

SIBERT OF BEEK'S RESPONSE TO MARSILIUS OF PADUA

The Carmelite theologian Sibert of Beek is remembered by modern historians for two very different works, an ordinal of Carmelite liturgy published in 1312 and a polemic against Marsilius of Padua's *Defensor Pacis*, written in 1327. The polemic, usually called the *Reprobatio sex errorum*, is brief compared with some papalist defenses of the mid-1320s, even modest efforts such as William of Cremona's *Reprobatio errorum* and Alexander de Sancto Elpidio's *De ecclesiastica potestate*.¹ Consequently, Sibert's work has been examined infrequently by historians. Yet it deserves more attention than it has received. The *Reprobatio sex errorum* appeared at a key point in early fourteenth-century controversies over papal power, and both its content and structure reveal an overlooked feature of contemporary papalist political discourse. Sibert ignored the essentially metaphysical approach to ecclesiology favored by William and Alexander, and instead adopted a historical and documentary mode of argumentation similar to that employed by Marsilius. Moreover, the *Reprobatio* has more in common with the ordinal - an attempt to recapture the ancient Carmelite liturgy - than is usually supposed. The documentary approach used in compiling the ordinal is essential to the structure of the *Reprobatio*. This study will review the *Reprobatio* in detail, both to examine the nature of Sibert's polemical technique and to place it within the framework of contemporary papalist ecclesiological discussion.

¹ Both William and Alexander's works are about thirty thousand words. Sibert's tract is less than ten thousand words. Cf. WILLIAM OF CREMONA, *Reprobatio errorum*, ed. D. Mac Fhionnbhair, Rome 1977; ALEXANDER DE SANCTO ELPIDIO, *De ecclesiastica potestate*, ed. J. T. Rocaberti, *Bibliotheca Maxima Pontificia*, II, Rome 1968, pp. 1-40; SIBERT'S *Reprobatio sex errorum* is preserved in Ms. Vat. lat. 5709 (=V), fols. 110va-119ra. It is partially edited in R. SCHOLZ, *Unbekannte kirchenpolitische Streitschriften aus der Zeit Ludwigs des Bayern (1327-1354)*, 2 vols., Rome 1911-1914 [hereafter *UkS*], II, pp. 3-15.

1. SIBERT AND THE *REPROBATIO SEX ERRORUM*

When Sibert wrote the *Reprobatio* he was a prominent figure in the Carmelite order.² Although he is not as well-known today as his contemporaries Gerard of Bologna, John Baconthorpe, and Guido Terreni, in his time Sibert was highly regarded as an academic and administrator. The basis of his reputation was the ordinal, a product of considerable research that was officially adopted by the Carmelite order within three years of its publication.³ Sibert was also known for several other works very useful to the order: a collation of the Carmelite general chapters, another of papal bulls concerning the order and its privileges, and a commentary on the Carmelite rule.⁴ Like the Ordinal, these were the product of documentary research. Sibert's career blossomed with their publication. Recognition came quickly. In 1317, soon after he finished his theological studies at Paris, Sibert was elected prior provincial of Germany. He was reelected to this position several times before his death in 1332.⁵

Sibert's new prominence in the Carmelite order made him an influential theologian at the papal court in Avignon. In late 1326 or early 1327, Pope John XXII asked Sibert to compose the work that became the *Reprobatio sex errorum*. It was one of several *Responsiones*, or private theological opinions, that the pope requested as he prepared *Licet iuxta doctrinam*, the decree that would condemn Marsil-

² On Sibert's life and works, cf. B. XIBERTA, O. CARM., *De scriptoribus scholasticis saeculi XIV ex ordine Carmelitarum*, Louvain 1931. pp. 142-166; Also *UkS*, I, pp. 3-12; T. BRANDSMA, O. CARM., *De opusculo nunc primum edito magistri Siberti de Beka*, and *Duo "quelibet" inedita Siberti de Beka*, in "Analecta Ordinis Carmelitarum", 4 (1917-1922), pp. 281-291, 305-341.

³ Ed. B. ZIMMERMAN, O.C.D., *Ordinaire de l'ordre de Notre-Dame du Mont-Carmel, par Sibert de Beka (vers 1312)* (Bibliothèque Liturgique), Paris 1910.

⁴ *Annotatio capitulorum generalium, Bullarium Carmelitarum, and Considerationes super Regulam ordinis Carmelitarum*. Cf. XIBERTA, *De scriptoribus*, pp. 147-148; the *Annotatio* is edited by ZIMMERMAN, *Monumenta historica Carmelitana*, I, Lirinae 1907, pp. 190-202; the *Considerationes* by G. WESSELS, O. CARM., in "Analecta Ordinis Carmelitarum", 3 (1914-1916), pp. 218-223.

⁵ Sibert was prior provincial of all Germany 1317-1318, of lower Germany 1318-1321 and 1324-1327 (after the large province was divided), and of all Germany again 1327-1332. The province was reunited under his authority in 1327 to prevent a schism among German Carmelites over the struggle between Pope John XXII and the German emperor Lewis of Bavaria. For Sibert's life see XIBERTA, *De scriptoribus*, pp. 143-146, and BRANDSMA, *De opusculo*, pp. 284-287. Additional details regarding his academic career and his later service at the papal court can be found in F.-B. LICKTEIG, *The German Carmelites at the Medieval Universities*, Rome 1981, especially pp. 34-36, 122-129, 174-178.

ius.⁶ After the decree was published (27 October 1327), the *Reprobatio* was circulated as a polemical work supporting the pope's decision.⁷

Most scholars know Sibert's *Reprobatio* through the partial edition and brief analysis published by Richard Scholz at the beginning of the twentieth century.⁸ Scholz placed the *Reprobatio* first in his collection of polemics from the late 1320s, partly because it was among the earliest chronologically and partly because he found it to be different from the other papalist works he considered. Sibert, he said, defended moderate personal positions, especially on Church property, which contrasted strongly with what Scholz considered the exaggerated and "all too abstract" (*allzu abstrakt*) interpretations of the pope's power over temporal goods evident in the work of other curialists. Scholz attributed Sibert's moderation to the practical political experience he had gained during his many years as the Carmelite order's official representative in Germany. Scholz also noted in Sibert a careful, critical mind and a willingness to base his views on political rather than theoretical grounds, undisturbed if they restricted papal discretion. He even found a "veiled censure" (*versteckte Tadel*) of John XXII's policies in Sibert's work.⁹ Ironically, the apparent independence of thought that captured Scholz's admiration has also served to marginalize Sibert for later students of early fourteenth-century ecclesiology. Because mainstream papalists of this period have often been viewed as extremists, Sibert's comments have seemed an exception difficult to categorize.¹⁰ Moreover, scholars who have considered Sibert's *Repro-*

⁶ It was also directed at John of Jandun. All contemporary curial condemnations of the *Defensor*, including Sibert's, considered Marsilius and John to be co-authors. This was commonly held until disproved by A. GEWIRTH, *John of Jandun and the Defensor Pacis*, in "Speculum", 23 (1948), pp. 267-272. On John's relationship with Marsilius, see L. SCHMUGGE, *Johannes von Jandun (1285/89-1328). Untersuchungen zur Biographie und Sozialtheorie eines lateinischen Averroisten* (Pariser Historische Studien, 5), Stuttgart 1966, pp. 26-42, 95-119.

⁷ In the introductory passages of *Licet iuxta doctrinam*, Pope John describes the process by which the list of errors from Marsilius's work was drawn up and *responsiones* such as Sibert's were solicited; cf. *Annales Ecclesiastici*, eds C. BARONIUS ET AL., XXIV (1313-1333), Paris-Fribourg 1880, col. 323a.

⁸ *UkS*, I, pp. 3-12; II, pp. 3-15; Scholz's numbering of the folios in his edition is one digit off the current one; his fol. 109 is the current fol. 110.

⁹ *UkS*, I, p. 11. BRANDSMA agrees, *De opusculo*, p. 291.

