

# The Councils and their Significance<sup>1</sup>

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The Council of Florence, about which I have recently been reading Fr Gill's monumental work<sup>2</sup>, is surely one of the more poignant, and I would say gallant failures of history. I feel also that it has a special interest for me as a Dominican, since the chief spokesman on the Latin side in the theological debates was the Dominican John Montenero; a Greek Dominican bishop, Andrew Chrysoberges, played a prominent part in the negotiations that preceded and followed the Council; and finally the patriarch Joseph II, who died a few weeks before the union was proclaimed, was buried in the Dominican church of S. Maria Novella.

But for two more substantial reasons it is also of particular significance for our subject this evening; it did achieve a union, however precarious and short-lived, between the Latins and the Greeks, and a union elicited from genuine hard discussion of the points at issue between the two Churches; and secondly it really settled once and for all the issue that was dividing the Latin Church on whether or not a council has authority over the pope. Let us begin with the case as between the Latins and the Greeks. We are not concerned here with the main theological issue of the *filioque*, but with certain aspects of the question of the Roman primacy. And the point I wish to begin by considering is in fact one which the decree of union *Laetentur caeli* left undecided, and which may strike you as rather trivial—who has the right to convoke an ecumenical council?

In a draft statement of the Roman primacy presented by the Latins to the Greeks, the Roman position is set forth that 'the holy apostolic and Roman pontiff . . . holds the primacy over the whole world, and that to the same See and Roman pontiff in St Peter . . . there was given plenary power of feeding, *convoking*, ruling and governing the whole Church'. The Greek Emperor John VIII took exception to the word

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<sup>2</sup>*The Council of Florence*, by J. Gill, S.J. (C.U.P.).

'convoking'. The Greek position had been stated many years before, when negotiations for the Council had been under way with the previous Pope, Martin V. The Emperor and the Patriarch had written in reply to an overture from the Pope that 'the synod should not take place anywhere except in Constantinople for many noteworthy reasons, and that it was for the Emperor to convoke the synod in accordance with his ancient custom and prerogative, but no one else'. And in the event the decree of union omitted the offensive word from its statement of the papal power; the relevant section runs: 'Item diffinimus . . . ipsi Romano pontifici in beato Petro pascendi, regendi ac gubernandi universalem ecclesiam a D.N.J.C. plenam potestatem traditam esse'.

The reason for the omission, from the Latin point of view, was probably no more than diplomatic; it was a concession to John VIII. But it is a good thing that this concession was required, because this point of who convokes a council is essentially one of canon law, of variable ecclesiastical organization, and is therefore out of place in a dogmatic statement about divinely given authority. As a legally formulated prerogative, the pope's sole right to convoke a general council is stated in the Roman *Code of Canon Law* in force today (can. 222, 1). The Greek emperor's right was claimed on the basis of an older legal custom, which is manifestly obsolete today, and which to the Latins seemed obsolete even in 1439. But I would stress that it is a canonical, not a dogmatic difference, though this distinction, where the issue is authority, is often lost sight of. Both Latins and Greeks have continually embroiled and embittered their divisions by ignoring it, and treating their canonical traditions as unassailable dogmatic truths.

A brief examination of the history of the point may be enlightening. The first seven universally recognized ecumenical councils were in fact summoned by the Roman Byzantine emperors. At the times of all these councils they exercised sovereignty in Rome *de jure*, and indeed as often as not *de facto*. The popes never dreamt of denying the political responsibility for the Church's welfare which the emperors bore, and in virtue of which they summoned councils. It was a workable arrangement; no Church-State issue had intruded itself into the Christian consciousness. It was to this canonical tradition that the Byzantine emperors were heir after as well as before the schism.

But in Rome it became obsolete and lapsed from ecclesiastical memory even before the schism in the 11th century. After the synods of 870 and 880, involved with the Photian schism, there were no further

general councils summoned by emperors. Rome and Constantinople became more remote from each other than ever; and finally the West now had its own emperors who were a much more serious proposition for the popes than the Byzantine rulers had ever been.

