente, *meruissent* . . . cum ergo tantae auctoritatis Petrus caput sit, et sequentia omnium maiorum studia firmaverit, ut tam humanis quam divinis legibus et disciplinis omnibus firmetur Romana ecclesia, *cuius locum nos regere, ipsius quoque potestatem nominis* obtinere non latet vos, sed nostis' It is remarkable that the otherwise so subtle and sensitive Caspar did not realize the pregnancy of this proemium, but dismissed it as nothing but a 'Lobpreisung des römischen Petrus' (i, p. 354), whilst Ludwig considered the passage to contain merely a 'wortreiche Exegese von Matt. xvi. 18' (op. cit., p. 86).

³ *Ibid.*, col. 677 (*Avellana, p. 116*).

⁴ J. D. Mansi, *Conc. coll.* (Florence, 1760), iv. 1295 B. For the original Greek text (no authentic Latin text exists), cp. E. Schwartz, *Acta Concil. Oecumenicorum: Concil. univ. Ephesinum* (Berlin, 1927), I. iii, p. 60, ll. 27 ff.: 'τούτου τοιαυτοῦ κατὰ τῶν ὁ διάδοχος καὶ τοποτηρητῆς ὁ ἅγιος . . . Κελεστίνος'

As far as a reasoned establishment of continuing Petrine powers in the pope goes, the material before Leo I did not go beyond assertions and was not overwhelming, though it contained some notable hints: *haeres—successor—par potestatis data conditio—iudicium*, all concepts which belong to the juristic sphere. Although therefore Leo did not invent the idea of Petrine powers juristically continuing in the pope, there was as yet no plausible construction: what Leo did was to erect a fully-fledged and satisfying doctrine culminating in the juristic succession of the pope to St. Peter. In this he took a decisive step forward: the period between Damasus I and Leo I is for the development of the papal-juristic theme the period of gestation. Leo's conclusion made a permanent contribution to the ecclesiological thought of the papacy, establishing as he did satisfactorily, that is, on a purely juristic basis, the continuity of the Petrine office in the pope, not because the latter occupied the same chair or because Peter's tomb was in Rome, but because he was the heir of St. Peter. Furthermore, the exegesis of Leo is wholly personalized: it focuses attention on the (personal) office-holder, and for this reason the Roman Church as an institution receives importance as a consequence—and not as a basis—of the position of St. Peter himself. We shall perhaps now understand why Leo was so anxious to buttress the theme of Peter himself and that of pope = Peter, because, juristically speaking, the objective and depersonalized theme of the Roman Church was virtually incapable of being pressed into the legal framework of the Roman law, and this quite apart from the other apostolic—and Petrine—foundations. Within the precincts of the theme of papal primacy Leo's theology appeared in the garb of Roman jurisprudence: it is nothing more and nothing less than juristic theology, as the originator of which he may well be claimed.¹

Leo's conception of the pope as the *indignus haeres* of St. Peter² established in a concise, succinct, and, I dare say, unsurpassable form the conceptual succession of the pope in exclusively juristic terms, both taken from Roman law. According to Roman law the heir continues the deceased—this was one of the most fundamental Roman law principles relating to the law of inheritance: it is based on the principle of juristic continuity between the deceased and the heir. The heir replaced the

¹ About this concept of juristic theology, cp. my remarks in *Growth of Papal Government*, pp. 359 ff.

² *Sermo* iii. 4, col. 147 A; cp., furthermore, *Sermo* ii. 2, and *Sermo* v. 4. It is regrettable that the late J. Ludwig, op. cit., pp. 87–90, has not at all seen the juristic ingredients of Leo's statements; hence his presentation does not get us much farther. But he has, nevertheless, realized that Leo 'will anscheinend jede symbolische Deutung für immer von der Schwelle der Matt.-Verse weisen' (p. 88).

deceased and stepped into the shoes of the dead person.¹ The heir takes over all assets and all liabilities of the deceased, so that, in classical Roman law (that is, pre-Justinian law), the brocard was perfectly valid: 'Haereditas est *successio in universum ius*.'² Legally, therefore, there is no difference between the heir and the deceased: the latter is literally continued in the former. The second-century jurist Gaius consequently spoke of a *ius successionis*, and the later (fourth-century) Autun Gaius calls the inheritance itself the *universitas iuris*.³ Inheritance concerns the whole, the *universitas*, of the deceased person's estate, and Roman law treats this as an indivisible totality. In brief, there is, so far as the law is concerned, juristic identity between heir and deceased—from the legal point of view the death of the latter merely entailed change of the physical person, but not change of the rights and duties which are simply transferred to a different individual: whilst the bearer of the rights and duties is different, the latter are in no wise thereby affected. The heir obtains *locum defuncti*, according to Gaius,⁴ and *domini loco habetur*, according to Pomponius.⁵ Hence the frequent use of *fungi vice personae* by the jurists.⁶

But Roman law also knew of the '*indignus haeres*', that is, the heir who, for mainly moral reasons, was incapable of functioning as an heir: a notion which included offences against the deceased, or the disregard of his wishes, or impeding the changing of his will, and the like.⁷ This individual was then *indignus haeres pronuntiatus*, as Modestinus exquisitely styled him.⁸

It is obvious that Leo I had these Roman law models in mind when he expounded the theme of the Petrine commission continuing in the pope. Whilst the concept of *haeres* concerns objective data, such as the function, position, and office of St. Peter, the *indignus* refers to the personal-moral qualifications of the heir himself. It was the personal

¹ Cp. P. Windscheid, *Pandektenrecht*, 3rd ed. (Frankfurt, 1922), iii, pp. 178 ff.; Sohm-Mitteis-Wenger, *Institutionen des römischen Privatrechts*, 17th ed. (Munich, 1930), pp. 552 f.: the heir has the same position 'as if he were the deceased himself'. See, further, W. W. Buckland, *A Textbook of Roman Law*, 2nd ed. (Cambridge, 1932), p. 317.

² Buckland, *op. cit.*, p. 308.

³ *Ibid.*, p. 307.

⁴ In *Dig.* xxviii. 5. 31 (1).

⁵ In *Dig.* xi. 1. 15.

⁶ Cp. Paulus in *Dig.* xli. 3. 15 pr.; or Florentinus in *Dig.* xlvi. 1. 22. Cp., furthermore, Ulpian in *Dig.* xli. 1. 34: 'Haereditas enim non haeredis personam, sed defuncti sustinet'; Iavolenus in *Dig.* xli. 3. 22: 'Haeres et haereditas, tametsi duas appellationes recipiant, unius personae tamen vice funguntur'; Florentinus in *Dig.* xxix. 2. 54: 'Haeres . . . a morte successisse defuncto intelligitur', &c. For some remarks on this point with further literature cp. *Growth of Papal Government*, p. 8 n. 4.

⁷ Cp. the dicta of the classical Roman jurists assembled in *Dig.* xxxiv. 9.

⁸ In *Dig.* xxxiv. 9. 8.

merit of St. Peter at Caesarea Philippi to have recognized Christ, and *because of this* Christ distinguished Peter by conferring plenary powers on him.¹ But this personal merit of St. Peter is absent in his heirs—hence the *indignus haeres*, which concept clearly distinguishes between the person and his office: the latter he has inherited, the former not. To the pope the office, function, and power of St. Peter have been transferred *via successionis*,² but not his personal merits—how could they?

