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Scripture and Church in the Later Middle Ages

The Canonist "Panormitanus" and the Problem of Scriptural Authority

HERMANN SCHUESSLER

The ecumenical discussions of recent years have made it apparent that one of the major issues—if not *the* major issue—between Roman Catholics and Protestants is still the problem of Scriptural authority. In the dialog with Roman Catholics we are confronted with what appears to be a dilemma. Roman Catholics will ask this question: How is it possible to preserve the purity and plenitude of revelation and even the very authority of the Scriptures without the magisterial authority of the church?¹ Protestants, on the other hand, will reply: How can the freedom of the Biblical Word be safe-

¹ Cf., e. g., M.-J. Yves Congar, O.P., *La Tradition et les traditions*, I (1960), II (1963); English edition: *The Meaning of Tradition*, trans. A. N. Woodrow (New York, 1964).

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guarded if it is subjected to the interpretation of an infallible teaching authority?² (We may omit from our discussion the problem of oral tradition, which has lost some of its importance thanks to the Second Vatican Council's discussions of the constitution *de divina revelatione*.) The ecumenical relevancy of this dilemma has motivated church historians on both sides not only to turn once more to the beginnings of the controversy in the 16th century but also to investigate the possible roots of the dilemma in an even earlier period. Indeed, the controversies of the Reformation era cannot be fully understood without taking into account the late medieval background, an era hitherto all too often neglected. However new and original some of the reformatory insights might be, the reformers' theology was developed within and, of course, often in reaction to the late medieval context. Luther's principle of *sola scriptura* was certainly inspired by his new evangelical theology of the Word. Nevertheless, it reflects a problem that had developed towards the end of the Middle Ages. A number of recent studies, notably the works

² Cf., e. g., K. E. Skydsgaard, "Tradition und Wort Gottes," in *Schrift und Tradition* (ed. Ecumenical Council of Churches, Geneva: 1963), p. 154. Cf. also the penetrating article of J.-L. Leuba, "Tradition und Traditionen," in the same volume, pp. 9 ff.

by Paul de Vooght, George Tavard, and Heiko Oberman,³ have called attention to the fact that the "mutual inherence of Scripture and Church" in the early and high Middle Ages gave way to a divorce, a mutual opposition of these authorities in the centuries preceding the Reformation, not only with the so-called prereformers but also in "orthodox" Catholic theology. It will be the task of further research to establish to what extent the unsolved problems and conflicting solutions of the Late Middle Ages influenced the controversy of the 16th century. Luther's Scriptural principle, its genesis, its foundation in the medieval concept of Biblical authority, and its relation to the reformatory doctrine of justification *sola fide* will certainly demand particular consideration or rather reconsideration in this context.

The following pages will be limited to the discussion of one of the links connecting Luther's appeal to the Scriptures with late medieval thought. At the beginning of the conflict with the Roman authorities Luther justified his appeal to the overriding authority of the Holy Scriptures by referring to a leading 15th-century canonist, Nicholas de Tudeschis ("Panormitanus," 1386—1445). Between 1518 and 1520 Luther repeatedly cited a passage in which Panormitanus stated: "In a matter of faith, anyone of the faithful, if armed with better reasons derived from the Old and New Testament, must be

preferred to even the pope."⁴ Surprisingly, this statement of Panormitanus has not yet been subjected to closer examination⁵ (which may be due to the traditional Protestant distaste for canon law). True, Luther's reference to Panormitanus may have been accidental, although it seems that it was something more than just a diplomatic move. At any rate, the theory of Panormitanus cannot be considered to be the source of Luther's Scriptural principle. Yet it deserves our interest, if only because it reveals a tension in late medieval thought which in some ways anticipated the controversy of the 16th century. We will try, then, to analyze briefly the teaching of Panormitanus and its canonistic and theological background. The theory of our canonist may be summarized as follows:

- (1) Neither the pope nor the general councils are infallible in matters of faith.
- (2) Only the universal church as a whole enjoys indefectibility and inerrancy.
- (3) Under certain conditions the universal church may be represented by only one single faithful.
- (4) If armed with better authorities taken from the Scriptures, anyone of the faithful will have to be preferred to a pope or a council in a matter of faith.⁶

⁴ *In concernentibus fidem etiam dictum unius privati esset praeferendum dicto papae, si ille moveretur melioribus rationibus novi et veteris testamenti.* C. 1, X, I, 6, cit. by Roland H. Bainton in: "Probleme der Lutherbiographie," *Lutherforschung Heute* (1958) p. 27, n. 10.