From time immemorial the popes had held regular Roman synods; such were part of the normal machinery for the government of regional Churches, though in view of the Roman See's special position, these Roman synods had often concerned themselves with Church affairs beyond the borders of Italy, as Leo I's letters so vigorously show. When the movement of reform known as the Hildebrandine began in the eleventh century, these Roman synods became a most important and effective instrument of reform and of resistance to the lay powers which that reform involved. As reform and the accompanying investiture struggle widened to embrace all Latin Europe, so these Roman synods grew into general councils—the first four Lateran Councils, 1123, 1139, 1179 and 1215. The Pope's sole canonical right to summon such councils grew out of his ancient presidency over the local Roman synods. Furthermore, because these councils were so involved in the burning issue of investitures, the relationship of civil and ecclesiastical authority, this exclusive right of convocation was naturally stressed by the canonists and given a questionable dogmatic value.

But though canonical jurisprudence is distinct from dogma, it is most intimately connected with it in a relation of dependence. And it was not only the canonists who tended to reverse this relationship; their civilian opponents were chiefly responsible at the theoretical level for making a dogmatic theological issue out of a legal dispute. At the practical level the decline in papal standards and prestige in the fourteenth century and finally the great schism provided them with substantial justification. The net result was the elaboration of the conciliar theory of the Church which put general councils above the pope. This theory received concrete canonical expression in the decree *Sacrosancta* of the Council of Constance by which Pope John XXIII, the first of that ilk, was condemned and deposed. This is manifestly a theological, not a canonical point, because what is being challenged is the supreme authority, the *plena potestas*, of the Roman pontiff, for which divine institution and scriptural revelation had been consistently claimed for a thousand years and more. The action of Constance could be winked at by subsequent popes, because John XXIII was easily the least plausible of the three rival claimants to the Holy See. But when Basel took

up a similar attitude to the undoubtedly lawful Eugenius IV, the matter was more serious, and ended in open breach between Pope and Council. The point was definitely settled as a dogmatic question by the decree of union at Florence, a Council which as far as the Pope was concerned was the lawful continuator of the original Basel. But politically and practically the spectre of councils claiming jurisdiction over popes continued to haunt the Roman curia until Trent and beyond. It might almost be said that the ghost was not finally laid until the first Vatican Council demonstrated once and for all that there was no more life in it.

I don't think this is meant to be a historical paper, and that is all the history I will indulge in—a very abbreviated summary of evidence. There are two books by eminent Church historians, *The General Councils of the Church* by Francis Dvornik (Faith & Fact Series) and *Ecumenical Councils* by Hubert Jedin, which provide historical outlines at a popular level—both marred by regrettable inaccuracies, at least as regards the proof-reading. What we must now try and do is assess the dogmatic or theological meaning of the evidence. A book that attempts this, perhaps a trifle superficially, is *The Ecumenical Council, the Church and Christendom*, by Lorenz Jaeger, Archbishop of Paderborn.

The first conclusion I would draw from the evidence, which I would also make my first principle in assessing it and the significance of councils, is that ecumenical councils are not directly of divine institution. They are essentially a piece of ecclesiastical machinery, devised by the divinely instituted authorities in the Church, bishops and pope, as a means for the execution of their responsibilities. As ecclesiastical machinery ecumenical councils have the same type of status, canonical, not divine or apostolic, as provincial synods, patriarchs, cardinals, Roman congregations, religious orders, arch-deacons, cathedral chapters, prebendaries, etc. In themselves as institutions they are of a piece with the right to convoke them—a matter of custom and canon law. To say this is not to belittle councils, or to take a low view of them; it is on the contrary to take a high view of the Church, and its versatile power of creating institutions like councils. In the matter of institutions, Christ left the Church the utmost freedom, unencumbered by a divinely imposed constitution; it had to work out its own constitution, in terms of the authority which Christ did vest, not in institutions, but in persons, Peter and the Apostles and their successors. But how their successors were to be organized, or picked, or work together, or settle differences—they could work all that out for themselves.

I can think of two objections that might be made to this opinion

about the status of ecumenical councils. The first would be based on Acts ch. 15. There you have apostolic authority, neo-testamentary example for the assembly of the Church's rulers to make definitive decisions on issues that arise. I cannot deal at length with this point, but I would suggest that there is an alternative theological exegesis; that what the new testament vindicates in this episode is the exercise of Christ-given authority by the persons in whom he had vested it. But the manner in which they exercised it, namely by meeting together in council, is accidental to this direct theological significance of the episode. It is a natural and reasonable manner to exercise such authority, and lends itself to imitation in later centuries; but it is not being imposed on the Church as its ultimate type of supreme court. There are other ways of exercising this authority, less amenable to juridical expression, which the new testament shows us, but which for all that we do not regard as divinely sanctioned for all time; they are simply the earliest instances of the Church working its organization out for itself. There is the method of 'withstanding to the face' of Galatians ch. 2; there is the very thorny question of what we might perhaps call the presbyterian style of episcopate. But let us shun that red herring.