In a most concise manner Leo I brings these points into clear relief:

his itaque modis rationabili obsequio celebretur hodierna festivitas, ut *in persona humilitatis meae ille intelligatur*, ille honoretur, in quo et omnium pastorum sollicitudo . . . perseverat et cuius dignitas etiam *in indigno haerede* non deficit . . . quem non solum huius sedis praesulem, sed etiam omnium episcoporum noverunt primatem . . . ipsum vobis, *cuius* vice fungimur, loqui credite.³

The term *locus beati Petri* was removed from the realm of spatial thinking and transferred to that of abstract thought. The pope is *locum tenens* of Peter, his *τοποτηρητής*.⁴ And in the same sermon we read:

si quid itaque a nobis recte agitur recteque discernitur . . . *illius est operum et meritum* cuius in sede sua vivit potestas et excellit auctoritas.⁵

In another sermon he states:

gratias agentes sempiterno regi redemptori nostro Domino Iesu Christo, quod *tantam potentiam* dedit ei, quem totius ecclesiae principem fecit, et si quid etiam nostris temporibus recte per nos agitur recteque disponitur, *illius* operibus, *illius gubernaculis* deputandum, cui dictum est . . .⁶

The utilization of Roman law enabled Leo therefore not only to establish the conceptual link between him as pope and St. Peter, but also with the help of the same instrument to draw with all desirable clarity a line of demarcation between the pope as a mere person (*indignus*) and the pope as a successor of St. Peter, as *locum tenens*, as office-holder of Petrine functions (*haeres*), a highly useful distinction with a great future. It is the action or judgement or disposition ('agitur . . . disponitur . . .

¹ Cp. *Ep.* v. 2, col. 615 B: '(Dominus) qui apostolicae dignitatis beatissimo apostolo Petro primatum *fidei remuneratione*, commisit . . .'; *Ep.* xxviii. 5, col. 775: '*nec immerito* beatus est pronuntiatus a Domino, et a principali petra soliditatem et virtutis traxit et nominis. . .'. Above all see the exegesis of Matt. xvi. 18 f. in his *Sermo* iv. 2, col. 150 = *Sermo* lxxxiii, cols. 429-30.

² Hence the figures of speech, Peter lives in the pope or acts through the pope, or the 'fortlebende Petrus' and the like, express very succinctly the juristic succession to the Petrine office: on the concept of the 'Fortdauer der Persönlichkeit' in Roman law cp. G. F. Puchta, *Pandekten*, 9th ed. (Leipzig, 1863), pp. 644 and 646; also Windscheid, *op. cit.*, iii, pp. 179-80.

³ *Sermo* iii. 4, col. 147 A.

⁴ Cp. the statement of Celestine's legate at Ephesus, above, p. 32 n. 4.

⁵ *Sermo* iii. 3, col. 146 B.

⁶ *Sermo* iv. 4, col. 152 A.

discernitur') flowing from the exercise of Petrine functions which bears the (official) Petrine stamp, and not actions or judgements or dispositions flowing from the pope as a mere person. St. Peter had been given plenary powers by receiving the *claves regni coelorum* as well as the all-comprehensive *potestas ligandi et solvendi*, and through inheritance the pope obtains the *ius istius potestatis*¹ which logically constitutes a *plenitudo potestatis*.² And this plenitude of power—how could it be otherwise?—is thoroughly juristically conceived: the power which in its fullness resides with the pope alone, as a result of his alone inheriting the Petrine powers, is judicial, manifesting itself in condemnation or its opposite: '... manente *apud nos iure* ligandi atque solvendi per moderamen beati Petri et *condemnatus* ad poenitentiam et *reconciliatus* perducatur ad veniam.'³

Ligare—solvere: do they not strike a familiar chord with anyone who has acquired the rudiments of Roman law? Did not these terms in themselves suggest a purely juristic interpretation? Is not the *lex*, at least

¹ *Sermo* lxxxiii. 2, col. 430. Cp. Ulpian in *Dig.* ii. 3. 1 pr.: 'Omibus magistratibus, non tamen duumviris, secundum *ius potestatis suae* concessum est . . . ' With Leo's pungent diction should be compared Boniface I's, which reveals the lack of precise juristic contours, although the juristic overtone is clearly audible: 'beatus apostolus Petrus, cui arx sacerdotii dominica voce concessa est, in immensum gratulationis extollitur, quoties pervidet concessi sibi honoris a Domino intemeratae se pacis filios habere custodes. Quid enim gaudio debeat maiore pensare quam quod agnoscit *acceptae potestatis illaesa iura* servari?' (*Ep.* iv. 1; *P.L.* xx. 760 B).

² *Ep.* xiv. 1, col. 671 B.

³ *Sermo* v. 5, col. 156 A. Adam, art. cit., pp. 193-4, speaks in discussing Tertullian's (catholic, not montanist) views of the principle of inheritance = succession: 'Das Prinzip selbst ist von altersher in der Kirche wirksam. Es führt sich in seiner letzten Wurzel wohl auf das im rabbinischen Spätjudentum geltende Prinzip einer Fortvererbung der Lehrautorität vom Meister auf den Schüler zurück . . . demgemäß auch die primäre Aufgabe des Episkopats, die getreue Fortüberlieferung der Apostelpredigt war, und daß gerade in diesem ihrem *magisterium* nicht im Kultischen ihr Besonderes . . . lag, so wird es uns schwer verständlich, daß das jüdische Prinzip von der *successio magistralis* sich im Christentum ohne weiteres in das von der *successio apostolica* umsetzte.' The Jewish root may or may not be correct, but what we are here concerned with is not a vague *successio magistralis* transforming itself somehow into a *successio apostolica*, but with succession to jurisdictional powers. And for a construction of this latter succession there was no other model than the Roman law, as the astonishing parallels between Leo's conceptions and expressions and those of the classical jurists prove. I think it can only have been a momentary lapse on Adam's part when he says (p. 254): 'So vermochte Cyprian den petrinischen Primat nur via ordinis zu deuten.' The crucial point is precisely this, that as regards the *ordo* there is no distinction between the pope as bishop of Rome and any other bishop, and no primacy can be based upon the *ordo*. The theme of primacy presupposes a differentiation, and this could be found only in the realm of jurisdiction, and never in that of the *ordo*.

empirically, if not etymologically,¹ derived from *ligare*?² Moreover, the Roman *obligatio* and the modern term of obligation convey exactly the same overtones of legal binding, and so does the Roman 'solutio obligationis', the release from an obligation. Both *ligare* and *solvere* are therefore terms with which every Roman law-trained writer of the fifth century was as familiar as any law undergraduate is today. This Petrine power as depicted in the *potestas ligandi et solvendi* can, in the hands of a legally conscious writer, lead to no other view than the juristic one, that is, this *potestas* is judicial and can be exercised on the basis of the *ius* only, in itself evidently the offspring of this self-same *potestas*. In parenthesis it may be observed that judicial power in Roman-imperial times included under the generic term *iurisdictio* both judicial (in the narrow sense) and legislative power. It is again only from the juristic standpoint understandable why Leo was so insistent on the *statuta, regulae, sanctiones, decreta* (and be it noted that the *epistola decretalis* is primarily a judicial decision: *decret(um) est* ← *decernere*), because the exercise of the (inherited) legal power to bind and to loose rested upon these, embodying as they did the *ius* antecedently created as a result of the Petrine binding and loosing powers. What therefore this Petrinity of the pope amounted to was *imperium* (in the Roman law sense) or *auctoritas* which 'excels'³ in the Roman see. It is furthermore to be explained only on this juristic basis why Leo is so much concerned with the *status (universalis) ecclesiae*,⁴ because the juristic decisions of the pope, based as they are on the inherited *potestas ligandi et solvendi*, constitute the binding rule for the whole Church: the *gubernacula*⁵ are

¹ So F. Lübker, *Reallexikon des klassischen Altertums*, 8th ed. (Berlin, 1914), p. 591; Pauly-Wissowa, *Real-Encyclopädie*, xii (1925), s.v. *lex*, col. 2315; *Oxford Classical Dictionary* (Oxford, 1949), s.v. *lex*, p. 499.

² See Th. Mommsen, *Juristische Schriften* (Berlin, 1907), iii, p. 372: 'Lex gehört zu ligare (Bindung).' Every *lex* designates a binding, an (ob)ligatio, of someone to someone else. Cp. also his *Römisches Staatsrecht* (Leipzig, 1887), iii, p. 308: 'Lex bezeichnet die Bindung eines Rechtssubjektes gegenüber einem anderen, und zwar immer in dem Sinne, daß der eine Theil die Bedingungen der Bindung formuliert und die Initiative hat, der andere Theil in diese Bedingungen eintritt.' Cp. also *ibid.*, p. 310: the *lex* is concerned with the 'Entstehung der Bindung . . . *jubere, Recht setzen*, ist diejenige Tätigkeit, aus welcher die *lex* hervorgeht'. At p. 308 n. 4: 'Daß *lex* mit *légare* = beauftragen und *conlêga* = Mitbeauftragter zusammengehört, kann verständiger Weise nicht bezweifelt werden; und danach steht der Grundbegriff empirisch fest.'

