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THE
CHURCHMAN

MAY, 1893.

ART I.—THE PRE-REFORMATION THEORY OF THE
PAPACY:

AS LAID DOWN BY PETRUS ANDREAS GAMMARUS, AUDITOR
OF THE HOLY APOSTOLIC PALACE, AND VICAR OF POPE
CLEMENT VII. IN THE CITY OF ROME (A.D. 1525).

THE commentary of Petrus Andreas Gammarus on the Bull
(or Extravagant) of Pope Julius II. on the "Simoniacal
Election of a Pope," was published at Rome (by Calvus)
without any indication of date, but, from internal evidence,
about 1535. It is dedicated to Cardinal Alexander Farnese
by the printer, who had persuaded the author to allow him to
make it public on account of its singular learning and legal
importance, and is now of extreme rarity. The work itself is
inscribed by the author to Pope Clement VII. He informs us
that it was written before the sacking of Rome by the Duke
of Bourbon, and, in the burning of his library, it was among
the few of his writings which escaped destruction. It must,
therefore, have been composed as nearly as possible in 1525.
Of his own life we can only gather that he was a native of
Bologna, and a reader on Pontifical Law in that city about
the year 1512-13., for he tells us that he was consulted by the
Council of Pisa on the legitimacy of their assembly, and made
its members his enemies by declaring against their proceed-
ings. He was a strong advocate of the Papacy, though he
held, not only the doctrine of its fallibility, but also of the
possibility of heretical and scandalous Popes being elected,
and prescribed the remedies which ought to be applied in
their case. On his settlement in Rome he was appointed by
Pope Clement VII. to the office of Auditor of the Apostolic
Palace, and also Vicar of the Pope in the City of Rome.

The occasion of his writing his commentary he thus describes:

In earlier days, when some great spiritual dignitary was deplored with me the misery of our times, he fell (I know not how) into a discourse on the Constitution of Julius II. on the simoniacal election of the Roman Pontiff, alleging that this even added to our evils, as it provided the means by which any wicked man might make a handle for effecting a schism. When I understood this, as soon as I could, with due reverence to my informer, I returned home; I examined carefully this constitution, which I had done but slightly before. I took it in my hands—with one breath I ran through it. The very first sight terrified me. Again and again I read it. I reflect that an immense argument for innovation is hidden under it, unless it finds a large interpreter.

To give it this "benign" interpretation he undertakes his commentary.

The bull *Cum tam divino* forms the text of it, which is read on every occasion of the election of a Pope, and has a quasi-synodical character from its reception by the Lateran Council held under Julius at the time of its promulgation. It is, perhaps, the most stringent and far-reaching in its results of any which have ever issued from the Papal Chancery. It would be difficult to establish the legitimacy of any of the Popes from Alexander VI. down to much later times if its searching tests were applied, while all the cardinals who derived their appointment from them would be equally illegitimate, for the stream of promotion would be polluted at its source. Gammarus relates the various reasons which were assigned for it at Rome at the time of its promulgation, which his contemporaries well remembered. The chief of these arose out of the notorious simony, which made the election of Julius II. absolutely void according to his own law. His friend in earlier life, Florianus Dulphus, writing to congratulate him on his election, added the significant words: "But I grieve that simony was the mistress of your election." The original of this letter and the Pope's reply Gammarus had himself seen. Trollope, in his "Papal Conclaves," says truly:

In the whole list of the Conclaves there is not one more decidedly and notoriously black with simony than this of Julius II. Guicciardini, though strongly prepossessed in favour of Julius, yet speaks of his simoniacal elevation to the Papacy as a notorious thing.

