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8th version
Abstract

In his capacity as guardian of Ladislaus the Posthumous, Duke of Austria and King of Hungary and Bohemia, Emperor Friederich III of Habsburg had by 1452 ruled Ladislaus’ Austrian lands for more than a decade. Growing dissatisfaction with his rule led to an Austrian rebellion with the aim of freeing Ladislaus from the emperor’s guardianship and transferring the rule of Ladislaus’ territories from Friedrich to a government based in Vienna. The rebellion was successful: Ladislaus was released from the emperor’s guardianship and moved to Vienna where a government was set up in his name. A number of issues were to be settled at a peace conference in Vienna in December, where the emperor was mainly represented by the seasoned imperial diplomat, Enea Silvio Piccolomini, Bishop of Siena. Piccolomini was also a legate of the pope, Nicolaus V, who had supported the newly crowned emperor by issuing a *monitorium* to the Austrian insurgents. Piccolomini prepared an oration, the “*Sentio*”, to be held at the conference, vigourously defending both emperor and pope, but the oration was probably not delivered.

Key words

Enea Silvio Piccolomini; Aeneas Sylvius Piccolomini; Æneas Silvius Piccolomini; Pope Pius II; Papa Pio II; Pope Nicholas V; Pope Nicolaus V; Papa Niccolò V; Emperor Frederick III (Habsburg); Kaiser Friedrich III (Habsburg); Holy Roman Empire; Papacy; Austria; Appeals to a council; Austrian rebellion, 1452; Imperial coronations; Papal supremacy; Renaissance orations; Renaissance oratory; Renaissance rhetorics

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Foreword

In 2007, I undertook a project of publishing the Latin texts with English translations of the orations of Enea Silvio Piccolomini / Pope Pius II. Altogether 80\(^1\) orations (including papal responses to ambassadorial addresses) are extant today, though more may still be held, unrecognized, in libraries and archives.

At a later stage the project was expanded to include ambassadors’ orations to the pope, of which about 40 are presently known.

I do not, actually, plan to publish further versions of the present volume, but I do reserve the option in case I – during my future studies - come across other manuscripts containing interesting versions of the oration or if important new research data on the subject matter are published, making it appropriate to modify or expand the present text. It will therefore always be useful to check if a later version than the one the reader may have previously found via the Internet is available.

I shall much appreciate to be notified by readers who discover errors and problems in the text and translation or unrecognized quotations.

12 September 2019

MCS

\(^1\) 81 orations, if the “Cum animadverto” is counted is a Piccolomini-oration, see oration “Quam laetus” [18], Appendix
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I. INTRODUCTION
1. Context

In his capacity as guardian of Ladislaus Posthumous, Duke of Austria and King of Hungary and Bohemia, Emperor Friederich III of Habsburg had by 1452 ruled Ladislaus’ Austrian lands for more than a decade. Growing dissatisfaction with his rule led to an Austrian rebellion with the aim of freeing Ladislaus from the emperor’s guardianship and transferring the rule of Ladislaus’ territories from Friedrich to a government based in Vienna. After the emperor’s return from his coronation voyage to Italy, the rebellion developed into a full-fledged war ending in a victory for the Austrians – despite papal intervention in favour of the emperor. The emperor’s guardianship over Ladislaus was terminated, Ladislaus came to Vienna, and a government was established in his name. A conference was called to settle a number of questions still outstanding, in Vienna in December 1452. Bishop Piccolomini participated in a double capacity as principal envoy of the emperor and legate of the Pope. At the conference, he intended to give the oration “Sentio”, in defense both of the emperor’s government of Austria and of the pope’s intervention on behalf of the emperor.\(^1\)

It appears, however, that he was not able to deliver the oration as intended.\(^5\) Piccolomini himself, in his Historia Austrialis, mentions that a public meeting where he would give his speech was actually denied the imperial representatives by the leader of the conference, Margrave Albrecht of Brandenburg. Albrecht feared that such a public meeting would cause further disturbances and he had, for that reason, denied a similar request from the Austrian side.\(^6\)