³ 'auctoritate excellit': *Sermo* iii. 3, col. 146 B. Cp. Ulpian in *Dig.* iv. 3. 11 (1): in a case of inheritance no action lies (for certain *humiles*) 'adversus eum, qui dignitate excellit'.

⁴ Cp., e.g., *Ep.* xlv. 3, col. 826; *Ep.* lxxxiii. 1, col. 919; *Ep.* cvii, col. 1010; *Ep.* cxl, col. 1109; &c. *Ep.* cxiii. 2, col. 1025: 'utilitas universalis ecclesiae.'

⁵ *Sermo* iii. 3, col. 146 B: 'suscepta ecclesiae gubernacula non reliquit [b. Petrus]'; cp. also *Ep.* xii. 10, col. 654. See Cicero, *Pro Sexto Roscio Amerino*, xviii. 50 (ed.

possessed by the pope as heir to the jurisdictional office of St. Peter: the notion—again borrowed from Roman law—expressing this monarchic-legal status of the pope is that of the *principatus*.¹

These juristic interpretative principles of Leo I enabled him furthermore to perceive in all its potentialities the automatism of the Petrine powers: the binding and loosing on earth produces automatic consequences in heaven, because to Peter alone were given the keys of the kingdom of heaven. This automatic effect of the Petrine *potestas* demonstrates the juristic identity of Peter's judgements and Christ's judgements, and this because of the intimate fusion between Peter and Christ:

Sic enim prae ceteris est ordinatus [Petrus] ut dum petra dicitur, dum fundamentum pronuntiatur, dum *regni coelorum ianitor* constituitur, dum ligandorum solvendorumque *arbiter*, *mansura* etiam in *coelis iudiciorum suorum definitione*, praeficitur, qualis *ipsi cum Christo esset societas*²

Leipzig, 1835, p. 41; Clark, O.C.T. xviii. 51): 'Summi viri clarissimique homines, qui omni tempore *ad gubernacula rei publicae* sedere debebant.' About Innocent I see above, p. 32. The jurist Alfenus connected the *gubernacula* with the *navicula*, in *Dig.* xxi. 2. 44. St. Augustine too had this term (*Ep.* xxi, ed. C.S.E.L. xxxiv. 50). For an engraved gem of the late fourth or early fifth century depicting a *navicula* cp. K. Goldammer, 'Navis ecclesiae' in *Z. f. neutestam. Wiss.* xl (1942), pp. 76 ff. The relationship between the *navicula Petri* and the *gubernacula* relative to it, and the emerging views of Petrine heirship, are still in need of analysis. On the *navicula* and the *gubernacula* cp. the excellent exegesis by H. Rahner in *Z. f. kath. Theol.* lxxix (1947), pp. 5 ff., esp. 20 ff., who rightly points out (p. 22) that the usage of a term such as *gubernacula* shows the approximation to a *bildferne Rechtssprache* (of the Ciceronian use Rahner seems to be unaware). How akin papal and imperial language and conceptions were may be seen from a decree of Justinian (anno 530): 'Orbis terrarum, qui nostris gubernaculis regitur' (*Cod.* III. i. 14 (1)).

¹ *Ep.* lxxv. 2, col. 881: 'Credentes plenum esse rationis atque iustitiae, ut sicut *per* beatum Petrum apostolorum *principem* sacrosancta ecclesia Romana teneret *supra* omnes totius mundi ecclesias *principatum*.'

² *Sermo* iii. 3, col. 146 B. With this should be compared the statement of the three Roman legates in their condemnation of Dioscurus: 'Unde sanctus ac beatissimus papa caput universalis ecclesiae Leo, sancta synodo consentiente, Petri apostoli praeditus dignitate, qui ecclesiae fundamentum et petra fidei, *coelestis regni ianitor* nuncupatur, episcopali eum dignitate nudavit . . .' (*Ep.* ciii; Appendix, col. 992). About the differences between this *exemplar* and the Greek text cp. P. Batiffol, *Le Siège apostolique* (Paris, 1924), p. 543 n. 1, who doubts whether in the public session at Chalcedon such terms as 'caput universalis ecclesiae' or 'praeditus dignitate [Petri]' were really used. With this should be compared Boniface I's statement which invokes the, by his time, still rarely invoked 'tibi dabo claves regni coelorum' (and which he does not apply to the pope at all), only to continue: 'in quae [regnum coelorum] nullus *sine gratia ianitoris* intrabit' (*Ep.* xv. 4; *P.L.* xx. 781 B). Two generations earlier Hilary of Poitiers had written: 'O beatus (*sic*) *coeli ianitor*, cuius *arbitrio* claves aeterni aditus traduntur, cuius *terrestre iudicium* praeiudicata auctoritas sit in coelo . . .' (*Commentarius in Matthaeum*, *P.L.* ix. 1010 A). According to Altaner, *Patrologie*, 5th ed., p. 326, Hilary 'ist der erste Dogmatiker und namhafte Exeget des Abendlandes'.

There is between Christ and Peter (and consequently the pope) an inseparable union—'magnum et mirabile huic viro *consortium potentiae suae* tribuit divina dignatio'¹—or an '*indeficiens consortium cum aeterno sacerdote*',² and it is this juristic facet which 'in suos quoque se transfudit haeredes'.³ This undivided union between Peter and Christ is the result of the conferment of plenary powers on the former, so that he and Christ are the same:

Hunc [Petrum] enim in *consortium individuae unitatis* assumptum, *id, quos ipse erat, voluit nominari*, dicendo Tu es Petrus. . . .⁴

Elsewhere Leo makes Christ say to St. Peter as an explanation of his commission:

Cum ego sim inviolabilis *petra*, ego lapis angularis, qui facio utraque unum, tamen *tu quoque petra es*, quia mea virtute solidaris, ut *quae mihi potestate sunt propria sint tibi mecum participatione communia*.⁵

It is worth noting, however, that the concept of undividedness is legal, and one that was again used with special reference to the law of inheritance by the jurists: the 'haereditas' is *individua*.⁶ The juristic skill of Leo I lay in utilizing these current legal conceptions to the full, in order to prove the successorship of the pope to St. Peter: but once this *modus arguendi* was adopted, there was indeed nothing to impede its

¹ *Sermo* iv. 2, col. 150.

² *Sermo* v. 4, col. 154 D. Both *societas* and *consortium* are again terms taken from the Roman law of inheritance. Cp. Papinian as reported by Ulpian (in *Dig.* xvii. 2. 52 (8)): 'Idem Papinianus eodem libro ait: si inter fratres voluntarium consortium in initum fuerit, et stipendia ceteraque salaria in commune redigi iudicio societatis, quamvis filius emancipatus haec non cogatur' Cp. also Buckland, *op. cit.*, p. 318. According to Modestinus in *Dig.* xxiii. 2. 1 matrimony is a 'coniunctio maris et feminae et consortium omnis vitae, divini et humani iuris communicatio'.

³ *Ibid.*, col. 155 A. Cp. again Ulpian, reporting Scaevola, in *Dig.* xlvi. 4. 1 (15): 'quia haereditas *in eum* [haeredem] id tantum *transfundit*, quod est haereditatis.'

⁴ *Ep.* x, col. 629. What interpreters (including Caspar, see i, p. 428) have overlooked is the automatism of Petrine powers. As soon as this feature was properly appreciated, the Leonine idea of the *consortium potentiae* was bound to emerge. Evidently, the *potentia* here as elsewhere refers to judicially binding decisions, and to nothing else. About the wholly legal character of the Petrine commission itself see below, p. 42. Reference should, however, be made to the view of J. R. Mantey in *Journal of Biblical Literature*, lviii (1939), pp. 243 ff., at p. 246, commenting on the difficulties caused by the simple future passive (instead of the future perfect passive) in the Matthew passage.