¹⁰ Modern authors therefore have difficulty categorizing Sibert. Typical is MICHAEL WILKS, whose massive *The Problem of Sovereignty in the Middle Ages*, Cambridge 1964, pp. 167 n. 4, 402, n. 2, treats Sibert as an extremist. More recently, WILHELM KÖLMEL has followed Scholz in emphasizing the moderate aspects of Sibert's position in *Regimen Christianum*, Berlin 1970, pp. 422-424, 429, 434-435. Kölmel links Sibert with three slightly better-known contemporaries whom he thinks were also moderates

batio have focused primarily on his conclusions; they have paid little attention to his method. Yet Sibert's method is the most interesting aspect of his work.

2. MARSILIUS'S ERRORS REGARDING CHURCH PROPERTY

In his analysis of the *Reprobatio*, Scholz gave most of his attention to the first section, which addresses Marsilius's claim that the emperor, not the pope or any other Church official, held lordship over Church property. His basic concern was to compare Sibert's views to those of previous papalists, and this issue was ideal for that purpose. Secular lordship over Church property lay at the heart of Church-State debate from the days of Gregory VII, and became a matter of constant polemic after the French and English monarchies attempted to tax their Churches in the 1290s.¹¹

As Scholz noted, Sibert's response to the first error is unusual. The limits he put on Church authority over temporal goods contrast sharply with the claims of papal extremists. Moreover, his method of argument is different. Comparison with the only other extant *responsio* on Marsilius's errors that survives *in toto*, William of Cremona's *Reprobatio errorum*, makes this clear.¹² William, the prior general of

- Herman von Schildesche, Peter von Kaiserslautern, and Konrad von Megenberg - and contrasts them with the more numerous curial extremists. Scholz treats only one of these figures - Herman - whom he places squarely among the extreme papalists. *UkS*, I, p. 55. W. D. MCCREADY also places Hermann among the extremists, *Papal Plenitudo Potestatis and the Source of Temporal Authority in Late Medieval Papal Hierocratic Theory*, in "Speculum", 48 (1973), pp. 654-674.

¹¹ The familiarity of the question was probably what impelled the curial committee that collated Marsilius's errors to place it first on their list of six. But this was not necessarily the question of greatest concern to Sibert. He undoubtedly treated it first because, like other respondents to papal requests for theological advice, he adhered to the order of the errors as posed in the curial list. His response to it is slightly longer than those he gives to the other errors (it occupies about thirty percent of the treatise), but this is partly because he presents in it certain basic arguments to which he refers throughout the work. V, fols. 110vb-113rb.

¹² *UkS*, I, pp. 13-22; KÖLMEL, *Regimen Christianum*, pp. 439-442; MAC FHIONNBHAIRR, *Reprobatio errorum*, pp. xi-xic; A. PIOLANTI, *Guglielmo Amidani da Cremona, O.S.A. De primatu Petri et de origine potestatis episcoporum*, Vatican City 1971, pp. 11-16. Piolanti's work completes Scholz's edition in *UkS*, II, pp. 16-28. Longer lists of the papalist reactions to Marsilius, e.g. J. MIETHKE's in *De potestate papae. Die päpstliche Amtskompetenz im Widerstreit der politischen Theorie von Thomas von Aquin bis Wilhelm von Ockham*, Tübingen 2000, p. 233, include responses redacted for publication like those of Alvarus Pelagius and Hermann von Schildesche.

the Augustinian Hermits, constructed his *responsio* by adapting the arguments of his fellow Augustinian Giles of Rome and James of Viterbo.¹³ Giles and James had dramatically altered papalist ideology at the turn of the fourteenth century by basing their defense of the pope's power on metaphysical rather than purely theological arguments. Their purpose was to answer contemporary royalist claims for the naturalness and independence of secular government rooted on Aristotle's political thought. Aristotelian discourse naturally ignored the scriptural, patristic, and canonistic proofs traditionally employed in Church-State debates, putting papalists at a temporary loss. But Giles of Rome offered a stunning reply in his *De ecclesiastica potestate* by subordinating scriptural and patristic arguments to a Pseudo-Dionysian metaphysical framework that emphasized the essential unity and hierarchy of all created things and proceeded deductively from these first premises. James of Viterbo's *De regimine Christiano* adopted a similar approach. Over the next quarter-century papalists commonly embraced these arguments.¹⁴

William's response to Marsilius's first error is typical of this Augustinian mode of argument. The question was apparently of great interest to William; he devoted about forty percent of his *responsio* to it.¹⁵ Marsilius's claim that all temporals lay under imperial authority alone targeted one of the essential principles of Giles of Rome's papal-

¹³ William's editors note his heavy dependence on these authors: PIOLANTI, pp. 15-16; MAC PHIONNBHAIRR, p. xiii; SCHOLZ, *UkS*, I, pp. 16-17.

¹⁴ GILES OF ROME, *De ecclesiastica potestate*, ed. R. Scholz, Weimar 1929; JAMES OF VITERBO, *De regimine Christiano*, ed. in H.-X. AROUILLIÈRE, *Le plus ancien traité de l'Église. Jacques de Viterbe, De Regimine Christiano (1301-1302). Étude des sources et édition critique*, Paris 1926. Their arguments were elaborated in many authors, notably their fellow Augustinians AUGUSTINUS TRIUMPHUS, *Summa de ecclesiastica potestate*, Rome 1479, and ALEXANDER DE SANCTO ELPIDIO, *De ecclesiastica potestate* (as in n. 1). J. MIETHKE summarizes a good deal of the research on the proliferation of this kind of argumentation among papalists in *Die Tractate De potestate papae. Ein Typus politiktheoretischer Literatur in späten Mittelalter*, in *Les genres littéraires dans les sources théologiques et philosophiques médiévales. Critique et exploitation. Actes du Colloque international de Louvain-la-Neuve, 25-27 Mai 1981* (Université Catholique de Louvain. Publications de l'Institut d'Études médiévales. 2e série: Textes, Études, Congrès, 5), Louvain-la-Neuve 1982, pp. 193-211; and *Die Rolle der Bettelorden im Umbruch der politischen Theorie an der Wende zum 14. Jahrhundert*, in *Stellung und Wirksamkeit der Bettelorden in der städtischen Gesellschaft*, ed. K. ELM (Berliner Historische Studien, 3.2), Berlin 1981, pp. 119-153. Also W. D. MCCREADY, *Papal Plenitudo Potestatis and the Source of Temporal Authority*, and *Papalists and Antipapalists: Aspects of the Church-State Controversy in the Later Middle Ages*, in "Viator", 6 (1975), pp. 241-273.

¹⁵ In MAC PHIONNBHAIRR's edition, the whole tract is ninety-eight pages long (pp. 3-101), q. 1 fills thirty-eight (pp. 4-42).

ist doctrine, the pope's lordship over the whole Church and, indeed, over the whole world in all things, even temporal property. William constructed his work as Giles had built his own argument, from a series of characteristics he attributed to the Church. The most important was its oneness, a familiar theme. The Church, he argued, was a body with two unified parts, clergy and laity. The clergy had a higher function, and were thus the nobles of the Church. Elevated to the care of spiritual matters, the clergy alone, in a special way, could be called "the Church" - and thus the word "Church" was used in two senses, the community of Christians and the community of clergy. God, who possessed all things, had given churchmen authority over temporal things as well as spirituals because right use of temporals was tied intrinsically to the spiritual end of human beings. Thus no human legitimately possessed anything unless he submitted to God, and no human had submitted to God unless he had submitted to the Church. Further, no emperor could have any authority over any temporal goods without the permission of the Church.¹⁶ William elaborated his point about the preeminence of Church authority with nine separate deductive arguments.¹⁷

William then distinguished the kinds of temporalities the Church holds and the ways in which it holds them: the complicated reality of fourteenth-century Church dominion. Again he worked deductively and categorically, first asserting that all temporals are ultimately under the clergy's authority, even those donated to the Church by laymen, then distinguishing four kinds of goods subject to churchmen: those over which the Church had primary dominion, such as ecclesiastical tithes and taxes; those given to the Church as gifts; those that the Church could demand of the laity as penalties for sin in the forum of confession; and those that the Church could demand of laymen in the criminal cases over which it exercised authority.¹⁸ Only here did William introduce significant evidence from authorities, a list of scriptural, patristic, and canonistic texts that he enumerated without much interpretation.¹⁹ Then he proceeded to the ways in which temporals

¹⁶ Ed. MAC FHIONNBHAIRR, pp. 5-11. SCHOLZ, *UkS*, I, pp. 16-22, outlines some of William's arguments. William built on quotations from HUGH OF ST. VICTOR's *De sacramentis*, a favorite source of ecclesiological *dicta* among followers of Giles of Rome and James of Viterbo.