⁵ Even the canonistic analysis of Knut W. Nörr, *Kirche und Konzil bei Nicolaus de Tudeschis* (1964), pp. 131 ff., does not lead us much farther. We hope to discuss the theory of Panormitanus at greater length on another occasion.

⁶ Cf. the dictum quoted in note 4. The whole

³ Paul de Vooght, *Les sources de la doctrine chrétienne d'après les théologiens du XIV^e siècle et du début du XV^e*, 1954; George Tavard, *Holy Writ or Holy Church* (New York, 1959); Heiko A. Oberman, *The Harvest of Medieval Theology* (Cambridge, Mass., 1963), pp. 361 ff. (pp. 363 ff., criticism of Tavard's and de Vooght's theses).

It may come as a surprise that a leading medieval canonist denied the infallibility of the pope and the councils. However, this theory was in accord with a canonistic tradition that went back to the early commentators of the *Decretum* of Gratian. The canonists knew that in Christian antiquity there had been general councils that had not been accepted by the whole church. But more important: the canonists tended to ascribe infallibility only to the *congregatio fidelium* as a whole without developing a consistent theory of the participation of the hierarchy in this infallibility. It is true that in the 13th and 14th centuries some advocates of unlimited papal power advanced theories supporting papal infallibility. However, even these writers tended to link the papal authority with the authority of the church universal in one way or another (for example, through the college of cardinals or the general council). Moreover, they too shared the prevailing canonistic view according to which the pope could fall into heresy (*Si Papa*, c. 6. D. 40) even in his official pronouncements. The power of supreme jurisdiction and infallible authority were still regarded as two distinct factors.⁷

passage is cited by Nörr, pp. 104—106. Here Panormitanus states that a heretical pope can be judged by a council, that, however, a council can err as well as the pope (reference to c. 1. D. 20 and c. 8, 11. C. 36. q. 2), and that it is possible *quod vera fides Christi remaneret in uno solo, ita quod verum est dicere, quod fides non deficit in ecclesia, sicut ius universitatis potest residere in uno solo aliis peccantibus* etc.

⁷ Cf. especially Brian Tierney, *Foundations of the Conciliar Theory* (Cambridge, 1955); Walter Ullmann, *The Growth of Papal Government in the Middle Ages* (London, 1955), and *The Origins of the Great Schism* (1948); Michael Wilks, *The Problem of Sovereignty in the Later Middle Ages . . .* (Cambridge, 1963).

To understand this situation we must take into account the difference between the medieval and the modern approach to the problem of infallibility. In a period of relativism and skepticism like the 19th century the problem was how to safeguard the heritage of truth in an ocean of uncertainty. In the Middle Ages it was quite different. The problem then was whether and where a defection from a universally accepted truth was conceivable. But the possibility of such defection seemed remote since the whole church was anchored in the truth. It is not surprising, therefore, that up to the 13th century the problem of an infallible teaching authority did not receive much attention. It was in a period of increasing conflicts that theories concerning the system of authority in the church were elaborated.

One of these theories came to be known as the conciliar theory since it provided the theoretical basis for the conciliar solution of the problem of the Great Schism in the late 14th and early 15th centuries. In its various forms it was accepted by many, including Panormitanus, who was a prominent figure at the council of Basel. According to this set of ideas, the church is a "corporation" (similar to a cathedral chapter, for example). The very notion of the "mystical body" implies the corporative character of the church. The power that Christ gave to the church resides in the communion of the believers as a whole. True, the pope is the divinely instituted head of the corporate body of the church militant. However, his is in a certain sense a delegated authority, which under certain conditions can be revoked by the members in one way or another. This might occur, for example, in the event of papal heresy

or even schism. In that event, the power of the head would devolve to the members, that is, to the church universal or its representation in the form of the general council. The "conciliarists" were, however, divided over a number of important questions. For example, did the general council fully possess the power of the whole church, or was its authority only a relative one? Panormitanus was of the latter opinion. He therefore denied the infallibility of the general council. Another school of conciliarists held that a general council could claim infallible authority on grounds of a sufficient representation of the church universal.