The bribery was managed on this occasion by the infamous Cæsar Borgia, as it had been in the time of Alexander VI. by the equally shameless Cardinal Ascanio Sforza. That intriguing cardinal was present at Julius' election, but had become poor, and therefore powerless in the work of bribery. The compacts for places and offices which preceded the election brought it as fatally within the terms of this bull as the actual largesses and money payments by which the Spanish cardinals are said to have been bought over. Hence Gammarus

writes : "There are not wanting those who say that he envied posterity the arts he had exercised himself." The simony was not "occult," for which our author very significantly apologises, but "notorious," for the facts were known to all Europe, and have been recorded by the great contemporary historians of Italy. Dumesnil,¹ after describing the promises by which Cardinal Georges d'Amboise was persuaded to give his vote for Julius, says of the strange unanimity of the Conclave, and the suddenness of its decision : "Tout avait été convenu à l'avance"—No such phenomenon was presented by any Conclave before or after. But our author was less terrified at the possibility of applying the law of Julius to the case of that Pope himself, whose memory he evidently did not hold *in benedictione*, as at its application in its later clauses to his own patron Clement VII. For he says on the words "Officia seu beneficia seu promissiones," etc. :

But what if the cardinals, before they elect, should make a legal compact that all the benefices of the person to be elected and all his offices should be divided equally between the electors, and thus the party elected should fall under the penalty of the law? This was done before Clement VII. was elected in the year 1523. Such an election must be held to be simoniacial.

The writer's object was evidently to suggest to Clement VII., who lived in terror of a General Council, the danger which the constitution *Cum tam divino* presented even in his own case. For he had already alleged the opinions of the greatest theologians that it ought to be altogether abrogated. The consciousness of the impossibility of its application, from the very universality of the evil of simony—which led to the old adage, *Omnia Romae venalia*—is seen in almost every sentence of this remarkable commentary. On the clause prohibiting the promise of *offices*—"offices," he defines, "which are at this time saleable in the Court of Rome, and, therefore, have their price"—some, he affirms, include the cardinalate among these, and "many have a doubt whether it is lawful to buy that dignity." "The question," he says, "is a very invidious one" (*Quæstio est invidia plena*). It ought not to have been difficult to solve, as Leo X., after the terrible reprisals arising out of the Petrucci conspiracy, had sold the cardinalate openly and without the least reserve. Out of this subject arise a number of delicate questions affecting the case of simony in a Pope—who, having bought the Papacy, sells the cardinalate to indemnify himself. The well-known verses written of Alexander VI. must here occur to the reader :

Vendit Alexander cruces, altaria Christum ;
Emerat ille prius, vendere jure potest.

¹ "Vie de Jules II.," p. 30.

The declaration of the absolute nullity of the election of a Pope in case of simony, which is to be treated as "true and indisputable heresy" (*vera et indubitata heres*)—and simony is throughout the bull described as the *heresy of simony*—leads the author into a long digression on the cases in which the election of a Pope may become void. He mentions the case of Pope Joan, but with a qualifying word as to its truth. He shows that a mad Pope or an idiot one is incapacitated. Incidentally he alleges that a layman may be lawfully made Pope if he is of perfect integrity of life. He refers to the heretical Popes and to those who, having been heretical, have repented, as in the case of Marcellinus, and then considers the case of a notoriously criminous Pope—one

Who sells the priesthood or commits it to unworthy persons, or offers at a price the spiritual treasure of indulgences¹ or sacraments; who diverts the goods of the Church in the interests of his kinsmen or in enriching other discreditable and undeserving men, or for other evil purposes. For these crimes, by which the state of the Christian religion suffers reproach, the Roman Pontiff is to be admonished; and if he cease not, is to be subjected to the authority of a general council.