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\(^1\) CO, I, 25 (Meserve, I, pp. 122-123); HA, I, pp. 204 ff; II, pp. 640 ff; HB, p. 500 ff.; Piccolomini: Europa (Brown, pp. 127-129); Ady, 123-124; Boulting, p. 198; Haller; Koller, p. 128-132; Pastor, I, p. 384; Stolf, pp. 249-250; Toews, pp. 235-239; Voigt, III, pp. 62-87; Walther, p. 318

\(^2\) Voigt, III, 2, p. 79

\(^3\) That the oration was intended to be held at the conference is attested by several passages in the oration itself, e.g.: [sect. 126] ... exposcit tempus, ut quod ultimo loco de Romani pontificis domini nostri sanctissimi Nicolai quinti desiderio et intento promissimus, in medium afferamus. Quod gravissimo et ornatissimo conventu vestro benignas aures adhibente succincte ac brevissime faciam; [sect. 129] Maxime autem diligentiam eo ferri atque intendi vestram hortatur, ut res, quas in hac conventione suscepistis agendas, ita ordiri conemini atque contexere, quod imperator regi et rex imperatoris indissolubili caritatis vinculo reconcilietur

\(^4\) That the conference mentioned in the oration was the one to be held at the end of 1452 is attested by the following passage in the oration: [sect. 110]: Secundum post jubilaeum [which ended in December 1450] agimus annum, max tertium, si dominus dederit, ingressi

\(^5\) Some authors appear to believe that the oration was, in fact held, see Ady, pp. 123-124, Zimolo, p. 23, Toews, p. 237. See also Mansi, I, p. 183: Ad hunc conventum destinati sunt ... et Aeneas Sylvius Senensis Episcopus. Hac occasione habita est oratio hic subdenda [i.e. the Sentio]. Mansi also quotes Piccolomini’s Historia Bohemica: oratores imperatoris, inter quos et ipsi fuimus, ita auditii sunt ut victi apud victorem (HB, p. 608) (it is not evident however that this passage refers to the oration “Sentio”). Moreover, the titles of the mss. used for the present edition have no indication that the oration was not actually held

\(^6\) HA, II, p. 765: Legati id opus esse tractatorum aiebant, dari tamen sibi publicam audientiam petebant, in qua ius imperatorium manifestarent, quemadmodum esset conventum. Nam cognita causa facilis possent principes invenire concordiam. Albertus audientiam publicam sine tumultu non posse fieri dicebat neque pulchrum convitid palam proferri; disputationibus exasperari, non mulceri animos, partem quoque adversam audientiam
Four months later, Piccolomini sent the oration to Cardinal Carvajal.¹ The Cardinal apparently advised him not to publish it as long as he was still residing in German territory, as Piccolomini himself wrote in November 1453 to Bishop Peter von Schaumberg of Augsburg, promising to send him the work when he returned to Italy.² Evidently, Carvajal considered the content of the text to be so controversial that it would be unsafe for Piccolomini to publish it while still in Austria.³

Later publication of the oration took the form of inclusion in the “official” collections of the letters⁴ and orations of Pius II, prepared during his own pontificate.

Interestingly, Pius does not directly mention the oration neither in his Historia Austrialis,⁵ nor in the Historia Bohemica, nor in the Europa, nor in Commentarii, where he speaks of the peace conference in Vienna,⁶ and neither do his contemporary biographers, Campano and Platina.

The “Sentio” is generally considered to be one of Piccolomini’s best orations.

Muratori thought that this was the most elegant of Piccolomini’s orations and he especially appreciated Piccolomini’s argumentation for papal supremacy.⁷ Voigt said about it: Er brachte eine Rede mit sich nach Wien, die längste, die er jemals ausgearbeitet, und ohne Zweifel die trefflichste, ein Meisterstück seiner Dialektik und politischer Kunst.⁸ Boulting called it one of his ablest and most powerful speeches, though it produced no effect.⁹

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¹ WO, III, I, p. 131: Misi dignationi vestre pridem tractatum quendam adversus Austriales habitum. Note that Piccolomini used the word “tractatus” and not “oratio”, and moreover said that it had been “held” (“habitum”). In a note, Wolkansays: Es ist die grosse, vom ihm geplante aber nicht gehaltene Rede gegen die Österreicher. In a further letter to the Cardinal, of 10 April, Piccolomini asks the cardinal if he had actually received the oration, since he did not mention it in a letter sent by him to Piccolomini (ibid, p. 134)