¹⁷ The second is a long section derived from Giles of Rome; the rest are relatively terse summaries of standard arguments. Ed. MAC FHIONNBHAIRR, pp. 7-11.

¹⁸ Ed. MAC FHIONNBHAIRR, pp. 11-18.

¹⁹ Ed. MAC FHIONNBHAIRR, pp. 18-20. William did cite Augustine and St. Paul in a section drawn from GILES OF ROME, pp. 8-9.

are subject to the emperor; the ways in which they are not, and to the all important issue of imperial authority over Church goods. Here he also included scriptural, patristic, and canonistic texts, but used them merely as ancillary evidence.²⁰

Sibert's approach to the same question is markedly different. As has been noted, Scholz attributed this to Sibert's experience in practical administration and to William's supposedly more academic orientation, which Scholz thought drew William to "fine distinctions and excurses" (*die feinen Distinktionen und Exkurse*).²¹ While it is surely true that Sibert's experience as a Church official in Germany affected his perspective, the reason for the difference is more than just a matter of background, experience, or attitude. Sibert was trained to use a distinct methodology, and consequently saw the problem differently. This is immediately evident in his *responsio*. Unlike William, who relied so heavily on deductive arguments, Sibert turned to Gratian's *Decretum*, not for legal authority, but for historical witnesses to the belief and practice of the early Church. His argument rested on Isidore in C.23 q.5 c.20, Ambrose in C.23 q.8 c.21, and Pope John VIII in C.23 q.5 c.26, who depicted the early Church as a propertied institution with a complicated legal relationship to the laity.²² Consequently, Sibert began by limiting his definition of Church goods to things legally held by the Church, and thus ignored the claim of William, Giles of Rome, and James of Viterbo that all temporals belong ultimately to the Church. Sibert conceded that goods given to the Church were under the full control of the emperor and other laymen who donated them right up to the moment of the actual donation, and further admitted that goods legitimately held by the Church could be said to be under the emperor's control in a relative sense, because the emperor was entrusted with their protection.

Sibert used similar patristic evidence to reject Marsilius's claim that the emperor had full dominion and right of sale over Church goods. In fact, he said, the kind of authority the emperor had over Church goods varied with the type of Church property. Like William of Cremona, Sibert distinguished four kinds of Church property, and

²⁰ Ed. MAC FHIIONNBHAIRR, pp. 20-38. References to Aristotle's *Politics* and *Ethics* were employed to equal effect (pp. 29-30). William allowed the emperor custodial authority in matters of defense and the settlement of lay property disputes. He explained ecclesiastical payments of tribute to laymen as practical measures to keep the peace, avoid scandal, and the like (p. 40).

²¹ *UkS*, I, p. 16.

²² V, fols. 110vb-111ra; ed. SCHOLZ, *UkS*, II, p. 4.

devoted the rest of this part of the *responsio* to specifying the degree of imperial control over each. But Sibert's categories were much more limited than William's, entirely consonant with the criteria he had set earlier: things consecrated to the divine cult; tithes, *primitiae*, and oblations; goods given to the Church freely and without condition; and goods given with terms and conditions.²³

The basis for Sibert's moderate attitude toward ecclesiastical rights to property is clearly the cluster of canons he cited to support his assertion that the emperor had a relative authority over Church goods because he was their protector. The canons were all from *Causa* 23 of the *Decretum*. They spanned a good deal of the Church's history, from the third century to the ninth, and were read literally as clear testimony to Church practice over time. They are typical of the evidence that Sibert relied upon to build his case. He ignored the metaphysics and deductive logics embraced by William of Cremona, and only briefly referred even to the decretals of recent popes and the interpretations of canonists. He used the words of the fathers, popes, and councils contained in the *Decretum* as testimony to the belief and practice of the Church throughout its history, especially its early history. As in this case, the *Decretum's* topical organization allowed him to dip into *Distinctiones* and *Causae* for handfuls of proof texts. His reliance on the texts was so complete that, at certain points, his argument became a series of quotations and paraphrases of the texts.

It was not unusual for medieval theologians to cite canon law, but Sibert far exceeded the norm. His purpose was apparently to immerse his reader in the sources.²⁴ Moreover, Sibert saw the canons not only as authoritative symbols of doctrine, but also as convincing testimony of the Church's ongoing adherence to certain beliefs. He was keenly aware of their historical dimension. This was a remarkably apt response to Marsilius's claims in the *Defensor Pacis*. Sibert's research into primitive Carmelite liturgy undoubtedly had some influence here, but a more immediate cause seems the nature of the arguments Marsilius presented. Sibert had not read the *Defensor Pacis*; none of the papalist respondents to Pope John were able to see it, because all available copies had been destroyed by Church authorities in Paris when the work was discovered there in 1326. John's advisors had to rely on the list of six errors drawn up by John XXII's curial committee at

²³ V, fols. 111ra; ed. SCHOLZ, *UkS*, II, pp. 4-5.

²⁴ SCHOLZ's edition obscures this technique by leaving out many of these clusters of citations and quotations, including the one I have cited.

Avignon, and it in turn had depended on reports sent by the Parisian authorities.²⁵ Nevertheless, Sibert's response seems to answer Marsilius directly. Just as Marsilius used an essentially historical and textual technique in attacking ecclesiastical authority, Sibert employed the same technique to refute him. As Marsilius manipulated scripture, canons, and historical sources to create an image of the primitive Church quite different from the contemporary Church, and had called for a return to the simple and powerless primitive institution he imagined, Sibert used these texts to demonstrate the identity of the primitive Church with the contemporary Church. He favored literal over difficult figurative readings of scripture, as did Marsilius, and gave authority to non-scriptural texts he considered sufficiently ancient.²⁶ Sibert responded with his own history and texts - as many as he could muster, mostly old, offered simply and literally, by depicting an ancient Church very like the contemporary Church.

So, in addressing the extent of imperial authority over the four types of Church property he has defined, Sibert jumped immediately to the texts with little introduction. The Emperor had no authority over the first type - basilicas, churches, etc. - because these things although defended by the emperor, were consecrated to God, and thus the emperor had no power over God. Ambrose said just this in C.23 q.8 c.21 (standing up to a powerful emperor), and Boniface VIII asserted the same in Sext. 5.12.51. Quoting both, Sibert declared the point obvious, and no more proofs necessary.²⁷ His juxtaposition of

²⁵ Pope John describes this situation in *Licet iuxta doctrinam, Annales Ecclesiastici*, XXIV, col. 323a.

²⁶ On Marsilius's manipulation of traditional texts, particularly those regarding poverty in the primitive Church, cf. K. SPIERS, *The Ecclesiastical Poverty Theory of Marsilius of Padua: Sources and Significance*, in "Il pensiero politico", 10 (1977), pp. 3-21; *Pope John XXII and Marsilius of Padua on the Universal Dominion of Christ: A Possible Common Source*, in "Medioevo: Rivista di storia della filosofia medievale", 6 (1980), pp. 471-478. In the same volume of "Medioevo", M. DAMIATA, *Funzione e concetto della povertà evangelica in Marsilio da Padova*, pp. 411-430; G. L. POTESTÀ, *Marsilio e Ubertino da Casale*, pp. 449-466. Also C. CONDREM, *Marsilius of Padua's Argument from Authority: A Survey of Its Significance in the Defensor Pacis, Political Theory*, 5 (1977), pp. 205-218; *Rhetoric, Historiography, and Political Theory: Some Aspects of the Poverty Controversy Reconsidered*, in "Journal of Religious History", 13 (1984), pp. 15-34; and D. R. CARR, *The Use and Image of History in Defensor Pacis*, in *Altro Polo: A Volume of Italian Renaissance Studies*, 4 eds. CONDREM and R. PESMAN COOPER, Sydney 1982, pp. 13-28.