He points out the case of simony, as constituted by this law, a worse crime than heresy, the reason being that simony vitiates the very election of the Pope, whereas heresy only leads to his removal from the Papacy. And here he reminds us that by the bull, simony is treated as a heresy, which has been noticed already. For it compares a simoniacial Pope to Simon Magus the heresiarch, and declares him to be "not apostolical, but apostatical." It would be a question *invidice plena*, as our author writes, to bring the intrigues of the conclaves and the mysteries of the "antecamera" before the tribunal of history. From the time of Alexander VI. to that of Paul IV., and even Innocent X., the most terrible revelations have disclosed to us the internal weaknesses of the Papacy. The constitution or "extravagant" of Julius II. has laid the *baton sinister* over the shields of too many of his predecessors and not a few of his successors. For its clauses are so precise and stringent as to cover every possible case of undue influence, and to prove the extent and the depth of the evil which it was put forth to extirpate. The fall of the temporal power has done more than any other event to save the Church of Rome from the dangerous influences which were exercised within our own memory by France, Spain, Austria, and other Powers to prevent the freedom of choice so essential to every electoral body. The Pontificate is no longer the shuttlecock to be

¹ The author apparently held with Cardinal Contarini and all the highest authorities of that day that the words, "Freely ye have received, freely give," prohibited all such money payments.

thrown about between Spanish and French and imperial cardinals intriguing for their own countries and patrons. Let us hope that it may preserve the liberty it has acquired, notwithstanding the *sancta simplicitas* of the advocates of the temporal power, whom all the evidence of history and experience would be insufficient to convince.

Having briefly sketched the chief lines of Gammarus's "Commentary" in its early pages, I now offer to the reader a translation of the closing portion of it, which exhibits the opinions of an orthodox member of the Church and officer of the Court of Rome on the eve of the Reformation. The convocation of a General Council was then the aspiration of all but the members of the curia, and the relations between the Papacy and a council were a subject of vital importance. These are laid down by our author in the following terms:

The calling and convocation of a council belongs to the Roman Pontiff, whence the ecclesiastical rule was in use even in the earliest period, that councils are not ratified to which the Apostolic See has not imparted its authority. For to gather together a universal body, a college or any other assembly, belongs chiefly to him who is the head of it; and the Pope is the head of the Church, which no man doubts.

I. But this rule fails in the first instance—when the Pope is accused of heresy, for in that case, since the question is in regard to his punishment, the convocation of a council ought not to be left to the Roman Pontiff, since it is not likely that he would do anything against himself. For this exception this reason is usually alleged, that when, in a doubtful case, the consent of a prelate is required, if the cause relates to the prelate himself, that consent is not required. Thus also a monk who desires to accuse his abbot, is not required to ask the leave of his abbot to do so. This exception from the rule is laid down by Ant. de Butrio in a certain treatise, proving it by many similar instances, as those of a witness, a judge, a guardian, etc., who, through suspicion of partiality, are excluded by their official character.

This exception I think to be correct in the case when the heresy is notorious. Otherwise the Roman Pontiff could not be deprived of his privileges, according to what we have referred to in the previous gloss. For otherwise anyone without authority of the Pope could summon a council on the pretext that a charge of heresy was to be laid against him.

This exception we have extended to notorious simony on account of the constitution *cum tam divino*; but in heresy and simony of which there is no proof, it is to be decided otherwise, as I have shown already.

II. The second case to be excepted is when the Pope is found to be negligent in the convocation of a council, notwithstanding the necessity of such convocation. The Pope is to be admonished by the cardinals to do this, which if he neglects, the power is alleged to devolve upon the cardinals. Ant. de Butrio declares that there is then the greatest evidence of neglect when a schism oppresses the Church of God. For as in this case the law requires the convocation of a council in order to remove this evil, there would be an evident guilt in the Pontiff who neglected it.