The second objection is that if ecumenical councils are merely canonical institutions, it is hard to see how they can be credited with an infallible teaching authority, for such an authority must have divine sanction behind it. But it is the universal practice of theologians and of councils and popes and the most august propounders of Christian faith to regard the definitions of ecumenical councils as providing the norms of faith. St Gregory, rhetorically no doubt, but still seriously, compares the first four councils to the four gospels. Such authority, such dignity, is only to be ascribed to an institution that has apostolic if not dominical origin.

I question certain apparently reasonable assumptions that underline this objection. The first is that the ecumenicity of a council is prior to the infallibility of its definitions; i.e. establish that a council is ecumenical and you can accept its definitions as expressing the infallible teaching of the Church. That seems reasonable enough; but behind it there is another assumption which simply cannot be verified by the historical data; that what makes a council ecumenical is some recognizable institutional element; some constitutional requirement to which it conforms, which will distinguish it in kind from a local council or a pseudo-ecumenical council.

Against this I would assert that there is no difference in kind, only in

degree, between an ecumenical and a local synod; Nicea in 325 grew out of a longstanding habit of local councils; it blossomed out of Constantine's earlier conciliar venture at Arles in 316, which Augustine in one of his anti-Donatist works is probably referring to, when he mentions 'a general council' that had settled the question of heretical baptism. I would maintain there is no difference in kind between Arles and Nicea. Nicea by the fortune of history is called the first ecumenical because it dealt with a more important matter, which caused far more universal trouble, and it was rendered more illustrious by the presence of the Emperor in person. Perhaps the word 'ecumenical' was used in the imperial act of convocation; I am not historian enough to know. But this will not give us a criterion of ecumenicity, since the next council, Constantinople, in 381, was summoned as a provincial or local synod, and only achieved ecumenicity, as we might say, posthumously. I think the same is probably true of not a few later councils, notably the eighth, and perhaps the first mediaeval general councils; they gradually had the rank of ecumenical thrust upon them. And for the matter of that, this rank is denied them by Orthodox and Anglicans. On what grounds? I am not sure what Orthodox or Anglican theologians would answer, but I would suggest that they deny the ecumenicity of these councils on the same principle as we invoke to ascribe it to them, on the same real principle by which we are all agreed on the ecumenicity of the first four or seven councils—namely that of acceptance of their decisions by the Church.

In other words, in spite of certain appearances, the infallibility of their dogmatic judgments and the force of their canonical decrees (which of course are not so immutable) are really prior to their ecumenicity. For these derive, not from their conciliar structure, but from the divinely given episcopal apostolic authority of their participants, to which the conciliar structure serves only to give material expression; it is a piece of amplifying machinery. Above all—this is the Roman Catholic position—such infallibility and such force is guaranteed by the consent to conciliar decisions of the holder of supreme episcopal petrine authority, the bishop of Rome. Without this there is no infallible definition of an ecumenical council.

Thus the real theological question, both the question which divides Catholics from Orthodox, and the one about which Catholic theologians and the present Vatican Council are deeply preoccupied, is not the relationship of pope to councils, or pope to patriarchs, but of pope to bishops. An excellent book in French presenting Catholic theological

thought on this topic is *La Théologie de l'Épiscopat au Premier Concile du Vatican* by J.-P. Torrell, O.P. in the *Unam Sanctam* series. The great fear at the former Vatican Council of those who opposed the definition of the papal infallibility was that papacy was swallowing up episcopacy. Fr Torrell shows how their expression of this fear caused the committee responsible for drafting the constitution *Pastor Aeternus* to modify and amplify the text, and to explain it in the Council most carefully in a sense which precluded any such papal episcopophagy. Furthermore, the definition actually achieved was only half of the proposed constitution *De Ecclesia Christi*. A draft of the second part, thoroughly revised after the conciliar criticisms of the original *schema* presented to the Council in its early sessions, was prepared by the theologian Joseph Kleutgen, S.J., and his autograph text was published in 1927. It is highly likely that it will provide the material for the deliberations of the present Council on this topic. A few quotations both from the constitution *Pastor Aeternus* that was actually enacted by the Council and from Kleutgen's draft of the second document should indicate the actual Catholic dogmatic and theological position.