² Ibid., p. 360: Opusculum, de quo facit vestra dignitas mentionem, misi ante annum ad cardinalem sancti angeli, cujus auctoritatem et judicium maxim facio. Non est visum ejus prudentie publicandus liber, dum his in regionibus moram traho. Parui sententie tanti patris. Nescio quo pacto Rome ut scribis nonnulli exemplar habuerint. Ego quoad possum recludo et in abdito loco retineo, quod inprimis dictavi. Eam ob causam supplico, ne dignatio vestra egre ferat, si modo non mitto, quod petitis. Mittam autem quamprimum Senis fue ro neque id longum erit, si divina pietas dabit. Note that Piccolomini here implies that the text was known in Rome, and that he had sent it to Cardinal Carvajal a year ago, i.e. before the Vienna conference in December 1452

³ See also Voigt, III, p. 88

⁴ Helmrath, p. 133

⁵ However, he may have alluded to it in the HA, II, 576: Sed de his [Austrian rebellion against the emperor] alio loco a nobis est dictum et aliquando forsitan dicetur amplius

⁶ CO, I, 25 (Meserve, I, p. 122)

⁷ Muratorii: In orationem, pp. 256-257

⁸ Voigt, III, p. 83

⁹ Boulting, p. 199-200
And Toews considers it to be one of his ablest and most powerful speeches. He goes on to affirm that it produced no effect, and that the progressive debasement of Frederick remained unchecked. Indeed, Toews claims that the emperor’s defeat at the hands of the Austrians and the freeing of Ladislaus from his wardship proved that his alliance with the papacy had failed: The new bent which Frederick’s ecclesiastical policy had taken proved fatal. To believe that the pope still possessed sufficient moral authority to intervene decisively and against strong, armed opposition in essentially secular affairs in Austria – or anywhere else, for that matter – would indeed have been an error on the part of the emperor. However, his failure in the affair of Ladislaus may be considered as really not being due to his ecclesiastical policies, but to his lack either of an adequate military mobilization against the Austrian rebels, or – if he would not or could not defend himself militarily or make a counterattack – the ability to gracefully bow to necessity before he was forced to do so ignominiously.

Though the papal court advisedly treated the text of the oration with some discretion, it gained some distribution, as witnessed by Cardinal Carvajal: who, on 13 February 1453, wrote to Piccolomini: Legit dominus noster sanctissimus tractatum contra Australes et laudat publice et commendat omnia tua et certe omnes, qui scripta ex te habere possunt, exemplaria faciunt et servant.

2. Themes

The main themes of the oration are

- Papal supremacy
- Imperial authority
- Appeals from papal decisions
- Austrian rebellion

2.1. Papal supremacy

Siv years before, in 1446, in his treatise De Ortu et Auctoritate Imperii Romani, and the year afterwards when presenting the emperor’s obedience to Pope Eugenius IV, Piccolomini, then imperial secretary, had used the famous passage from Gelasius I to describe the imperial and

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1 Toews, p. 237
2 Toews, p. 238
3 I.e. the pope
4 WO, III, I, p. 565
5 WO, II, p. 12
the papal power as two distinct powers, with no subordination of the imperial power to the papal power in temporal matters and vice versa:\footnote{1}{Oration “Non habet me dubium” [11], sect. 13. Cf. Modigliani, p. 266}

\textit{This world is primarily governed by these two: the power of kings and the holy authority of the popes.}\footnote{2}{Decretum Gratiani, D.96.10 (col. 340): Pope Gelasius to Emperor Anastasius: \textit{Duo sunt quippe, imperator Auguste, quibus principaliter hic mundus regitur: auctoritas sacra Pontificum et regalis potestas. See also Azzara, p. 17}}

This is precisely one of the texts in the Decretum Gratiani on which the Austrians based their claim of papal non-interference in secular matters:\footnote{3}{This argument had also been mentioned in the oration “Cum animadverto”}