⁵ *Sermo* lxxxiii. 1, col. 430 A = *Sermo* iv. 2, col. 150. Cp. also *Sermo* lxii. 2, col. 350 c. Would it be too bold to suggest very tentatively that the fierceness of the christological discussion just in Leo's time and his sensitivity towards an antagonistic christology had something to do with these views on the *consortium potentiae*, the *id quod ipse erat*, and the like?

⁶ Modestinus, in *Dig.* xxvi. 7. 32 (6).

full application to the clarification of the Petrine relations to Christ and to conceive these also in entirely juristic categories. It was a fallow and untilled soil, but one that proved extraordinarily fertile. For as a result of these legal considerations the papal *principatus* could well be construed as identical with the Petrine *principatus*, because

haereditatem eiusdem potestatis iurisque esse, cuius defunctus fuit, constat.¹

And since Christ formed an inseparable union with Peter, Leo could, juristically correctly and logically enough, not only say that

omnes tamen proprie regat Petrus, quos principaliter regit et Christus,² but also that

in omnibus, quae recte agimus, *Christus exsequitur*, et non in nobis, qui sine illo nihil possumus, sed *in ipso*, qui possibilitas nostra est, *gloriamur*.³ Indeed, since Christ and Peter have common powers—'quae mihi potestate sunt propria, sint tibi mecum participatione communia' Leo makes Christ say to Peter, as we have just seen—the notion coined by Leo I, the *plenitudo potestatis* in the hands of Peter and therefore of the pope as his heir, might almost appear somewhat inadequate to express the contents of the omnipotent Petrine office. But despite its inadequacy the formula served its purpose admirably, as the subsequent history of the papacy was to demonstrate. To the Pauline conception of the *plenitudo Dei* (Eph. iii. 19), of the *plenitudo Christi* (ibid. iv. 13), of the *plenitudo divinitatis* (Col. ii. 9), of the *plenitudo fidei* (Heb. x. 22), of the *plenitudo intellectus* (Col. ii. 2), is added the Leonine *plenitudo potestatis* which is the perfect juristic complement to the (Pauline) *plenitudo legis* (Rom. xiii. 10).⁴

¹ Ulpian in *Dig.* I. 17. 59.

² *Sermo* iv. 2.

³ *Sermo* v. 4, col. 154.

⁴ It should perhaps be remarked that the term *plenitudo* did not apparently constitute part of the classical Latin vocabulary. It first seems to occur in a work which had been ascribed to Cicero, and which was known before St. Jerome; this work, because of its supposed Ciceronian origin, always enjoyed a very great reputation; in it the word is used as a technical rhetorical jargon. See (Cicero), *Ad Herennium*, iv. 20. 28 (ed. in *Loeb Classical Library* (London, 1954), p. 298). It bears the sub-title: *De ratione dicendi*: 'On the art of public speaking', as translated by H. Caplan, ed. cit.; cp. also his observations on the authorship, pp. vii-viii. It may be that the term *plenitudo* was modelled on *πλήρωμα* or *πλήρωσις*. The infiltration of juristic terms into the Vulgate—in this respect too Damasus assumes historic significance, because it was he who had urged St. Jerome to produce a usable Latin translation (see *Lexikon für Theologie und Kirche*, ii (Freiburg, 1958), 382)—would seem to be in need of close analysis. Apart from the terms to which we have alluded, there is another highly significant expression in Iud. 25: 'soli Deo, salvatori nostro, per Iesum Christum . . . imperium et potestas.' Anyone acquainted with the Roman constitution and law will recognize the pregnant meaning of these terms. Cp. further 1 Tim. i. 1; 1 Pet. iv. 11 and v. 11. About Christ as emperor see Erik Peterson, *Theologische Traktate* (Munich,

Leo's juristic principles opened up an entirely new field in the conception of the papal position. He it was who gave the *principatus* of the Roman Church, or rather of the pope, its first and, as it happened, also its permanent doctrinal justification: the primitive and naïve, localized, connexion between the bishop of Rome and the tomb of St. Peter was supplanted by the infinitely more satisfying and intellectually plausible and appealing doctrinal argument. The means to achieve this feat were juristic and wholly taken from the armoury of Roman law:¹ indeed not surprisingly, since the *crux materiae*, that is, Christ's commission to St. Peter, belonged to the same category, that is, the law. One may even go so far as to say that the exclusively legal complexion of Peter's position suggested in fact operating with legal means in order to clarify its essence and the continuation of Petrine powers in the pope.

That Leo's juristic interpretation is in entire accord with the original import of Matt. xvi. 18 f. can be proved by biblical exegesis. Accordingly² the notions of *ligare* and *solvere* and their Aramaic and Greek

1951), pp. 151 ff. ('Christus als Imperator'). The 'environmental influences' of Roman law and the Roman constitution on the organizational complexion of the Roman Church have also been pointed out by S. Kuttner, 'Some Considerations on the Role of Secular Law and Institutions in the History of Canon Law' in *Scritti di sociologia e politica in onore di Luigi Sturzo* (Bologna, 1953), ii, pp. 3-14, at pp. 10-12, who would like to speak of a 'Romanization' of the ecclesiastical organism. Another clear instance is the adoption of the name and meaning of the *consistorium* (cp. Constantine's *sacrum consistorium*) by the papacy, and the application of the designation of the Roman senator as forming *pars corporis* of the emperor (see the law of Arcadius and Honorius, in *Cod. Iust.* ix. viii. 5) to the cardinals of the Roman Church who became *pars corporis papae*. The Pauline *corpus* idea too demands attention in the light of Roman law; see M. Roberti, 'Il corpus mysticum di S. Paolo nella storia della persona giuridica' in *Studi in onore di Enrico Besta* (Milan, 1939), iv, pp. 37-82; also A. Ehrhardt, 'Das Corpus Christi und die Korporation im spät-römischen Recht' in *Savigny Z., Röm. Abt.* lxx (1953), pp. 299 ff.; lxxi (1954), pp. 29, 33-34. That both Tertullian and Cyprian were thoroughly familiar with Roman law is not surprising; cp. P. Vitton, *I concetti giuridici nelle opere di Tertulliano* (Rome, 1924), and A. Beck, *Römisches Recht bei Tertullian und Cyprian* (= *Schriften d. Königsberger Gelehrten Gesellschaft*, vii. 2 (Halle, 1930)). For a very sensible plea to include Roman law in theological studies cp. J. Morgan, *The Importance of Tertullian* (London, 1928), p. 20; cp. also *ibid.*: 'Numerous passages in the N.T. lose much of their meaning for us, and in some cases they seem to have no meaning at all, if we lose sight of their debt to Roman law . . . for the terminology of Roman law has suggested some of the language and principles of the N.T.' About this influence on St. Paul, *ibid.*, pp. 23 ff., and on Tertullian, pp. 26 ff., 69 ff. (vocabulary).

¹ Of course, *haeres* and *haereditas* and its underlying idea could be found in the Bible, but it seems that there it is used either in the concrete and untechnical sense (O.T.) or in a sacramental-pneumatic connotation (especially in the Pauline letters). Nowhere can be found a biblical use of the term that would deal with the juristic succession into the powers and office of someone else.