²⁷ "Unde Ambrosius, loquens de basilicis et huiusmodi Deo consecratis... respondet, 'Noli te gravare, imperator, ut putes, te in ea, que divina sunt, imperiale aliquod ius habere... Ad imperatores palatia pertinent, ad sacerdotes ecclesie. Publicorum menium tibi ius commissum est, non sacrorum'. Et sequitur, 'Non tradi tibi hereditatem, nisi

the words of a revered father and a controversial recent pontiff was no accidental. He was demonstrating the continuity of ecclesiastical teaching that Marsilius had denied.²⁸

In dealing with the other three types of Church property, Sibert used a similar defense, though his tone became curter and his textual citations sparser than later in the *responsio*. Tithes, *primitiae*, and oblations - precisely the kind of Church property that had been contested by contemporary kings Philip IV of France and Edward I of England - Marsilius said had never been claimed by the primitive clergy. Sibert responded that they were the extension of the Levitical portion of the Old Testament, fully deputed to the divine cult and designed to allow God's ministers to obtain salvation for his people. They were not free gifts. Declarations by Jerome, Augustine, and many popes made this clear. Sibert admitted that it was difficult to see the origin of tithes and the like in the sources, but declared that their acceptance in the Old Testament and in the canons of these fathers was sufficient proof of their existence in the early Church.²⁹ Although tithes could be perceived the way Marsilius did, as temporals, in the ancient law of the Church they were always seen as the Levitical portion, beyond the authority of the laity. Gratian made that clear in his postscript to C.23 q.8 cc. 19-20, letters of Pope Nicholas I and Gregory the Great.³⁰

As to goods and lands freely given to the Church, gifts like the patrimony of St. Peter, Sibert contended that, if they were given outright, neither the emperor nor the donor had any claim to them. The judgment of the council of Toledo in C.10 q.1 c.6 verified this. The *ius patronatus*, a right of control exercised by some founders in the past, was held by grace of the Church rather than by any right. For Sibert, all this was so plain and absolutely consonant with reason that he

tradi Christi ecclesiam prout diffuse', prout diffuse ponitur XXIII di. q. viii c. *convenior et extra de reg. iuris* li. VI, 'Semel Deo dicatum est, non est ad usus humanos transferendum'. Nec oportet hic plus miscere plures probationes adducendo, quia hoc membrum planum reputo". V, fol. 111ra-b; ed. SCHOLZ, *UkS*, II, p. 5.

²⁸ The texts in the *Defensor Pacis* that contain these arguments are 2.4.9-11, 2.14.8., 2.17.16-18, and 2.21.5; ed. SCHOLZ, Hanover 1932, pp. 166-172, 306-308, 371-374, 407, 413-418.

²⁹ "Radicem igitur qualiter decime et huiusmodi iure divino ecclesie ministris debeantur, difficile est videre; licet hoc canones ex dictis sanctorum [Jerome, Augustine, and early popes] et ex veteri testamento videantur accipere... Ideo contra predictam radicem magis discutiendum non insisto, reputans sanctorum auctoritates et sacros canones sufficere pro testimonio, quod decime iure divino debantur". V, fol. 111rb-va; ed. SCHOLZ, *UkS*, II, p. 5.

³⁰ V, fol. 111va; ed. SCHOLZ, *UkS*, II, p. 5.

declared that he did not need to include the legal citations. These things were given to God completely, and consequently could not remain at the disposal of inferiors.³¹ Similarly, property freely given for the benefit of the emperor or the redemption of souls was deputed to the divine cult, and when this happened, its nature changed. For a layman to interfere with it at this point was sacrilege, as Gregory VII in C.12 q.2 c.5 and Pope Symmachus in C.16 1.1 c.57 warned. Sibert quoted both popes, taking a longer section from Symmachus, the more ancient source, and asserting that he was omitting many other corroborating canons for the sake of brevity. He finished with a discussion of the possibility of revocation of gifts by laymen because of the ingratitude of churchmen, clearly a rebuke of his fellow clerics. Sibert suggested that this was possible in extreme cases, but politically left the final resolution to lawyers.³²

Sibert's treatment of the last type of ecclesiastical property - goods given with conditions - is the one that most drew the admiration of Scholz for its willingness to admit the Church's legal responsibilities to the State and to patrons.³³ The Church, in Sibert's view, had to surrender donations if the conditions of the gift were not met. And although an emperor normally committed sacrilege if he seized or sold Church goods, in this case he was excused because the goods were non really the Church's.³⁴ Here Sibert cited only four canons, but they were critical: one of Boniface VIII's *regulae iuris*, Sext. 5.12.48, to initiate his argument that the Church could not enrich itself by injuring others; and decrees of the early popes Calixtus, Stephen, and Anacletus to verify that emperors were guilty of sacrilege if they seized Church goods (C.16 q.7 c.25; C.12 q.2 cc. 1,6). Summarizing, he placed

³¹ "Licet ante interdum fundatores huiusmodi ius patronatus habeant in talibus ecclesiis per eos fundatis et dotatis, hoc procul dubio magis est ex gratia ecclesie, ut alii ex hoc ad similia provocentur, quam ex debito. Iuris allegationes ad hoc omitto, quia mihi planum videtur et omnino consonum rationi. Ratio vero predictorum est, quia sicut episcopus non potest ponere primum lapidem vel consecrare ecclesiam, nisi dote primum dotata et assignata, ita nec dotem debet recipere, nisi libera sit, ut iura canunt; inconsequens enim est illa que Deo, superiori domino, sunt specialiter deputata, inferiorum servitute pregravari". V, fol. 111vb; ed. SCHOLZ, *UkS*, II, p. 6. The reference to C.10 1.1 c.6 is on fol. 111va.

³² V, fol. 111vb-112ra; ed. SCHOLZ, *UkS*, II, pp. 6-7, ending with, "Sed haec materia ad iuristas magis spectat".

³³ *UkS*, I, pp. 11-12.

³⁴ Sibert observed caustically that this problem rarely arose in modern times because princes were more likely to despoil the Church than give the gifts. V, fol. 112ra-vb; ed. SCHOLZ, *UkS*, II, pp. 7-9.

early popes Anacletus and Damasus, ninth-century popes Hadrian and Gregory IV, and recent pope Clement (at the council of Vienne) in opposition to Marsilius.³⁵ A concluding refutation of Marsilius's claim that Christ paid tribute to Caesar in Mt. 17,23-26 to demonstrate that the Church owed tribute to the State quoted at length from Origen's commentaries on Matthew and Romans and from Augustine in C.28 q.1 c.8. Sibert's interpretation of the passage was traditional and, as he noted, literal: Christ did not owe the tribute, but paid it to avoid scandal. His point was that this had always been the orthodox interpretation of Christ's tribute, as the ancient sources testified; to deny it was to question the consensus of the fathers.³⁶ Sibert could have piled up the opinions of contemporaries here, but two quotes from one very ancient father and another from Augustine were more telling.³⁷ He made a special effort to indicate to readers that his citations were precise and authoritative. Sibert was well aware of the power of the patristic texts he quoted. They answered the basic assertions of the *Defensor Pacis* quite effectively, despite the sketchy description of its doctrines presented to him by curial authorities.

The reason Sibert was able to mount such a thorough response without a detailed knowledge of Marsilius's arguments was that he had heard these assertions before, not from Marsilius, but from the dissi-

³⁵ C.12 q.2 c.6; C.25 q.1 cc.5, 11; D.19 c.5; and Clem. 5.5.1. V, fol. 112vb; ed SCHOLZ, *UkS*, II, p. 9.

³⁶ V, fols. 112rb-113rb; ed. SCHOLZ, *UkS*, II, pp. 9-10. The citations from ORIGEN are *Comm. in Matt.*, 13 (PG 13: 585) and *Super Epist. Rom.* 9 (PG 14: 657). Cf. JEROME, *Comm. in Matt.*, 3.17 (PL 26: 126-128); AUGUSTINE, *Quaestiones evangeliorum*, 1.23,24 (PL 35: 1327). In a rare reference to canonistic commentators, Sibert cited Huguccio and Guido of Baysio here to verify his reading of these sources. He also added a brief discussion of I Esdras 8.22-24, in which the Persian king Artaxerxes acknowledged that priests and Levites should not be taxed (fol. 113rb).