The object of *Pastor Aeternus*, of course, is to define the primacy and the infallibility of the Roman pontiff. As regards the primacy it does this, after one chapter devoted to St Peter and another to the Roman right of succession to him, by repeating the decree of Florence, which we have already remarked on; and it explains the *plena potestas* over the universal Church which that decree asserts as being truly episcopal, immediate, and ordinary. What these amplifications mean is that there is not and cannot be any juridical limitation in principle on the pope's *plena potestas*. As a complete and total authority it comprises all possible forms of spiritual or ecclesiastical jurisdiction and government, first instance as well as appellate, if need be. It is not surprising that these explications of the *plena potestas* caused many of the bishops serious misgivings, as it suggested the abrogation, rather than the proper subordination, of their own ordinary, immediate, and episcopal authority. To assuage these misgivings, a whole paragraph was added to this third chapter of the constitution as follows:

But so far is this authority of the supreme pontiff from being detrimental to that ordinary and immediate authority of episcopal jurisdiction by which the bishops, set by the Holy Ghost as successors to the apostles in their places, feed and govern as true shepherds each and severally the several flocks assigned to them; that this same authority of theirs is asserted, strengthened and vindicated by the



supreme and universal shepherd, according to the words of St Gregory the Great: My honour is the honour of the whole church; my honour is the steadfast vigour of my brethren; then am I truly honoured when the honour due to each is not denied to any. (Torrell p. 301).

A similar addition was made to the fourth chapter, in which the Pope's infallible teaching authority was defined, to make clear that it did not render otiose the lesser, but still divinely bestowed, teaching authority of the bishops. Here is the most relevant section of this addition:

The Roman pontiffs, sometimes convoking ecumenical councils, or ascertaining the feeling of the Church dispersed throughout the world, sometimes by local synods, sometimes employing such other aids as divine providence supplied, according as the condition of times and affairs might suggest, have defined those things to be held which by God's help they have recognized as agreeable to the sacred scriptures and apostolic traditions. (*op. cit.* p. 309).

Finally, the prologue to the constitution was enlarged, and where the first draft without mentioning bishops or apostles at all had stated the foundation of the Church on the rock of Peter, and then gone on to its definition of the primacy, the final text leads up to Peter through the apostles, to the pope through the bishops:

As therefore [the eternal shepherd and bishop of our souls] sent the apostles whom he had chosen for himself from the world, just as he himself had been sent by the Father; so he willed that there should be shepherds and teachers in his Church until the consummation of the world. But in order that the episcopate itself might be one and undivided, and that the whole multitude of the faithful might be kept by the mutual concord of their high priests in unity of faith and communion, he set the blessed Peter at the head of the other apostles, and in him established the abiding point of reference [*principium*] and the visible foundation of this double unity . . . (*op. cit.* p. 289).

These savings of episcopacy in relation to papacy are merely by the way in *Pastor Aeternus*. In Kleutgen's draft of the second constitution, the Church's doctrine on bishops is stated in itself:

Without a shadow of doubt the episcopate is of divine institution; instituted moreover not merely that bishops might sanctify the Church [by their sacramental powers], but also that they might rule it. So even though they receive their jurisdiction through appointment or confirmation by the Roman pontiff; this jurisdiction is none the less proper to their office and ordinary. And though the supreme



pontiff can bring it about that this man and not that should be bishop of a particular Church; he cannot bring it about that there should not be any bishops in the Church to govern the dioceses assigned to them with such proper and ordinary authority. (*op. cit.* p. 258 n. 1). But he does not limit episcopal authority merely to the narrow confines of the diocese. The bishop's individual authority is restricted to his diocese; but as the member of a *collegium*, his responsibility extends to the whole Church. Even if, as a titular bishop, he has no diocese of his own, he still shares in this joint authority. This is to share in the supreme office of teaching and governing the whole Church. To quote Kleutgen again:

For that pontifical power of binding and loosing, which was given to Peter by himself, was evidently bestowed also on the apostolic college—in conjunction to be sure with their head—as the Lord bears witness: Amen I say unto you, whatever you bind on earth shall be bound in heaven, and whatever you loose on earth shall be loosed in heaven (*op. cit.* p. 259, n. 2).

His personal annotation on this text concludes that 'the plenitude of supreme authority' in the Church is vested in a double subject, namely in the pope by himself and in the episcopal body joined to the pope.