² For the following cp., *inter alia*, H. Strack and P. Billerbeck, *Kommentar*

equivalents signify the authoritative decision of the judge: the terminology actually stems from the current Jewish judicial usage. The call by Christ of St. Peter constituted his appointment as the keeper of the keys and therefore as 'bevollmächtigter Hausvogt Gottes auf Erden':¹ hence being placed in this position St. Peter was not only entitled and bound to exercise disciplinary powers, but also to decide authoritatively what was, and what was not, 'nach der göttlichen Hausordnung im Reiche Gottes *Rechtens* und was *nicht Rechtens* sei, was als erlaubt und was als verboten zu gelten habe'.² These terms *δέειν* (*ligare*) and *λύειν* (*solvere*) were also used in rabbinical legislation, that is, in fixing rights and duties,³ and consequently, to lay down the law and to administer it belongs to the very functions of the key-bearer,⁴ the important point being that it is not man himself but his actions which are the objects of binding and loosing.⁵ That this explanation⁶ is in consonance with all jurisdictional principles appears self-evident: law by its very nature deals with the external actions of men, and not with Man, and government of men—or to use the Leonine term *principatus*—therefore focuses attention upon the outward concrete actions of the members of the *ecclesia universalis*. Once again, government and law manifest themselves as two interdependent notions.

zum Neuen Testament, vol. i: *Das Evangelium nach Matthaeus* (Munich, 1922), pp. 738 ff.; A. Schlatter, *Der Evangelist Matthaeus* (Stuttgart, 1929), pp. 511 ff.; G. Dalman, *Die Worte Jesu* (Leipzig, 1930), pp. 174 ff.; furthermore, C. L. W. Grimm, *Lexicon Graeco-Latinum*, 3rd ed. (Leipzig, 1888), s.vv. *δέω* and *λύω*; W. Bauer, translated by W. F. Arndt and F. Wilbur Gingrich, *A Greek-English Lexicon of the New Testament*, 4th ed. (Cambridge, 1957), s.vv.

¹ Dalman, op. cit., p. 177. See also J. Jeremias in Kittel's *Theol. Wörterbuch z. N.T.* s.v. *κλεῖς*, at pp. 749 f.

² Strack-Billerbeck, p. 739.

³ Schlatter, op. cit., p. 511.

⁴ *Ibid.*, p. 512.

⁵ *Ibid.*: 'ὁ εἶν und ὅσα εἶν, nicht οὖς εἶν wird gesagt, weil das Urteil des Apostels das *Verhalten* des Menschen trifft. Wie überall bei Matthaeus, bestimmt der Mensch auch nach diesem Spruch den Ausgang seines Lebens durch sein *Handeln*' (italics are mine). I may be forgiven for introducing here an example from the High Middle Ages to indicate that this conception was then still valid. Cp. Bernard of Clairvaux (*De consideratione*, I. vi; *P.L.* clxxxii. 736) telling the pope: 'Ergo in *criminibus*, non in possessionibus potestas vestra: propter illa, et non propter has, accepistis claves regni coelorum.'

⁶ Cp. also J. Lowe, *Saint Peter* (Oxford, 1958), p. 59, who says in explaining the two terms: 'According to rabbinical usage two lines of explanation are equally possible. Binding and loosing may mean either (1) prohibiting and permitting, that is, the laying down of rules, the exercising of teaching and legislative authority, or (2) condemning and acquitting, that is, the exercising of disciplinary and judicial authority.' It is perhaps worth pointing out that the Petrine commission was not accompanied by a laying on of hands; on the significance of this cp. D. Daube, *The New Testament and Rabbinic Judaism* (London, 1956), pp. 236-7.

The institution of the monarchic government by Christ in the person of St. Peter as key-bearer necessitated consequently the construction of the thesis that this original Petrine *potestas* continued beyond its first holder.¹ If, as is admitted on all sides, this *potestas* was wholly judicial (in the Roman law sense), then there is from the juristic standpoint no obstacle to prevent this *potestas* continuing in heirs, for this heirship concerns the purely judicial status, that is, government, and conversely does not concern any sacramental-pneumatic qualities, peculiar to the *princeps apostolorum*. Differently expressed: this inheritance does not refer to (in the strictest sense) an apostolic commission incapable of being inherited, but to the inheritable office, the functions, or powers, of St. Peter. The one is the *apostolus* (Peter), the other the *apostolicus* (pope) and his office is the *apostolatus*.² It was the judicial nature of the office which led Leo I to conceive the Petrine commission in proper legal categories and secondly to utilize the Roman law in his clarification of the relationship between him *qua* pope and Peter *qua* office-holder: and his further penetration—in truly Roman lucid simplicity—resulted in the equation of Christ = Peter = pope, all of which has nothing to do with the charisma, but merely with the *officium*.

Iusta, dilectissimi, et rationabilis causa est laetandi (he says on the anni-

¹ This becomes still clearer in the fulfilment of Christ's promise made at Caesarea Philippi, namely in John xxi. 15 ff. Although Leo I does not refer to it in the context of Matt. xvi. 18 f., the command is again thoroughly legal; this follows from the threefold repetition of the command which corresponded to the oriental custom, 'daß eine *Recht* verleihende Formel vor Zeugen dreimal ausgesprochen wurde und dadurch absolute Gültigkeit erlangte': P. Gaechter, 'Das dreifache "Weide meine Lämmer"' in *Z. f. kath. Theol.*, lxix (1947), p. 338; cp. also *ibid.*, p. 344: Christ followed this legal custom, 'der in besonderer Weise für feierliche *Rechtshandlungen* Verwendung fand und noch findet' (italics are mine). Cp., moreover, Ezek. xxxiv. 16 and 17.

² The semantics of *apostolicus* would seem to be in need of closer scrutiny, but the one certain assertion that can be made is that the concept expresses in a very succinct manner the absence of any charismatic qualities, and emphasizes the judicial character. It is, moreover, again of interest that it was in the pontificate of Damasus that the term '*sedes apostolica*' was coined, cp. P. Batiffol in *Rivista di archeologia cristiana*, ii (1925), pp. 99 ff., at p. 104, though I have some reservations in accepting the statement of this savant that (p. 112) the term *apostolatus* when used by or for the papacy has the same meaning as in the N.T., i.e. 'la qualité d'apôtre, sa mission, sa dignité' (cp., e.g., Acts i. 25; Gal. ii. 8; Rom. i. 5; 1 Cor. ix. 2; &c.). Nor is it strictly correct that *apostolatus* was not used before 417 (*ibid.*, p. 112), because Innocent I himself had it: 'Per quem [Petrum] apostolatus et episcopatus in Christo coepit exordium' (*P.L.* xx. 470), and the pseudo-Cyprianic sermon had it too, cp. the quotation above, p. 30 n. 2. But the term *apostolicus* has not received even a preliminary investigation. As far as I can see, it was first used by Tertullian, though in a rather cynical sense, in his *De pudicitia*, xxi (*C.S.E.L.* xx. 269) in apostrophizing the pope: 'Exhibe et nunc mihi, *apostolice*, prophetica exempla . . .'

versary of his consecration), *si officii origo suscepti ad laudem sui referatur auctoris*.¹

This conception of the papal office could without undue difficulty be linked with the Pauline theme of the care of all the churches (2 Cor. xi. 28), and it is assuredly no coincidence that the first juristic instruction of the Roman Church, i.e. the decretal of Damasus I, which had struck up for the first time the theme of the *haeres*, joins this Pauline thesis with the Petrine commission;² and it is still less a coincidence that in Leo's statements this very same theme is so pronounced: all the churches are committed to the care of the pope.³ From here it was only a very short step to arrive at the view of Christianity which, for want of a better name, may be called derivational, namely that all ecclesiastical power diffused throughout the whole *corpus* stems eventually from the heir of St. Peter.⁴ The juristic construction of the monarchic function of St. Peter and its continuance in his heir could indeed lead to the 'vertical' thesis of the ecclesiastical organism: according to this descending theory of government the bishops received their (jurisdictional) *office* (not their

¹ *Sermo* iii. 1, continuing: '... mihi necessariam (observantiam) maxime esse cognosco, qui respiciens ad *exiguitatis meae* tenuitatem, et ad *suscepti muneris* magnitudinem . . .'; in cap. 2, col. 145 B: 'Quamvis ergo, dilectissimi, nos ad explendam *nostrae officii servitutem* . . .'. Cp. also *Sermo* ii. 1, col. 143 A: 'qui mihi est *oneris auctoris*, ipse est *administrationis adiutor*.' With this should again be compared Damasus' decretal: 'Qui nos in omnibus, ut confidimus, administrationis suae protegit et tuetur haeredes.' In *Sermo* ii. 1 Leo says also this: 'Recurrente igitur per suum ordinem die quo me Dominus episcopalis *officii* voluit habere principium.' In *Sermo* ix. 2: 'Consortium istius *muneris*'; in cap. 4, col. 154 D the office appears as a *ministerium*.