³⁷ Although Sibert spent a large portion of his *responsio* on this matter of Church property (about thirty percent), it is difficult to gauge his concern for it. William of Cremona obviously considered it the key to any refutation of Marsilius's assertions regarding Church property, at two places refuting arguments with a few patristic citations and a remark that there were too many other corroborating texts to bother with. V, fol. 111rb, vb; ed. SCHOLZ, *UkS*, II, pp. 5,6; also note 27 above. He warned only to the problem of gifts revoked because of the ingratitude of churchmen, perhaps because it gave him the opportunity to rebuke the greed of his fellow clerics. "De donatore vero modernis temporibus non multum oportet loqui, quia principes magis conantur ecclesias spoliare, quam ipsis huiusmodi bona donare..." V, fol. 112ra; ed. SCHOLZ, *UkS*, II, p. 7. Whatever his interest in the question, however, Sibert clearly commanded his patristic sources, applying them very judiciously to the arguments he confronted. When necessary, he moved beyond the patristic canons of the *Decretum*, as in this refutation of Marsilius's reading of Mt. 17.23-26 with Origen's interpretation.

dent Franciscans who had challenged the Avignon Church in the preceding decade. Rebellious Franciscans had proved particularly adroit at turning traditional sources against the Avignon Church, primarily by manipulating symbols of authority. Embracing the notion of an ideal primitive Church and emphasizing its traditional attributes of poverty and simplicity, they threw into question the authenticity of the contemporary Church's interpretation of sources about Christian perfection and ecclesiological order. This permitted them to alter the focus commonly used in reading authoritative texts on the nature of the Church. They discounted sources that weakened their position and augmented the importance of texts that strengthened it. Thus they were able to question the absoluteness of Petrine authority while exalting their own interpretation of the primitive Church and their own image as faithful imitators of apostolic perfection. Marsilius followed their lead, discarding erstwhile authoritative sources, emphasizing others that suited his argument, ignoring figurative interpretations of texts common in traditional papalist argument, and refashioning the content of ecclesiastical tradition.³⁸

Any effective papalist response had to address all these rhetorical and methodological challenges. And this is where William of Cremona failed. He missed Marsilius's point.³⁹ Sibert of Beek, on the other hand, understood that the Franciscans, and now Marsilius, were proposing a profound discontinuity in Christian tradition, a gap between the teachings of the ancient and modern Church. A historical dimension now intruded into ecclesiological polemic. The relative antiquity of sources had to be considered, and the texts arranged so as to demonstrate the continuity of the Church's teaching over time. This was what Sibert was attempting to do. He sought a polemical method that would emphasize continuity of teaching while it restored credibility to the authorities questioned by his opponents.

³⁸ John was first assailed by the Spiritual Franciscans in 1317; other factions joined the attack as his pontificate progressed. See B. TIERNEY, *Origins of Papal Infallibility, 1140-1350*, 2nd ed., Leiden 1988, pp. 171-204; CONDREN, *Rhetoric, Historiography, and Political Theory*, pp. 26-34. Marsilius laid out his arguments on ecclesial order in *Dictio II*, which occupies about three-quarters of the *Defensor Pacis* (ed. SCHOLZ, pp. 137-601). On Marsilius's methods, CONDREN, *Marsilius of Padua's Argument from Authority*, pp. 208-210.

³⁹ William did counter Marsilius on Church property with Jerome, Augustine, Origen, and Gregory the Great. But William invoked them only on the interpretation of Mt. 23-26, mistook the words of Chrysostom for those of Origen, and was much more vague than Sibert about the sources of his quotations. Ed. MAC FHIONNBHAIRR, pp. 41-42.

Sibert was not the only Carmelite to adopt this approach. Sibert's mentor at Paris, Guido Terreni, had a remarkable command of the fathers, and was very concerned to achieve correct readings for patristic texts. An early opponent of the dissident Franciscans, Guido also submitted a *responsio* to Pope John on Marsilius's errors. In answering both he employed a style of argument not unlike Sibert's. So, for example, in the response to Marsilius he used gospel passages supported by patristic materials to fashion an image of primitive Church practice entirely consonant with that of the current Church.⁴⁰ Subsequently Guido wrote a harmony of the gospels and a commentary on the *Decretum* that developed this theme, demonstrating the continuity of Church teaching and practice from the primitive Church to his own time. Another student of Terreni, John Baconthorpe, wrote important commentaries on the Gospel of Matthew and Augustine's *De civitate Dei* that reflected some of his master's concerns.⁴¹ Sibert must have owed some of his technique to his training with Guido Terreni.

3. THE OTHER ERRORS OF MARSILIUS

In answering the last five errors of Marsilius, Sibert demonstrated the full power of his method. The errors were all direct attacks on central aspects of papal authority, and like the first, each claimed support in the ancient sources. According to the curial committee, Marsilius asserted that the emperor was empowered to correct, punish, appoint, and depose popes; that the apostle Peter was no more head of the Church than any of the other apostles, and had no more authority, because Christ left no head or vicar for the Church; that all priests, whether popes, bishops, or simple priests, had the same authority and jurisdiction by Christ's institution, and that their present disparity in

⁴⁰ Unfortunately, only Guido's answer to Marsilius's first error survives in MS. Vat. lat. 10497, fols. 119ra-124vb. His *De perfectione vitae* (1323), directed at the opponents of John XII's poverty decrees, used a similar technique. MS. Avignon, Bibl. Mun., 299, fols. 1r-77v.

⁴¹ T. TURLEY, *Guido Terreni, Heresy, and the Reconstruction of Tradition: 1317-1342*, in *Tradition and Ecstasy: The Agony of the Fourteenth Century*, ed. N. VAN DEUSEN, Ottawa 1997, pp. 51-68; B. SMALLEY, *John Baconthorpe's Postill on St. Matthew*, in "Medieval and Renaissance Studies", 4 (1958), pp. 91-145; E. RANDI, *Baconthorpe politico. Il commento a De civitate Dei XIX dal ms. parigino lat. 9540*, in "Acme: Annali della Facoltà di Lettere e Filosofia dell'Università degli Studi di Milano", 35 (1982), pp. 127-152.

authority was mainly the result of imperial concession; that the pope and the Roman Church could exercise no coercive punishment, and that the emperor could not grant this authority; and finally, that any priest had the same power of absolution as the pope, whatever the sin or penalty involved. Sibert responded to them in order.⁴² The second error asserted that emperors had authority to correct, punish, appoint, and depose popes just as Pilate judged Christ.⁴³ Sibert replied that any emperor who claimed to be a Christian was a layman dedicated to temporal things; he had little knowledge of spiritual matters. His position was to learn, no to teach. In support of this crucial assertion Sibert brought to bear "Pope John VIII", Ambrose, Gregory VII, Eusebius, the Roman emperor Valentinian, St. Paul, and "Pope Innocent".⁴⁴ Sibert realized that there was a potential weakness of this tactic: many of his witnesses were popes, whom Marsilius accused of deliberately misleading the faithful into accepting papal leadership early in the Church's history. So he added:⁴⁵

And if it might be said that this is a case of the blind leading the blind, in that these are the testimony of popes, who speak favorably of themselves, I say that they are the testimony of persons whose reputation for holiness is honored by the whole Church: not only popes, but also other saints, namely Paul, Ambrose, Gregory, as well as the holy popes. And I corroborate [them] with declarations from councils and synods and the recognition and judgment of the greatest philosophers and emperors.

Sibert then cited Pope Symmachus in synod, Pope Melchiodorus reporting on Constantine, the emperors Valentinian, Theodosius, and Arcadius, Constantine himself, Marcian at the Council of Chalcedon, Pope Nicholas I to the Emperor Michael, and Theodoric.⁴⁶

⁴² V, fols. 113rb-115rb, 115rb-117rb, 117rb-118rb, 118rb-119rb, and 119ra. MAC FHIIONBHAIIR discusses the list in the preface to his edition of WILLIAM OF CREMONA'S *Reprobatio errorum*, pp. xi-xiii.

⁴³ *Defensor Pacis*, 2.4.5.12; 2.5.9; 2.22.9-11; 2.25.6-9; 2.30.5; ed. SCHOLZ, pp. 163, 172-174, 196-197, 406-408, 428-430, 471-478, 596.

⁴⁴ D.96 c.11; C.23 q.8 c.21; D.96 c.9; C.2 q-7 c.13; D.63 c.3; I Cor. 2.12; and C.9 q-3 c.13. V, fol. 113va-b.