There was still another school of thought, although it was not of great influence in the period of conciliarism. According to what can be called "moderate papalism," only pope and council together enjoyed infallible guidance by the Holy Spirit in matters of faith and morals. There were almost no advocates of an isolated papal infallibility in this period.⁸ It is a fact of great importance that in the course of the 15th century no agreement was reached as to where the infallible teaching authority of the church resided. Despite the defeat of conciliarism and the resurgence of papalism around the middle of the century, the conflicting schools continued to exist. This was a striking manifestation of what Joseph Lortz has called

⁸ Surprisingly, the history of the idea and notion of infallibility has been widely neglected by both Catholic and Protestant church historians. A useful, however brief survey on the notion of infallibility in the later Middle Ages can be found in Paul de Vooght, *Esquisse d'une enquête sur le mot in: L'infailibilité de l'Eglise* (Chevetogne: 1962), pp. 99 ff.

the lack of clarity in late medieval theology.⁹

The same can be said with respect to another area of late medieval thought, the discussions concerning the relation between "Holy Writ and Holy Church" in 14th- and 15th-century theology. While the canonists concentrated increasingly on the problem of authority in the church, the theologians began to turn their attention to the church as the *regula proxima fidei*, that is, to her function of interpreting the Holy Scriptures authoritatively and of witnessing to their authority. Of course, both Thomas Aquinas and John Duns Scotus had already had something to say on this subject.¹⁰ However, it was not until the 14th century that this problem became the subject of frequent discussion. It was then that theologians began to ask the question: How can we know with certainty that the Holy Scriptures contain the divine revelation? By way of example, Durandus de Sancto Portiano, a French theologian of the early 14th century, gave the following answer: We know this since we believe that the church cannot err, inasmuch as she is guided by the Holy Spirit. Therefore, the very first thing in the order of things we believe is that the church is guided by the Holy Spirit.¹¹ This answer was widely accepted although it was not without its critics. Gregory of Rimini, for

⁹ Cf. esp. *Die Reformation in Deutschland* (5th ed., 1962), I, 1.

¹⁰ A good survey of the scholastic debates appears in Josef Finkenzeller, *Offenbarung und Theologie nach der Lehre des Johannes Duns Scotus* (1961), pp. 56 ff; cf. also Albert Lang, *Die theologische Prinzipienlehre der mittelalterlichen Scholastik* (1964), esp. pp. 197 ff.

¹¹ In *IV Sententiarum libros resolutiones*, Paris 1508, I.III dist. 24q.1, fol. 290 v a.

example, an Augustinian theologian of the 14th century, maintained that there was only a practical priority of the church. He referred to Augustine's famous statement: *Ego vero evangelio non crederem, nisi me catholicae ecclesiae commoveret auctoritas*. According to Gregory this meant that the church was nothing but a *causa movens* that induces acceptance of the authority of the Bible but neither establishes nor confirms that authority.¹² The reference to Augustine recurs again and again in later debates. In fact, the late medieval discussions of our problem are largely identical with the history of the interpretation of Augustine's statement.¹³ In addition, theologians customarily debated the problem in terms of the following alternative: Which do we have to believe more (*cui magis credendum*): Holy Writ or Holy Church?¹⁴

The majority of theologians was inclined to make the authority of the Bible dependent on the approbation of the church. Hereby it was implied by many (Gabriel Biel, for example)¹⁵ that the authority of the Bible derived from God but that the church declared this authority and, of course, interpreted the Scriptures authoritatively. Then, however, another question arose: How can we know with certainty about the infallible authority of the church? Some replied (for example, Pierre

d'Ailly):¹⁶ The infallibility of the church is a conclusion from the Scriptures. In order to avoid a vicious circle, others maintained (for example, Alfonsus Tostatius)¹⁷: The infallible authority of the church is *per se nota* independent of the Bible. This idea could be further developed. Sylvester Prierias, Luther's early adversary, insisted: The Scriptures receive their strength (*robur*) from the doctrine of the Roman Church,¹⁸ — a statement shocking to Luther.