² Cp. the passage cited in *Papal Government*, p. 5 n. 4.

³ Cp., e.g., *Sermo* v. 2, col. 153 D: 'Quamvis enim singuli quique pastores speciali sollicitudine gregibus suis praesint, sciantque se pro commissis sibi ovibus reddituros esse rationem, nobis tamen *cum omnibus* cura communis est.' Cp. also *Ep.* vii. 1, col. 620 B: 'In *consortium* vos *nostrae sollicitudinis advocamus*, ut vigilantia pastoralis . . . *commissis vobis gregibus* diligentius consulatis', and *ibid.*, cap. 2, col. 622 A: '. . . ad salutem *commissae* sibi *plebis* proficiat. . .'. Cp. also *Ep.* xix, col. 109 A: 'Iudicium, quod de te sperabamus, dolemus esse frustratum, quando ea te *commississe* perspeximus, quae omnem ecclesiae sanctionis regulam culpabili novitate foedarent.'

⁴ This was shortly before postulated by Innocent I (*Ep.* xxix, in *P.L.* xx. 583): 'velut de natali suo fonte' all other churches received their 'life' from the Roman Church; hence also the designation of the Roman Church as 'mater et caput omnium ecclesiarum'. Cp. on this my remarks in *Studia Patristica*, ii (= *Texte u. Untersuchungen zur Gesch. d. altchristlichen Literatur*, lxiv (1957)), pp. 161 f. Some 900 years after Innocent I had made his statement, Clement V expressed the same view in almost identical words: 'Romana ecclesia . . . a qua *veluti a primitivo fonte* ad singulas ecclesias eiusdem fidei rivuli derivantur' (Raynaldus, *Ann. eccl.* (ed. Col. Agripp., 1618), xiv. 145). On this derivational thesis rested the theme of the Roman Church as the *fundamentum totius christianitatis*.

sacramental *ordo*) from the pope. Thus Leo writes to Anastasius, bishop of Salonika:

Negligentia nulla proveniat circa *ecclesiarum regimen* per Illyricum positarum, quas dilectioni tuae *vice nostra* committimus¹ . . . ut enim *auctoritatem tuam vice nostra* te exercere volumus.²

The background of this Leonine theme of descending government is again his view that Peter alone—*principaliter*³—had been given full powers, so, however, 'ut *ab ipso* quasi *capite* dona sua velut in corpus omne *diffunderet*'.⁴ And on another occasion Leo declares that Peter having been entrusted with his power, handed it on to the other apostles.⁵ The descending thesis of government was simply Leo's application of his view that the other apostles received their (jurisdictional) power from Peter who possessed the totality of *potentia* now inherited by the pope. It is he who has the *consortium individuae unitatis* with Christ through inheriting Peter's office: the pope is the *Schnittpunkt* of heaven and earth.⁶ The concept of monarchy has found its highest possible expression.⁷

¹ *Ep.* vi. 2, col. 617 c.

² *Ibid.*, cap. 5, col. 619 b. Cp. also in this context *Ep.* xiv. 1, col. 671 b: 'Vices nostras ita tuae credidimus charitati, ut in partem sis vocatus sollicitudinis, non in plenitudinem potestatis.' It is certainly interesting that the three legates of Leo at Chalcedon—Bishop Paschasius of Lilybaeum, Bishop Lucentius of Ascoli, and the Roman presbyter Bonifatius—designate themselves as 'vicarii sanctissimi et beatissimi papae Leonis apostolicae sedis antistitis' in their sentence of condemnation of Dioscurus; cp. the *exemplar sententiae* enclosed in Leo's letter to the Gallic bishops: *Ep.* ciii, col. 989. The operative term in Leo's statement is, of course, the *plenitudo potestatis* which enables him to delineate clearly the bishop's power from his own: hence the dichotomy between the *pars sollicitudinis* and the *plenitudo potestatis*. Some twenty years earlier Boniface I had written to Rufus of Thessalonica on the same point, and his statement lacks again the precision of the juristic touch: *Ep.* xiii. 1, *P.L.* xx. 775: 'Ita quippe *vice sua* beatus apostolus Petrus ecclesiae Thessalonicensi *cuncta* commisit, ut intelligat se *sollicitudinem* manere multorum.' Cp. also *Ep.* v. 2, col. 762: 'Te ergo, frater carissime, omnis cura respectat earum ecclesiarum, quas tibi *vice sedis apostolicae* a nobis creditas recognosces . . . ut *creditis* tibi a sede apostolica *gubernaculis* contra omnes fluctus nascentium procellarum juste et prudenter utaris.'

³ *Ep.* x. 1, col. 629 A.

⁴ *Ibid.* I prefer this reading to the Ballerini version: cp. note (b), col. 629. For a precursor of this derivational, descending thesis see the statement of Innocent I, above, p. 44 n. 4.

⁵ *Sermo* iv. 3, col. 151 A: 'Transivit quidem etiam in alios [scil. apostolos] jus potestatis istius . . . ut firmitas, quae *per* Christum Petro tribuitur, *per* Petrum apostolis conferatur.' It was the merit of H. M. Klinkenberg (art. cit. below, p. 46 n. 1), p. 43, to have drawn attention to the meaning of the double *per*.

⁶ Hence the beginning monopolization of the title *sanctus* for the pope from the late fifth century onwards, for instance, by Ennodius of Pavia; cp. his *libellus* in *MGH. Auctores antiquissimi*, vii. 52, cap. 24, ll. 12 ff. This title again refers to

[For note 7 see p. 46.]

In sum, then, the Leonine exposition of Petrine primacy culminated in the legally conceived monarchic office of the pope manifesting a *plenitudo potestatis* because of the common powers of Peter and Christ. It is no doubt of some moment that the juristic equipment of Leo enabled him to establish in an unsurpassably concise Roman manner the legal link between Peter and the pope. It is of no less moment to observe that it could only be by bringing juristic considerations to bear upon this crucial and vital problem of the Petrinity of the pope that all the potentialities inherent in papal Petrinity could be envisaged and stated with a clarity for which it is difficult to find an adequate parallel.¹ The recognition of the juristic elements made it possible to turn latent claims into patent ones, into the law. Without exaggeration one can say that the first theoretical fixation of papal primacy was to remain also the last: it became permanent. 'Le droit romain' was indeed 'au service de l'église romaine', perhaps the most enduring service which the Roman law had ever rendered to the Roman Church. The form was Roman, the thing itself was non-Roman.

It would be tantamount to carrying coals to Newcastle, if one were to assess the influence which this juristic interpretation of Leo I exercised on the papacy. From the purely intellectual standpoint it can be said without fear of gainsaying that the medieval papacy was built on the juristic foundations laid by Leo. His juristic exegesis enabled the papacy to enter the historical scene perfectly equipped: the papacy was now in a position to defy the imperial government in Constantinople on grounds which were the latter's own—the law. It is no coincidence that so powerfully armed and equipped as the post-Leonine papacy was, it felt itself strong enough to enter into its first serious conflict with the East, judicial decisions only and expresses in unsurpassable form the automatic consequences in heaven of the earthly binding and loosing. The development of this idea finds its conclusion in Gregory VII, who gave this monopolized appellation a prominent place in his *Dictatus Papae*, cap. 23; on this basis alone the sole right of the pope to canonization, that is, to enlarge the number of those who are co-regents of Christ in heaven, who could legitimately intercede on behalf of Christians still living and who were given a special liturgical place, finds its ready explanation. For some remarks cp. my contribution to the forthcoming volume vi of the *Studi Gregoriani*, pp. 229 ff., at pp. 260 ff.