⁴⁵ "Et si forsitan dicatur a cecis ducibus cecorum, quod hec sunt testimonia paparum, qui pro se favorabiliter locuntur, dico quod sunt testimonia talium, quorum sanctitate notoria tota decoratur ecclesia non solum paparum, sed etiam aliorum sanctorum, puta Pauli, Ambrosii, Gregorii et talium sanctorum paparum. Et confirmo per dicta per concilium sive synodum et per recognitionem et sententiam philosophorum et maximorum imperatorum". V, fol. 113vb; ed. SCHOLZ, *UkS*, II, pp. 10-11.

⁴⁶ D.96 c.1; C.12 q.1 c.15; C.11 q.1 c.5; D.96 c.14; D.96 c.2; D.96 c.7; D.21 c.7; and D.17 c.6. V, fols. 113vb-114ra.

Sibert's method of argument is very clear here. He used no elaborate theorizing or complex exegesis, only ancient texts witnessing the beliefs and practice of the early Church. Because the question involved the powers of emperors, he included plenty of imperial witnesses. He concluded from these texts (which, he protested, were only a sampling of those available) that it was absolutely clear that the emperor had no power "regularly" to correct or punish the pope. But he did admit two instances that were exceptions: if a pope voluntarily submitted himself to imperial judgement, and if a pope was a heretic.⁴⁷ Both situations were described in the canons of the *Decretum*, and both were widely accepted by canon lawyers as instances in which, given certain circumstances, an emperor might judge a pope.⁴⁸ But many papalists of Sibert's time, including William of Cremona, worried that these exceptions weakened papal power, and so sought to minimize their impact. Relying on an aspect of the canonist Huguccio's gloss on these canons, they claimed that a pope who was an obdurate heretic *ipso facto* ceased to be pope, and consequently could be judged by many tribunals, not just the emperor's without compromising papal authority.⁴⁹ Sibert chose instead to accommodate both points of view. He allowed imperial judgment of a pope accused of improprieties provided that the pope submitted to the emperor, that the issue could be settled in no other way, and that the goodness and faith of the emperor was well established. Similarly, he permitted an emperor to be involved in the case of a heretical pope if he was requested to do

⁴⁷ "Dico ergo quod luce clarius constat ex predictis et ex quam pluribus aliis que possent adduci, quod imperator sua auctoritate regulariter non habet papam corrigere vel punire. In duplici tamen casu iura innuunt imperatorem catholicum posse quodammodo de papa iudicare: primo quidem si papa imperatoris iudicio se submittat, II q. VII. c. *Nos si incompetenter*, II q. V. *Mandastis*; nam et ipsemet se deponit, d. XXI. *Nunc autem*; secundo vero si papa foret hereticus et a fide devius nolens corrigi, XL. di. *si papa*, XCVI. di. *Sicut quamvis*". V, fol. 114ra; ed. SCHOLZ, *UkS*, II, p. 11.

⁴⁸ C.2 q.7 c.41 (Gregory the Great) and C.2 q-5 c.10 ("Systus III") discussed papal submission to imperial judgment; D.21 c.7 (Nicholas I) argued that such a pope deposed himself, thus making the judgment possible. D.40 c.6 was the classic text on papal heresy; Sibert also cited D.96 c.15 (Gelasius), which observed that the secular power can step in if the spiritual power fails.

⁴⁹ The gloss of Huguccio is edited in TIERNEY, *Foundations of the Conciliar Theory*, Cambridge 1955, pp. 248-250. William of Cremona mentioned the heretical pope only in passing, without reference to D.40 c.6 (ed. MAC FHIIONNBHAIR, p. 64). He also limited judgment to heresy alone. So did AUGUSTINUS TRIUMPHUS, *Summa*, pt. I q.5 a.1, Rome 1479, fols 30vb-331ra; and GUIDO TERRENI, *Commentarium super Decretum ad D.40 c.6*, MS Vat.lat. 1453, fols. 152rb-153vb; MS. Paris, Bibl. Nat., lat 3914, fols. 269rb-272va.

so by the Church (presumably through a general council) or by the college of cardinals. On the other hand, Sibert followed Huguccio on the heretical pope's *ipso facto* loss of office, and went beyond most contemporary papalists in agreeing with Huguccio that erring popes lost their office not only when they became heretics, but also when they committed any notorious crime.⁵⁰ Here he seems to have been attempting to stay faithful to his sources, however complicated that made the papalist position. He knew from his chronicles that emperors such as Charlemagne and Otto the Great had judged popes in the past.⁵¹ Metaphysical theory might suggest a simple answer, but Sibert preferred an ecclesiology that comported with the real, if sometimes complex, Church he saw reflected in the historical documents.

A similar attitude is evident in Sibert's answer to the next question. He flatly denied the emperor any part in the election of a pope, because the pope, as the apex of the spiritual order, could never be appointed by a secular official like the emperor. But rather than attempt to prove that observation by metaphysical deduction, as did William of Cremona, Sibert immediately turned for verification to the description of the primitive Church in the gospels and Acts, and to the canons of D. 63, where the emperor Valentinian and the synod of Constantinople affirmed that no layman could be involved in a clerical election. He finished by explaining away some difficult texts in which popes granted the right of papal election to emperors and by dismissing as a blasphemous insult to divine authority Marsilius's claim that Pilate had authority over Christ.⁵²

⁵⁰ "Et certe primus casus totus rationalibus videretur, quando aliter scandalum contra papam ortum sedari non posset et de bonitate ac fidelitate imperatoris constaret. In secundo vero casu reputo quod imperator se intrmittere non deberet, nisi ab ecclesia seu a cetu cardinalium esset requisitus; et haberet forte hoc non solum locum in heresi, sed etiam in omni notorio crimine, si inde scandalizetur ecclesia et papa incorrigibilis esset, prout notatur di. XI. *Si papa*, et sic invenitur in cronicis aliquando fuisse factum. De electione vero papae sive institutione dico simpliciter quod ad imperatorem non spectat". V, fol. 114ra-b; ed SCHOLZ, *UkS*, II, p. 11.

⁵¹ "... et sic invenitur in cronicis aliquando fuisse factum". V, fol. 114ra; ed. SCHOLZ, *UkS*, II, p. 11.

⁵² V, fols. 114va-115ra. William of Cremona offered twenty-five reasons why the emperor could not judge the pope, most based on the deductive and metaphysical principles used by Giles of Rome: the pope served a higher end, his office was more noble, etc. (MAC FHIONNBHAIRR, pp. 43-67). SIBERT simply summarized the passages describing the choosing of clerics in the gospels and Acts, then cited the example of Valentinian and the synod of Constantinople (D.63 cc. 2, 3). He acknowledged that, in D.63 cc. 22 and 23, popes gave Charlemagne authority to judge a pope and Otto I authority to elect

Sibert used the same techniques to refute Marsilius's other errors. The third error listed by the curial committee, which denied that Peter had any more authority in the Church than the other apostles, was met first with a series of gospel-texts commonly used by papalists. Mt. 16.18-19 demonstrated that Peter alone received the keys of authority in the Church, while Jn. 21.15-17 and Jn. 10.14-16 confirmed that Peter alone was to feed Christ's flock and be its only shepherd.⁵³ Lk. 22,32's prayer for Peter's faith suggested that Christ's words deputed Peter and his see to insure the certitude and solidity of the Church's faith: a departure from standard exegesis.⁵⁴ Here Sibert may have been referring to the doctrine of papal infallibility championed by Guido Terreni and a few other curialists at this time, although it is also possible that he simply had in mind the pope's unique authority to determine matters of faith when they were in doubt.⁵⁵

Having established Peter's leadership at the creation of the Church, Sibert quickly moved beyond these gospel sources to the primitive Church, citing Pseudo-Dionysius's *De divinis nominibus* (believed to document early Church practice), the story of the Virgin's assumption in the *Legenda aurea*, the letters of Pope Clement to James in D.80 c.2, D.93 c.1, and C.,12 q.1, c.2, where Peter's headship seems to be verified.⁵⁶ Then he made a key point:⁵⁷

a pope, but also noted that in cc. 30, 32, and 33 various later emperors renounced these rights. Here he followed Gratian, *post* D.63 c.34.