But what if the cardinals were negligent and nevertheless the necessity for calling a council existed ? Turrecremata and Petrus de Monte hold that the Emperor, or some other prelates of the Church, should call it. There are those who say that the prerogative of calling a council belongs in the second place to the Patriarch of Constantinople, as that Church is the next in rank to the Roman, and then to the other patriarchs in succession ; afterwards to the Emperor, and, if he is negligent, to the kings, and then to the princes. I think, however, that those are of the truer opinion who hold that this right belongs to the Emperor, since he is the defender of the Roman Church and of religion generally, representing the whole Christian community. Nor is there any archbishop or patriarch or any holding universal jurisdiction after the Pope, except the Emperor. The doubt is frequently entertained whether this right of assembling a council belongs to the cardinals separately or as a college. And we must affirm that it devolves to them in their collective, and not in their individual, right. But what is to be done when the College of Cardinals is negligent ? can one single cardinal call a council ? Philip Decius thinks that the right belongs to every cardinal, since when the power devolves to a chapter through the negligence of the prelate, if the chapter is also negligent, any separate canon can exercise it. I think, however, that this opinion is improbable, since the interpreters cited by Decius speak of the case in which the power so devolves to the Bishop that it cannot pass to any other, which specially holds good in the recovery of the goods of his own Church. But in our case this power devolves to the Emperor, and, if he neglects it, to others. A single cardinal, therefore, being excluded in his collegiate capacity, cannot be admitted in his individual right. On this ground the controversy which arose in the time of Julius II. may be decided, viz., whether the two or three seditious cardinals who, when cited by him, were so far from obeying that they dared even to convoke a council against him, could do so on the pretext that the Pope and the rest of the cardinals had been negligent in the assembly of a council. At that time I was a public lecturer on Pontifical

Law at Bologna, and when consulted on the matter I replied that it could not lawfully be done—an answer which excited the hatred of the council (of Pisa) against me. I was moved by the preceding reasons, and two still stronger additional ones. For, even if we grant that this is lawful for individual cardinals, it can in no case be lawful to men who were under a criminal charge and are guilty of *lèse-majesté*. Secondly, no necessity existed for the assembly of a council which could not be met by the Pope—which only exists when the Pope is a notorious and incorrigible heretic, or proved to be simoniacally elected. For other matters, however difficult, might be expedited by the Pope himself.

III. The rule (*i.e.*, of the right of the Pope to call a council) fails in the third place when the Pope is implicated in some notorious crime which scandalizes the whole Church, for then inasmuch as he can be deposed by a council, it can be, even though he is unwilling, summoned and convoked. This opinion the Council of Basle approved, when it deposed Eugenius chiefly on the ground that he had been guilty of notorious simony in selling benefices and everywhere reserving them—committing them to unworthy persons, depriving electors of their rights, and doing other things by which the Church of God was scandalized by a notorious scandal. This opinion was held by John Gerson, who everywhere maintained the superiority of a council over a Pope.

This exception is generally rejected by theologians, who hold that the Roman Pontiff in only one case is subject to a council, viz., when a crime is involved which would deprive him of the Papacy—when, for instance, he is a heretic. For it is impossible for one who is separated from the unity of the Church to be the head of the unity. Or it may happen when there is a schism, and it is not certain who is the true Pope. For then the council either deposes both or confirms one, since the authority of the pontificate can be legally claimed by no one. The same exception extends to our case (*i.e.*, of simony) also, since a Pope elected simoniacally is not a Pope according to this constitution (*i.e.*, *cum tam divino*). Wherefore the theologians say that a wicked Pope commanding unrighteous acts is not to be obeyed, but rather resisted to the face, as Paul resisted Peter. We must entreat God to give him a sane mind, even as St. Hilary is said to have prevailed, by his prayers alone, against Pope Liberius, who was tainted with the Arian heresy. For God Himself punishes evil Pontiffs.

This question (of a criminous Pope) presents on either side to him who defines it great difficulties (*vastæ rupes*). For we have experienced beyond question that by the too great license of the Roman Pontiffs, while they corrupt and dissipate all

things under their own will, and by the revelation of flesh and blood, not of the Holy Ghost, dispense spiritual things, promoting unworthy men to the rule over their people, the Christian religion has languished, the people fall away from the faith, the clergy is made the reproach of men and the humiliation of the people, and the yoke of this see, which was once sweet and to be desired, is now believed to be hard and full of unrighteousness, following the teaching of factious and wicked men, which perhaps would have been far otherwise if this excessive licence had been restrained by the frequent bridles of councils. For it is a perpetual scandal in the Church of God for wicked men to hold the primacy.