⁷ (from p. 45) Once again the jurist Tertullian attracts our attention: his concept of *monarchia* and its influence would deserve close examination; cp. E. Peterson, *op. cit.*, pp. 68 ff.

¹ Both the extraordinary originality and receptivity of Leo I emerge also to the full if due consideration is given to his utilizing Augustinian thought patterns, apparently one of the first popes to do so. Cp. e.g. H. M. Klinkenberg, 'Papsttum und Reichskirche' in *Savigny Z., Kan. Abt.* xxxviii (1952), p. 104 n. 149; J. Ludwig, *op. cit.*, p. 87; Y. M. Duval, 'Quelques emprunts de s. Léon à s. Augustin' in *Mélanges de science religieuse*, xv (1958), pp. 85 ff.

as the pontificates of the second half of the fifth century bear eloquent witness. And the incorporation of so many of Leo's letters in canonical collections throughout the subsequent period down to Gratian in the mid-twelfth century secured the transmission of his Petrinology to all parts of Western Europe.

Of the later influence in the Middle Ages only one or two obvious instances should be given.¹ Leo's theme of the pope as an officer, as the mere office-holder of Petrine powers, unworthy as he is for this highest available position, impressed itself on virtually all papal statements, and quite particularly since Leo IX—who had advisedly taken this name²—we detect in the arengae of the thousands of papal letters the re-emergence of Leonine *Gedankengut*. 'Nos qui licet indigni beati Petri residemus in loco' or 'Constituti a Domino, licet insufficientibus meritis, super gentes et regna' or 'Universali providentia quam per beatum Petrum apostolorum principem, licet indigni, suscepimus' or 'Tenentes, licet immeriti, locum beati Petri' or 'Nos qui licet indigni, speculatoris officium super universam ecclesiam exercemus' or 'Dei, cuius locum, licet indigni, tenemus in terris' and many another variation of the same theme, all, however, contrasting the office and the personal unworthiness of the individual pope in Leonine language, point with unmistakable clarity to the success of his formulation and interpretation. There is virtually no papal arena in which this theme is not underlined. Equally, the Leonine conception that the papacy is an office, or as he also termed it, a *servitus* or a *ministerium*, made the same appeal; again in the arengae this idea is a commonplace—how many arengae begin with: 'Ex iuncto nobis apostolatus officio' or 'Officii nostri debitum attendentes quo cunctis sumus debitores' or 'Commissae nobis nos apostolicae sedis auctoritas adhortatur' or 'Officii nostri admonet et invitatur auctoritas pro

¹ For less obvious instances this essay does not provide a suitable opportunity, but that, for example, in some sacramentaries Leonine thoughts found entrance, should at least be mentioned. Cp., e.g., the Frankish Gelasian Sacramentary, Preface (ed. K. Mohlberg, *Das fränkische Sacramentarium Gelasianum in alamannischer Überlieferung* (in *Liturgiegesch. Forschungen*, i-ii (1918)), p. 33: '. . . b. Petrum per os ipsius Domini Deique nostri verbi tui vocatum in apostolatum et ob confessionem Christi unigeniti filii tui apostolorum principe constitutum . . . divinitus ei iure concessio, ut quae statuisset in terris, servarentur in coelis.' Cp. the *Missale Gothicum* (P.L. lxxii. 257): 'Testis est hodierna dies, beati Petri cathedrae episcopatus exposita, in qua fidei merito, revelationis mysterium filium Dei confitendo, praelatus apostolus ordinatur.' On this cp. also Th. Klauser, op. cit., p. 171. Of later witnesses to the Leonine influence St. Bernard may be invoked: 'Eis tu successisti in haereditatem. Ita tu haeres, et orbis haereditas' (*De consid.* III. i. 1).

² Humbert of Silva Candida in his *Vita Leonis IX*, ii. 3 (P.L. cxliii. 489): 'Hic Deo devotissimus mores et vitam Magni Leonis imitatus, cuius et vocabulo fuerat insignitus . . .'

ecclesiarum statu satagens' and many more, all multiplying a hundred-fold and perpetuating the Leonine argument and making it so much common property that the professional papal 'historians' have not even recognized it, let alone seen its profundity in meaning and intention? Would not, furthermore, this Leonine conception of the papal office explain the feature—likewise hitherto unnoticed—that no pope, in stark contrast to kings and emperors, ever called himself pope *Dei gratia*? Moreover, the Leonine thesis of Peter (= pope) being endowed with supreme judicial capacity made it not only possible for Leo to construct the derivational theme, but also enabled later generations to perceive the fundamental difference between the *potestas ordinis* of the bishop (which did not concern the pope) and the *potestas iurisdictionis*, the office of the bishop (which was very much the concern of the pope): the view that all power, all offices within the Church, the *congregatio fidelium*, whether clerical or secular (royal), were derived *mediante Petro* or 'per papae *mediationem*'¹ has as its root the Leonine thesis and is nothing but its logical development. And lastly the conception of the vicariate of Christ in the pope was at least pre-portrayed in Leo's theme of the *indeficiens consortium potentiae* or the *consortium individuae unitatis* existing between Christ and Peter:² in essence the vicariate of Christ is, necessarily and compulsively, based on the successorship of the pope to Peter and concerns nothing else but the *vices Petri* which are identical with the *vices Christi*, and either refers in this context exclusively to the jurisdictional

¹ Cp. the passages cited in *Papal Government*, p. 443 n. 4.

² Since this Leonine passage was, amongst many others, incorporated in the canonical collections, down to Ivo, *Decretum*, v. 6 (*P.L.* clxi. 323-4), and Gratian (*Dist.* xix. 7), it opened the way to the theoretical exposition of Christ's vicariate in the pope by the canonists. In fact as late as the fourteenth century Alvarus Pelagius constructed his theory of Christ's vicariate in the pope on the basis of the Gratian-Leonine passage which he quotes in full and concludes: 'Unde secundum hoc papa non est homo simpliciter, sed Deus, id est, vicarius Dei' (*De Planctu Ecclesiae*, ed. Venice, 1660, i. 13, fol. 4^r). Innocent III had brought the other Leonine theme of the *plenitudo potestatis* to its fullest possible fruition when, on its basis, he applied the Johannine dictum (John i. 16) to himself: 'Cuius [scil. Romanae ecclesiae] pastor ita suas aliis *vices* distribuit, ut ceteris vocatis in partem sollicitudinis (cp. above, p. 45 n. 2), *solus* retineat *plenitudinem potestatis*, ut *de ipso post Deum* alii dicere possint, "Et nos de plenitudine ipsius accepimus"' (*Reg.* i. 320, *P.L.* ccxiv. 286 c). And it was precisely on this very Leonine theme that the same Innocent III constructed his second consecration sermon (*P.L.* ccxvii, col. 657 A-B), here also operating with John i. 42: "'Tu vocaberis cephas" quod exponitur caput (!)', continuing 'Quia sicut in capite consistit omnium sensuum plenitudo, in ceteris autem membris pars est aliqua plenitudinis, ita ceteri vocati sunt . . . [as Leo I] . . . iam ergo videtis, quis iste servus, qui super familiam constituitur, profecto vicarius Christi, successor Petri, Christus Domini, Deus Pharaonis. . . .' Some of these latter appellations come from St. Bernard, *De cons.* iv. 7.

position.¹ Indeed, the papacy is a *nomen jurisdictionis*, no more and no less, and this is the inheritance bequeathed by Leo I to later papal generations.