I would like to conclude by reverting once more to my previous distinction between a canonical description or organization of authority, and the dogmatic statement of its principles. What we have in the decree of the first Vatican council and Kleutgen's draft is precisely the dogmatic, theological statement of what are held to be divinely instituted principles of authority, and this notwithstanding the canonical language of jurisdiction and so forth, and even of ecumenical councils in Kleutgen's draft, that is perforce employed. It remains true that this language is not used either to describe or prescribe the actual canonical organization by which authority is here and how wielded in the Church.

Now it is of course accepted that neither Anglicans nor Orthodox assent to this dogmatic position. But it seems to me that they often attack it, the Orthodox particularly—although I would not be certain of this—on canonical grounds. The Greeks, much more conservative in their canonical tradition than the Latins, tend to treat it as dogmatically inviolable. At Florence, for example, their objections to the *filioque* were three-quarters canonical; whatever the truth of the doctrine involved, it was uncanonical to add it to the creed. And against the Roman primacy the opponents of the union took their stand on the

ancient constitution of the Church as a pentarchy of five patriarchates. Both these are matters of canonical arrangement, and to give them the inviolability of dogma is to saddle the Church with the laws of the Medes and Persians. Canonical organization is intrinsically alterable. We cannot challenge the present English constitution because it does not square at all points with the laws of Edward the Confessor. Perhaps the pentarchy is no longer a plank in Orthodox ecclesiology—that is where my ignorance comes in; but on the dogmatic issue I would wish them not to oppose to the Roman dogmatic ecclesiology their actual canonical organization into autocephalous Churches, because it would be simply to confuse the issue.

But it must be admitted that Rome and the Latins are by no means innocent either, in this matter of muddying theological matters with canon law. Thus the actual canonical set-up of the Latin Church at any given time is not the only one that is consonant with the full Roman primacy. Yet immediately after the Council of Florence we find Pope Eugenius exercising his papal prerogative of provision to bishoprics among the Greeks—with the best intentions of course, in order to put an excellent man in an important Church; but without a thought that his action might be canonically as well as diplomatically a *faux pas*. The latest example of this sort of thing is the promulgation three or four years ago of a code of canon law for the oriental churches in communion with the Holy See—eastern Catholics. I know nothing of the details of the affair, or of the law so promulgated. But it is common knowledge that it was very ill-received by oriental prelates, in particular the Melchite patriarch Maximos IV of Antioch, who promises to be one of the more forceful participants in the Council. And I think, but am not sure, that in fact the newly promulgated code was withdrawn or suspended as a result of the protests it aroused. The error here, surely, was the assumption by the Roman curia that the Pope's *plena potestas*, which gives him the undoubted right, uncontested by the orientals, to legislate in this way for all Churches, finds its natural and normal and correct canonical expression in so doing as a matter of course. It might have been left, perhaps, to synods of the oriental Churches themselves, prodded and prompted and advised perhaps by the curia, to draw up their own code.

One reason why this thought may not have occurred to the canonists in Rome is that in the Latin Church synodal legislation has long since ceased to be the usual and accepted method of law-making. From the twelfth century onwards the supreme authority of the Holy See has

found expression in ever increasing centralization of the Latin Church, in government, in judicial practice, in law-making, in appointments to office, and so forth and so on. Since Trent there has been less canonical scope for local provincial synods, so thoroughly has the law been centralized, even in its details. The reasons for this, as I see it, have not been theological or dogmatic; it has by no means been an inevitable consequence of the doctrine of petrine and Roman primacy. The causes have been first of all political—the pressure on the Church of the Christian state; and subordinately financial, by a sort of Parkinsonian process—ever more thorough centralization is required to pay for central government. But that this development is not a necessary or inevitable consequence of the Roman claims is shown, I suggest, by its comparative lateness in the Church's history. Leo the Great in the fifth century was quite as clear as Innocent III, Pius IX or Pius XII about his *plena potestas* as successor of Peter to rule the Church of God. His letters to bishops from Spain to Alexandria and Morocco to Constantinople can still make you shake in your shoes. The authority in fact was constantly exercised; but not in an administrative and centralizing fashion. The Church after Leo remained as decentralized as before; local synods continued for centuries to play an extremely important part in its life.

So while the Catholic Church—I think this cannot be gainsaid—will never enter into communion with a Church that does not recognize the full Roman primacy, and thus in fact requires dogmatic concessions from Anglicans and Orthodox before union could possibly be considered, there is plenty of scope for Rome to make very radical and far-reaching canonical concessions. And one of the hopes that I entertain of the present council is that it will at least initiate a thorough loosening up of the canonical structure of the Latin Church.