On the other hand, it may be said that to constitute the Church of God without a head, or without him who represents Christ in his manifold jurisdiction, is opposed both to nature and to Divine institutions. In this matter I embrace the opinion of *Ægidius* (*Rom.*), which is, that if a Pope notoriously sins in things prohibited by the Divine law, or should darken the honour of the Church, and being admonished should not reform, he should be punished and deposed by a council, and a council may be called against his will. For by persisting in such notorious crimes he effectually asserts that sin is not sin, and proves his disbelief in a future state, which is the worst of all heresies.

IV. Our rule fails in the fourth place when there are two Popes dividing the Church, for this is a case specially reserved for the judgment of a council, which has force even when one of the two is canonically elected.

V. It fails fifthly when a Pontiff is elected simoniacally, in which case the convocation of a council devolves to the cardinals, for it is only done for the purpose of providing a canonical pastor, and, as his election belongs to them, to them also belongs the calling of a council. In all these cases, however, in which it is lawful to call a council without the Pope his leave has to be asked, even though it is not obtained. But this, perhaps, is not needed in this particular case, where the legitimacy of the Pope is denied.

Such were the views of an important member of the Court of Rome at the period of the Reformation. The idea of Papal infallibility is not admitted for a moment. The heresies of Marcellinus, Liberius, Honorius, and many other Popes of a later day are clearly admitted, and the old remedy of the Councils of Pisa, Constance, and Basle recommended. The scandals which disgraced the Pontificates of Sixtus IV., Alexander VI., Leo X., and Julius II. are not dissembled, and the need of a thorough reformation of the Court and Church

of Rome are not obscurely indicated. Had Gainmarus lived to see the reign of Paul IV., and to witness the tragedy of the Caraffa, he might have seen a sad illustration of the necessity of removing a Pope who had handed over the government of the Church to men who were guilty of the most horrible crimes, and who expiated them by their lives under the worthier Pontificate of Pius IV.

R. C. JENKINS.



ART. II.—“THE LAST WORDS OF DAVID.”

2 Sam. xxiii. 3-6 : “He that ruleth over men must be just, ruling in the fear of God : And he shall be as the light of the morning, when the sun riseth, even a morning without clouds ; as the tender grass springing out of the earth by clear shining after rain. Although my house be not so with God, yet hath He made with me an everlasting covenant, ordered in all things and sure : for this is all my salvation, and all my desire, although He make it not to grow.”

FEW portions of the Old Testament are more interesting than those fragments of ancient prophecy and song, which shine out here and there like sparkling gems from the narrative of the historical books. Many such are found in the Books of Samuel : the thanksgiving of Hannah over her newborn child, re-echoing day by day for us in the Holy Virgin’s song ; the lamentation over Saul and Jonathan ; Nathan’s prophecy of the everlasting kingdom, and David’s prayer for its fulfilment ; his thanksgiving for deliverance from his enemies, found also in the 18th Psalm—these are some of the voices of Hebrew poetry, which a Samuel and a Nathan and a Gad, all prophets themselves, have been careful to preserve in their writings.

But in none of these relics of sacred song are poetry and prophecy more richly combined, in none is the sense of natural beauty more closely mingled with the breath of holy inspiration, than in these “last words of David.” That title need not mean that these words were spoken in the last hours of David’s life and reign ; for the history goes on to tell of later words and deeds : but these were his last words of prophecy and song, his last testimony for God, which he would hold fast unto his latest breath—his final confession of faith, in which he wished to die and depart out of this world. For here, as in a last will and testament, he sets, as it were, his hand and seal to all that he had sung and prophesied before concerning the eternal continuance of his kingdom, and the Son who should sit upon his throne for ever.