*Nihil erit ligatum, nihil solutum, nisi quod beatus Petrus aut solverit aut ligaverit.*²

The totality of Petrine powers equalling the totality of Christ's powers is juristically continued in the heir of St. Peter. Once again welcome and additional evidence is brought forward for the—in any case—incontrovertible fact that the fully fledged papal-hierocratic theory in the Middle Ages had firm roots deep down in the patristic age: in ideological substance there was no difference; the only difference was that later theory—so largely Leonine theory—was applied in practice. Is it, therefore, to be wondered at that so many of Leo's succinct expressions appealed to the later papacy which incorporated them in its numerous communications? That as late as the end of the thirteenth century Leo's passage

¹ In parenthesis it may be remarked that the early fourteenth-century French retort—if the pope is Christ's vicar, why does he not work miracles?—finds its easy answer in the purely jurisdictional character of the papal office. Moreover, such expressions as *consistorium Dei et papae unum et idem censendum est* (Hostiensis in the thirteenth century) or *sententia papae et sententia Dei una sententia est* (Augustinus Triumphus in the fourteenth century) and the like, can have meaning only in the context of the all-comprehensive jurisdictional power which produces automatic effects in heaven. These and similar statements bring the Leonine theme to its fullest consummation. It is also by virtue of the sharp distinction between person and office that the pope in his former capacity was considered, and very much was, a member of the Church, in no wise different from any other Christian, and therefore had his confessor, whilst in the latter capacity he was no member of the Church, but stood outside and above it (cp. Leo himself, *Sermo* iv. 3, col. 151 A: 'Petro enim hoc singulariter creditur, quia cunctis ecclesiae rectoribus *forma praeponitur*'), since the Church itself was entrusted (or committed) to him. The pope forms, as I have termed it elsewhere, an estate of his own, and this precisely because of his alone inheriting Petrine powers: the *consortium individuae unitatis* of Christ–Peter–pope creates a *societas* which, in law, is a 'juristic personality' (about this characteristic Roman law concept cp. e.g. T. E. Holland, *Jurisprudence*, 13th ed. (Oxford, 1928), pp. 97–98) existing on its own and independent of any other person or group.

² *Sermo* iv. 4. What Leo had here expressed in negative terms, was shortly afterwards expressed in positive language, for instance, by Felix III and Gelasius I. For the former see his *Ep.* ii. 7 (ed. in A. Thiel, *Epistolae Romanorum pontificum geminae* (Braunschweig, 1862), p. 237) and for the latter see his *Ep.* xxx. 12 (ed. Thiel, p. 445): 'Sicut et his verbis [scil. Quodcumque ligaveris . . .] *nihil constat exceptum*, sic per apostolicae dispensationis *officium et totum possit generaliter alligari et totum consequenter absolvi.*' This was repeated numerous times by the later papacy. It should perhaps be noted that the celebrated Gelasian distinction between *auctoritas* and *potestas* was already contained in Leo's literary output; cp. *Ep.* cxviii, col. 1040; also *Ep.* cxvii, col. 1037 and *Ep.* cxx, col. 1048; *Ep.* clvi, col. 1130. And that ultimately these two notions also stem from Roman constitutional ideas, has been demonstrated.

depicting Christ's and Peter's *consortium individuae unitatis* had not lost its attractiveness, is proved by its lengthy quotation (though without acknowledgement) by Nicholas III—a testimony to the enduring value of Leo's exegesis, even for such mundane matters as those dealt with by Nicholas III.¹

As it is with all great 'discoveries' or 'explanations', so here too: a theme like this once expressed commands immediate attention and acceptance. Within the Roman milieu no better or no more convincing explanation could be given than in the terms of the Roman law applied to the Roman Church. The juristic succession to Petrine functions made it possible to fix two principles vital for the papacy. First, that no pope succeeds another pope, but succeeds St. Peter, immediately—in itself another juristic principle—with the consequence that no intermediary can alter, modify, restrict, or in any way touch the biblically fixed position of St. Peter himself:² the pope as heir was bound to the terms of the commission, hence the so often recurring phrases in papal letters of the '*onus officii nostri*' and the like; in modern terminology, the monarchic 'sovereignty' of St. Peter, manifesting itself in his unique office, is *inalienable*. In a christocentric framework this may well be viewed as an inheritance which imposes upon its holder a burden and a responsibility unparalleled in any other sphere. Now that—thanks to the Leonine argumentation—the juristic tissues are laid bare, it is no longer possible to air such sloppy and spongy views as that of a 'mystical union between St. Peter and the pope' or of a 'persönliche Erbheiligkeit'. What did exist was a juristically operative succession to a status or an office, and there is nothing mystical about this: what Christ had said of himself—'*Data est mihi omnis potestas in coelo et in terra*' (Matt. xxviii. 18)—could be and was applied to the medieval pope,³ a perfectly

¹ See *Sextus*, I. vi. 17 (*Fundamenta*), where this Leonine chapter is coupled with the Donation of Constantine and the pope's vicariate of Christ.

² Although said in the context of the nature of the papal decretals, the statement of Caspar, I, p. 266, concerning the impersonal character of the papacy as a (governmental) institution, deserves full quotation here, because it is particularly applicable to our topic: 'Über den einzelnen Päpsten steht die Institution, das Papsttum, als der historische Organismus, welcher der eigentliche Inhalt und Gegenstand der Papstgeschichte ist. Das unterscheidet sie von der Geschichte irgendwelcher anderer Reiche und ihrer Herrscherdynastien. Die überpersönliche Tradition der Idee hat dem Walten des einzelnen Papstes fast stets die Richtung gewiesen, es oft völlig überschattet und ihn bisweilen aus dem Täter eigener Taten zum ausführenden Organ eines Gesamtwillens entpersönlicht.' See also p. 423: 'Das päpstliche Amt selbst aber löst, je mehr der Träger dem Ideal nahekommt, die Individualität und das menschliche Wachsen und Werden in einer höheren Einheit des unpersönlichen Darstellens einer ewigen, unwandelbaren Idee von der göttlichen Institution des Papsttums auf.'

³ Cp. e.g. Innocent III himself in his *Sermo xviii* (P.L. cxxvii. 395 c).

logical application which, if from no other point of view, is certainly defensible from the juristic standpoint. The pope as office-holder or, as we have termed it, as the *Schnittpunkt* between heaven and earth, was, in the inimitable language of Innocent III—here once more expressing the Leonine thesis in different words—‘constitutus inter Deum et hominem medius . . . qui de omnibus iudicat et a nemine iudicatur’.¹ The original Leonine interlocking of (Roman) law and (Roman) theology found its crowning conclusion in the statement—from the juristic angle once again unexceptionable—of Innocent IV that

Omnis creatura vicario creatoris *subdita* est.²

Second, this exclusively juristic orientation explains why it was—and still is—possible for a layman to become pope: no charisma, no sacramental qualities are needed to exercise purely juristic functions of government. Arising out of this is the further principle that parts of these juristic powers can be delegated to other (ordained and) unordained members of the Church, such as a king, who could be vested with papal-legatine powers, for which history again provides examples. In short, Leo I’s juristic theology contained what for want of a better name may be called Petrinology, the essence of which is the Christ-determined idea of right and law, applicable to the government of the whole Christian *corpus*: within the precincts and the scope of the Christian framework this idea presents itself as the permanent *Rechtsidee*. The contradiction between the *anima* and the *corpus* seems to me merely to express the same thought in metaphorical language. I think that the penetration into the texture and problems inherent in Petrinology will lead to fruitful results, results which cannot but help to contribute materially and decisively to the understanding of the principles, aims, and working of the papacy and the papal government, embracing as it did every aspect of relevance to the well-being of the whole *societas christiana*. Only from the standpoint of the Christian-Petrine cosmology will it then be possible to grasp the infinite juristic and governmental potentialities inherent in the divine word: ‘*Quodcumque* ligaveris . . . *quodcumque* solveris.’ The papal office is the juristic succession to this Petrine *plenitudo potestatis* exempting neither person nor thing.

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¹ *Sermo*, cit., above, p. 48 n. 2 (*P.L.* ccxvii. 658 B), immediately after the quotation of Leo I and continuing with the *officium servitutis* which the *fastigium sublimitatis* has imposed upon him.

² *Comm. ad Extra*, i. ii. 1 (ed. Frankfurt, 1570, fol. 2; see also fol. 430). This was one of the roots out of which *Unam sanctam* grew; its *omnis humana creatura* was, however, tactfully changed on the eve of the Reformation by the tenth Leo in 1516 into *omnes Christi fideles*; see Mansi, xxxii. 969 E.