⁵³ V, fol. 115rb-vb. MARSILIUS's arguments on this are in *Defensor Pacis*, 2.25.7, 2.16, 2.22,5, 2,28; ed. SCHOLZ, pp. 331-332, 337-355, 423-424, 528-575.

⁵⁴ "Salvator dixit Petro, Luc. XXII: 'Symon ecce Sathanas expetivit vos ut cribraret sicut triticum', generaliter loquens de apostolis, et subdit specialiter de Petro, 'Ego autem rogavi pro te ut non deficiat fides tua, et tu aliquando conversus confirma fratres tuos'. Ex quo evidenter accipitur quod retinentur in hiis que fidei sunt et certitudo et soliditas a Petro et eius cathedra iussu et deputatione Salvatoris". V, fol. 115va.

⁵⁵ In either case, Sibert refused to accept the common interpretation, which considered the promise to be intended for the whole Church and saw Peter as merely the Church's representative when Christ speaks. Sibert opted instead for a more literal interpretation of the text. TIERNEY, *Origins of Papal Infallibility*, pp. 14-57, 238-269; TURLEY, *Infallibilists in the Curia of Pope John XXII*, in "Journal of Medieval History", 1 (1975), pp. 71-101.

⁵⁶ V, fols. 115vb-116ra. *De divinis nominibus*, 3.2 (PL 122: 1127; PG 3: 682); JACOBUS DE VORAGINE, *Legenda aurea, Legenda assumptionis* (Aug. 15), trans G. Ryan and H. Ripperger, New York 1969, pp. 451-453.

⁵⁷ "Secundo confirmo questionem supradictam ex toto decursu ecclesie a tempore beati Petri usque nunc. Omnes enim Romani principes, successores Petri, se gerebant ut vicarios Christi super Romanam ecclesiam, quorum valde multi enumerati sunt

I settle the above question with the entire development of the Church from the time of St. Peter even to the present. For all Roman princes, successors of Peter, reign as vicars of Christ over the Roman Church, and many of them are numbered in the catalogue of saints. No sound mind therefore could hold that all of these erred and that the whole development of the Church had forsaken right up to the present.

This is the root of Sibert's whole argument. The Church could not teach an error for the entire course of its history, so Marsilius must be wrong. It was not a new argument; it had been used against the dissident Franciscans by Guido Terreni almost a decade before Sibert wrote.⁵⁸ Even the curial committee that drew up the list of errors to which Sibert was responding mentioned it, not in regard to this error, but to the next, Marsilius's denial that popes had any more jurisdictional authority than bishops and priests.⁵⁹ Sibert supported his point with Mt. 28.20 and 18.19-20, Christ's promises to be with the Church and the apostles to the end of the world, and with a succession of patristic texts from Augustine, Jerome, Gregory the Great, Cyprian, and the council of Nicea, all confirming the teaching authority of the Roman Church and the certainty of its doctrines.⁶⁰ He then presented a series of imperial quotes attesting papal authority - Constantine, Charlemagne, Louis the Pious - finishing with the words of Pope Anacletus in the pseudo-Isidorian text D.22 c.1, a classic proof of papal authority.⁶¹ Finally, as he con-

in sanctorum cathalogo; mens ergo sana non capit quod hii omnes erraverint et totus decursus ecclesie usque nunc a Christo derelictus fuerit". V, fol. 116ra; ed. SCHOLZ, *UkS*, II, p. 12.

⁵⁸ Guido Terreni and Pierre de la Palu made this point in a 1318 *responsio* on the errors of Spiritual Franciscans. The Spirituals, like Marsilius, asserted that the Roman Church had lost important doctrines for centuries. T. TURLEY, *John XXII and Franciscans: A Reappraisal*, in *Popes, Teachers, and Canon Law in the Middle Ages*, eds. J. R. SWEENEY and S. CHODOROW, Ithaca 1989, pp. 82-83.

⁵⁹ "Ex quo sequitur... quod in trecentis annis, quibus ydolatre prefuerunt mundo, de illis sanctis papis, quos colit ecclesia sicut sanctos, nullus fuerit papa vel pontifex, et quod ecclesia turpiter erraverit semper in suis officiis vocando Petrum principem apostolorum et dicendo eum esse legitimum vicarium Christi Jesu vel Romanam ecclesiam esse aliarum matrem". V, fol. 110va; ed. SCHOLZ, *UkS*, II, pp. 3-4.

⁶⁰ V, fol. 116ra-vb. He cited or quoted D.11 c.9; C.24 q.1 cc.14,25; D.22 cc.1,4; D.93 c.3; C.1 q.8 c.9; as well as AUGUSTINE, *Contra Faustum*, 22.71 (PL 42:445) and *Contra Gaudentium Donatistarum episcopum*, 2 (PL 43: 746). Some of these are familiar proof-texts for papal authority, like C.24 q.1 c.14; others, however, seem the result of careful combining of the patristic sources.

⁶¹ D.96 c.14; D.19 c.3; D.63 c.30; D.22 c.2. V, fols 116vb-117ra.

demned Marsilius, Sibert offered a string of patristic authorities to show that denial of papal authority had always been considered heresy.⁶²

Sibert treated the last three errors more succinctly. Whereas he devoted approximately three folios to the first, and two each to the second and third, he gave only one to the fourth error, a third of a folio to the fifth, and half a column to the last.⁶³ Sibert seems to have considered these last errors to be corollaries of the first three, and thus partly refuted in the previous discussion. He also recognized that the fourth error, which equated the juridical authority of the pope with that of any other priest and declared that only the emperor could raise one cleric above another, was derived in part from the arguments used by the secular clergy in their long struggle with the papacy over mendicant privileges during the last half of the thirteenth century.⁶⁴ Sibert dipped into the papalist literature from these disputes to extract a long list of scriptural, patristic, and later texts to demonstrate that even at its inception, the Church was divided into disciples and apostles, with Peter at their head.⁶⁵

The fifth error, which denied to the Church the right to administer coercive punishment without imperial permission, posed a problem for Sibert, for there were few patristic sources that addressed the issue. Here he changed tactics, relying on a series of descriptive distinctions.⁶⁶ Spiritual punishment, he asserted, was obviously within the authority of the Church, because it pertained to the key of spiri-

⁶² C.24 q.1 c.34; D.22 c.1; C.24 q.3 c.26. He also added THOMAS AQUINAS, *In IV Sent.*, d.24, 1.3, art.2, quaestiuncula 3, solutio 3, *Opera Omnia*, Parma 1948, 7.902a.

⁶³ See notes 11 and 42 above.

⁶⁴ *Defensor Pacis*, 2.15, 2.15.7-10, 2.16, 2.17, 2.21.4-6, 2.22.5, 2.25.4, 2.28.2, 2.28.17; ed. SCHOLZ, pp. 325-336, 331-336, 337-355, 355-375, 405-408, 423-424, 469-470, 529-531, 548-550. On the arguments of the seculars, see especially K. SCHLEYER, *Anfänge des Gallikanismus im 13. Jahrhundert*, Berlin 1937; Y. CONGAR, O.P., *Aspects ecclésiologiques de la querelle entre mendiants et séculiers dans la seconde moitié du XIII^e siècle et le début du XIV^e*, in "Archives d'histoire doctrinale et littéraire du moyen âge", 36 (1961), pp. 35-151; and J. MARRONE, *The Ecclesiology of the Parisian Secular Masters, 1250-1320*, Cornell Univ., Ph. D. Diss., 1972.

⁶⁵ Lk. 6.13-4, 10.1; Acts 1.26, Rom. 13.1. Gratian *ante* D.21 cc.1,4 (cited for their concise summaries of the content of the canons on this matter); *ante* D.17 c.7; D.19 c.7; D.21 cc.2,3; D.22 cc.1,2; D.68 c.4; D.93 c.24; D.96 c.5; C.9 q.e c.8; C.12 q.1 c.15. The authorities cited include Popes Leo I, Anacletus, and Gelasius, Nicholas I and II, Jerome, and the *Vita beati Silvestri papae*. V, fols. 117rb-118rb; ed. SCHOLZ, *UkS*, II, pp. 12-13.