Reviewing these debates and developments, we are confronted with a somewhat paradoxical situation in the late 14th and early 15th centuries. On the one hand, we can observe a growing tendency among theologians to emphasize the role of the infallible teaching authority of the church. On the other hand, this very authority is being rendered uncertain by the continuing tensions and conflicts concerning the position of pope and council in the church. Appropriately, a theologian of the 15th century wrote: "Even though the authority of the church is so great that it cannot be defined exhaustively, we must be careful to establish what the term *church* really means in this context."¹⁹

Panormitanus held, as we have seen, that ultimate authority rested only with the church as a whole, that is, with the whole community of believers. In matters of faith

¹² *Lectura super I. I. Sententiarum* (Paris 1482), Pr. q. 1 art. 2, fol. A 5 rb.

¹³ Cf. Tavard; Oberman.

¹⁴ E. g., Henry of Ghent; see Tavard, pp. 25f. This hypothetical alternative was taken up by many others later on. It appears even in canonistic writings. The author of this article hopes to be able to present a survey of these discussions.

¹⁵ Cf. Oberman, pp. 393 ff.

¹⁶ *Quaestiones super libros sententiarum*, (Strasbourg, 1490), I. I. q. 1 art. 3, fol. C4.

¹⁷ *Defensorium, Opera*, t. 24, p. 118 a.

¹⁸ *De potestate papae dialogus* (1518), *fundamentum tertium*.

¹⁹ Raphael de Pornaxio, (Pseudo-Turrecematia), *De potestate papae et concilii generalis tractatus*, ed. J. Friedrich (Innsbruck, 1871) p. 84.

neither pope nor council could claim to enjoy the infallibility of the whole church. This solution was somehow complicated by the fact that our canonist subscribed to a theory that has been called the idea of the "remnant church." According to this theory it was possible that in certain periods of history the church might be found only in a few remaining faithful Christians or even in one sole individual. The idea of the "remnant church" was popular with some nominalistic theologians (for example, William of Ockham).²⁰ It can, however, be traced back to the High Middle Ages²¹ and even to Christian antiquity. There was, for instance, an old tradition that during Christ's Passion only the blessed Virgin preserved the true faith and therefore represented the church—a model and warning for later Christianity.²² This idea can also be found in canonistic thought where it was combined with the "corporation" theory.²³ Accordingly, Panormitanus taught: It is possible that the *ius universitatis*, the right of the whole corporation of the church, may rightfully be retained by only a few or even one sole remaining faithful. Of course, one will ask immediately: How can we know eventually who those remaining true members of the church are? Where, then, can the true voice of the church be found?

At this point Panormitanus leaves us

²⁰ E. g., *Dialogus*, I, 2, 25 (Goldast, *Monarchia* S. R. I. Tome II, 429): *In uno solo potest stare tota fides ecclesiae*, etc.

²¹ E. g., Bonaventura, *Opera Omnia*, t. IV (Quaracchi, 1889), p. 105 a.

²² Cf. Yves Congar, *Incidence ecclésiologique d'un thème de dévotion mariale: Mélanges de science religieuse*, VII (1950), pp. 277 ff.

²³ Tierney, *Foundations*, etc., p. 204.

without an answer. We have reached an impasse. The very notion of the universal church seems to evaporate, so to speak. However, in this situation Panormitanus directs us back to the objective sources of the Christian faith as the criteria of truth. It is here that the authority of Scripture enters—or reenters—into his considerations. Discussing the authority of the pope and of the councils, he affirms that someone who has the support of Scripture is more to be believed than erring popes or councils. He does not discard the authority of popes and councils. But he denies their infallibility and wants to subject them to what could be called the corrective norm of the Bible. This is the meaning of the statement Luther referred to. In other words, the Bible must be the supreme standard; in case of disagreement, the better reasons based on the Bible must prevail. This idea, too, was not entirely new. It is rather a reformulation of an earlier canonistic theory²⁴ and points to a continuing tension between Biblical authority and the authority of the church in medieval canon law. Without discussing this phenomenon in detail we can observe that in the crises of church authority in the late 14th and early 15th centuries something like a Scriptural principle emerged in the canonistic doctrine of Panormitanus. Of course, it was not a reformatory or even prereformatory "Scriptural principle." The hierarchical structure of the church was left intact by Panormitanus. Nevertheless, there was something revolutionary about it. It undermined the concept of a teaching magistrum by giving doctrinal authority vir-