⁶⁶ *Defensor Pacis*, 1.15.10, 1.19.12, 2.5, 2.6.11-14, 22.9, 2.10, 2.29, 2,30; ed. SCHOLZ, pp. 92, 135-136, 178-198, 208-215, 231-255, 575-601.

tual jurisdiction, which he had already proved the Church possessed. Punishment of criminal clerics by whipping and beating was also outside imperial control because clerics were consecrated to God, just as were ecclesiastical lands, churches, and basilicas.⁶⁷ Besides, as Augustine said (C23 q.5 c.1), whipping and beating were really no more than what parents and schoolmasters did to punish disobedient children, and if these authorities did not need imperial permission to discipline the children under their care, the Church did not need it to discipline those under its authority. Moving on to more serious punishments, Sibert defended sentences of execution and mutilation for criminal clerics meted out by Church courts. It was carried out in many places by the secular authorities, but only because of a historic circumstance; the primitive Church did not exercise the judgment of blood. Since those times, in places where the Church held temporal jurisdiction, it had always imposed such penalties, enacting them through bailiffs.

On the difficult question of whether the Church could exercise temporal lordship in imperial and princely vacancies and when there was some defect of justice, Sibert was very restrained. Many papalists claimed this as the pope's right.⁶⁸ Sibert said the Church should be very humble and deliberate in situations like this, keeping in mind the example of the apostolic Church, taking care to avoid scandalizing laymen, and remaining content with the Levitical portion lest clerics become covetous. He ended with a strong assertion that the Church had no need of imperial or secular permission for its exercise of justice.⁶⁹

Sibert clearly thought the fifth error was a corollary of earlier errors. Little new material was included in this response. He laid out the issues and referred the reader to his previous arguments and texts for resolution. His was even more abrupt in answering the sixth error, Marsilius's assertion that any priest has as much power to absolve as the pope.⁷⁰ Even the curial list Sibert was working from suggested that this followed from the other errors. Sibert agreed, identifying the errors he thought it were its source - the third and fourth - and referring the reader to his earlier responses to them.⁷¹

⁶⁷ As well as D.96 c.11 and I Esdras 8.19-24. V, fol. 118rb-va; ed. SCHOLZ, *UkS*, II, p. 13.

⁶⁸ E. g., William of Cremona, ed. MAC FHIIONNBHAIRR, pp. 91-94.

⁶⁹ V, fols. 118va-119ra; ed. SCHOLZ, *UkS*, II, pp. 13-14.

⁷⁰ *Defensor Pacis*, 2.6.8, 2.15.8; ed. SCHOLZ, pp. 205-206, 332-334.

⁷¹ V, fols. 110vb, 119ra; ed. SCHOLZ, *UkS*, II, pp. 4, 15.

4. SIBERT'S ACHIEVEMENT

Although he never saw Marsilius's work, Sibert of Beek managed in his *responsio* to identify precisely the device used so successfully in the *Defensor Pacis* to question ecclesiastical authority, and to answer it on Marsilius's own terms. Sibert's canonistic and textual training certainly helped here, as did the experience in handling sources he had gained in constructing his famous ordinal. But more important was his familiarity with the mode of argument Marsilius chose. Marsilius was elaborating the position of the dissident Franciscans in his ecclesiological positions. Sibert's master Guido Terreni had already formulated an effective polemical reply to this in the early 1320s. Sibert elaborated Guido's response. Literal readings of basic texts formed the foundation of his arguments. And he cited only witnesses whom his contemporaries believed were present for what they described. Thus the New Testament and the fathers were used to verify the situation of the early Church, while later authors were restricted to testifying to the belief of the Church in their own time. Sticking these texts together, Sibert was able to create thumbnail histories of the doctrines he discussed, and to demonstrate a continuity of belief and practice where Marsilius asserted dissimulation and confusion.

The extent of Sibert's achievement can be gauged from further comparison with the *responsio* of William of Cremona. William's comments on the last four errors did move closer to Sibert. William used many prooftexts here, although not nearly as effectively as Sibert. For example, in answering the denial of Petrine leadership in the Church, William first presented a deductive, metaphysical argument for the necessity of single leadership in the Church, then turned to the actual practice of the primitive Church with a series of scriptural quotations and patristic glosses.⁷² Unfortunately, the kind of deductive argument he employed was precisely that Marsilius had ridiculed in the *Defensor Pacis* as confused and weakly based in political philosophy.⁷³ Moreover, William's presentation of his texts did

⁷² Ed. MAC FHIIONNBHAIRR, pp. 68-81. The deductive argument is on pp. 68-72; the prooftexts are on pp. 72-80.

⁷³ E. g., *Defensor Pacis*, 2.1, 2.19; ed. SCHOLZ, pp. 181-185, 384-392. Marsilius, of course, devoted the entire first part of the *Defensor* to philosophical discussion of the State. Perhaps William felt justified in providing a similar balance of philosophical and textual material. But William failed to answer Marsilius's criticisms of papalist philosophical technique.

not convey the clear sense of historical continuity that Sibert was able to achieve. They stood individually rather than reinforcing each other. And William's constant injection of references to patristic and later glossators to explain his scriptural proofs undercut the literal power of the texts.⁷⁴

Despite its quality, Sibert's work did not become famous. It was too brief. But a gauge of its success is its effect on *Licet iuxta doctrinam*, the papal decree that the *responsio* was intended to advise. In *Licet*, John XXII used a method much closer to Sibert's than William's, organizing his textual references in essentially chronological order.⁷⁵ Of course, it is difficult to be sure whose advice led the pope to this strategy. John was accustomed to seek many *responsiones* when preparing a decree. Some have not survived. But the pope's acceptance of Sibert's style of argument demonstrates its cogency here. It provided an apt answer to Marsilius. Moreover, Sibert's work may have helped draw other papalists to the new mode of ecclesiological argument that he, Guido Terreni, and John Baconthorpe began to employ in the late 1320s. Hermann von Schildesche and Peter von Kaiserslautern adopted it shortly after. And Thomas Netter, one of the major defenders of papal authority in the early fifteenth century, structured his massive and highly influential *Doctrinale* around the same documentary, historical approach.⁷⁶

Sibert's work, brief as it is, offers a fresh perspective on fourteenth-century papalism. Modern analysis of papalism, especially in the early fourteenth century, has commonly focused on a few perceived core issues: "direct" versus "indirect" papal power; papal authority over temporal goods, the relationship of royal to papal rule.⁷⁷ Concern with these issues has privileged ecclesiological works

⁷⁴ Ed. MAC FHIONNBHAIRR, pp. 82-107.

⁷⁵ *Annales Ecclesiastici*, XXIV, cols. 322b-329a. John also left out the sixth error, as Sibert had advised.

⁷⁶ HERMANN VON SCHILDESCHÉ, *Tractatus contra haereticos negantes immunitatem et iurisdictionem Sanctae Ecclesiae*, ed. A. ZUMKELLER, Würzburg 1970; A. ZUMKELLER, *Schrifttum und Lehre des Hermann von Schildesche*, Würzburg 1959; PETER VON KAISERSLAUTERN, *Tractatus contra Michelem de Cesena et socios eius*, ed. SCHOLZ, *UkS*, II, pp. 29-63; also I, pp. 22-27; THOMAS NETTER, *Doctrinale antiquitatum fidei catholicae ecclesiae*, ed. B. BLANCIOTTI, 3 vols., Venice 1757. The best analysis of the *Doctrinale* and its methodology is that of K. SMITH, *The Ecclesiology of Controversy: Scripture, Tradition, and Church in the Theology of Thomas Netter of Walden, 1372-1430*, Cornell Univ., Ph. D. Diss., 1983.

⁷⁷ See, e. g., KÖLMEL, *Regimen Christianum*; W. ULLMANN, *Medieval Papalism*, London 1949; and WILKS, *The Problem of Sovereignty in the Later Middle Ages*. A contemporary shift away from this approach is illustrated in A. BLACK, *Political Thought in Europe, 1250-1450*, Cambridge 1992, pp. 42-78.

that addressed them, particularly works that approached those issues in the philosophical mode preferred by moderns. But a significant body of fourteenth-century political writings used a different method of argument. They do not deserve to be marginalized. Works like Sibert of Beek's were original and profound, though they deliberately avoided philosophical speculation. Taken together, they may alter significantly our picture of papalist political theory in the fourteenth century.

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