²⁴ Cf. Charles Munier, *Les sources patristiques du droit de l'Eglise du VIIIe à XIIIe siècle* (Mulhouse, 1957), p. 187.

usually to "anyone." And it did not provide an answer to the questions of how and by whom the "better reasons" of the Old and New Testament could be judged and established as such. Nevertheless, the theory of Panormitanus went uncondemned. In fact, there were contemporaries of Panormitanus who propounded ideas not dissimilar to his. For example, Pierre d'Ailly, the French Cardinal (1350—1420), also denied papal and conciliar infallibility and insisted on the possibility of revision of conciliar decisions in conformity with the law of Christ.²⁵ And no less a person than Thomas Netter, the great critic of Wycliffe, maintained that the theology of the church fathers was a more certain path to Scriptural truth than the councils.²⁶

Even more significant was the fact that the theory of Panormitanus was carried over and handed down in many canonistic and theological manuals of the later 15th century, even on the very eve of the Reformation. It is beyond the scope of this article to discuss these works in detail. Let it suffice to mention just one name, namely Petrus Ravennas, a professor of law at the University of Wittenberg 1503 to 1506. He discussed the problem of a possible conflict between a papal pronouncement and the statement of a church father (in other words, the problem of the relation between the teaching magisterium and theology). His solution was this: In such a case the pope must be followed unless the statement of the church father is supported by the authority of the Old or

New Testament.²⁷ This was again an affirmation of the superiority of Biblical authority over the papal teaching authority. However, this was by no means the most influential opinion voiced on the eve of the Reformation. It will be remembered that in the 15th century there was a resurgence of what is called papalism. One of its proponents was Juan de Torquemada, who wrote the famous *Summa de ecclesia* (a document in the nature of an ecclesiology). According to Torquemada it is the pope together with the general council who enjoys the infallibility granted to the church. He admits that one single individual may *melius sentire*, that is, "think more correctly" in a matter of faith and therefore have the right to contradict the pope or the council. However, this possibility is limited to the deliberations of a council before the decisions are made. The final decisions of a plenary council, that is, of pope and council acting in conjunction, are irrevocable.²⁸

There was also an influential conciliar school, whose center was the University of Paris, which defended the infallibility of general councils independent of papal intervention. The two schools had in common their insistence on a theoretical priority of "Holy Church" over "Holy Writ." That is, the Holy Scriptures must be interpreted and attested to authoritatively by the infallible teaching authority of the church, whoever it was who exercised the supreme authority. Nevertheless, it remains an important fact that side by side with these currents of thought the uncondemned view of Panormitanus not only

²⁵ See especially D'Ailly's *Quaestio in vespertis* (loc. cit., app.).

²⁶ *Doctrinale antiquitatum fidei ecclesiae catholicae* (Venice, 1571), p. 216 a.

²⁷ *Alphabetum aureum* (Lyons, 1511) fol. 4 v b/5 2a.

²⁸ Cf. l. III c. 64 and 65.

continued to exist but also served as a kind of corrective Scriptural principle. On the eve of the Reformation, therefore, the situation in theology and canon law was still confused.

New elements were introduced into the discussion of our problem in the 16th century. There was, in particular, the new understanding of the Word on the part of the reformers and a new awareness of the dimension of history on both sides. In a certain sense, however, the late medieval dilemma was only made more explicit and perpetuated in the controversy between the "religious parties" of the 16th century. While the reformers retained the idea of an infallibility of the church as a whole, they rejected the papal teaching authority and greatly reduced the conciliar authority. A theologico-political consensus laid down in the confessions of faith was substituted. It could not prevent the Scriptural prin-

ciple from giving rise to further conflicts and separations. At the same time, the Catholic position hardened into a rather positivistic and legalistic reaffirmation of papal supremacy. There was, on the one side, freedom of the divine Word—but at the cost of unity and fullness of the Catholic heritage; and there was, on the other side, faithful preservation of unity and dogma—but to the detriment of the sovereignty of the Scriptures.

Today the positions on both sides have been opened up to one another, so to speak. We have begun to listen to the critical questions of those from whom we are still separated. There is hope that the ongoing ecumenical discussions concerning the historical and structural correlation between Scripture and church will contribute to a further clarification of the problem we have inherited from our forefathers.

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