\textit{The monitorium sent by the pope concerned a secular matter, viz. the wardship of the orphan prince, the government of the Duchy of Austria, and promises and obligations between laymen. The function of the Roman Pontiff is to preach the word of God, to instruct the clergy, to administer the sacraments, to confer ecclesiastical benefices, to deal with spiritual matters, to uphold the faith, to uproot heresies, to nourish morality. If it goes beyond that, it offends against the secular judges, dukes, kings and emperors. For this world is ruled by two powers: the holy authority of popes and the power of kings. These are two distinct offices of government, each with its separate functions, competencies and powers. Nothing more behooves the Roman See than to keep intact the rights of each party. If we believe Cyprian, Gelasius, Nicolaus and Gregory, the pontiff should be concerned with spiritual matters and leave temporal matters to the secular princes. If he begins to interfere in matters concerning kingdoms and secular dominions, we shall neither heed him nor obey his laws. [Sect. 18]}

But in the meantime, Piccolomini had accepted the position of the medieval papacy, as eminently represented by Pope Innocent III and – less eminently – by Pope Bonifatius VIII,\footnote{4}{See e.g. Sayers, p. 257-258; Modigliani, p. 267} and he therefore replied to the Austrian claims, that the papal magisterium is not limited to the religious sphere, but also includes the secular sphere:

\textit{Contrary to the delirious blatherings of our adversaries, the authority of the Roman Church is not limited to spiritual matters, for in the Gospel the Lord gave it power in all things, and to Saint Peter, the keybearer of eternal life, he gave power\footnote{5}{“Jura”} both in the earthly and the heavenly realm. And what [he gave] to Peter, [he] also [gave] to Peter’s successors as bishops of the City of Rome. [Sect. 23]}
This does not mean that the popes exercise ordinary jurisdiction in the secular sphere, where
the pope should only act as the last resort and in clearly specified areas:

To them we reply, with Innocent III, that the Roman Pontiff does not exercise secular
jurisdiction nor give judgment in secular matters indiscriminately and without good
cause, but only rarely and with good cause. For whenever nobody else can or dares give
judgment in a secular matter, whenever a secular matter is evidently conducted
criminally and divine majesty is being offended, and no secular judges oppose it, and
whenever justice is denied, the Roman Pontiff is free to intervene, for his pontifical
magisterium is concerned not only with the affairs of priests, but also with secular
affairs. [Sect. 27]

A justification of the papal claim to world supremacy as based on monarchy as the natural
structure governing Heaven and Earth and the pope as the highest representative of God on
Earth had already been given in the oration “Cum Animadverto”, to be held by King Ladislaus
to Pope Nicolaus V in March 1452, presumably written by Piccolomini, but never actually
delivered. It was also a central theme in some orations held by Piccolomini, e.g. when, as Pope
Pius II, he gave the oration “Dominatorem caeli” [35] to ambassadors of Castile, coming in
1959 to present their master’s declaration of obedience to the pope.

In the “Sentio” Piccolomini’s defense of papal supremacy is mainly canonistic, based on texts
from the Bible and the Fathers quoted in the Decretum Gratiani (including the spurious
Decretals of Ps.Isidore) and decretals of Innocent III.

2.2. Imperial authority

On Earth, the Holy Roman emperor has the highest authority in the secular sphere - within
the limitations imposed by papal power, see above.

To what extent this applies to the European kingdoms, which had for centuries been
developing outside the the political framework of the empire, like France, England etc.,
Piccolomini does not explain in the present context, but at any rate the imperial office is
clearly preeminent in terms of dignity and authority (though not in terms of political power
and jurisdiction).

But in as far as the Holy Roman Empire, i.e. Germany and Northern Italy, is concerned the
Holy Roman Emperor possesses the highest power, and must be obeyed by all, both those
who hold their office directly from him and their subjects.

The arguments advanced by Piccolomini in the “Sentio” are based upon the feudal system.
If we ask how the Principality of Austria came to Ladislaus, [the chronicles] will tell you that he is prince by right of succession. If we examine from where the forefathers of the forefathers had their power, they must say that the duchy derives from the empire. What I report does not lie so far back. The emperors had the lordship of this region, and it was they who granted the country with the status of a duchy. During the reign of Friedrich II, Duke Albrecht of Austria fought the Hungarians at the river Leitha and was killed by his own. As he had no heirs, the duchy devolved upon the empire, and Friedrich ruled it through vicars for the rest of his lifetime. [Sect. 46]

Albrecht received Austria from his father, the King of the Romans, as a feudal possession. Thus, Austria is a principality under the empire. Ladislaus is prince and lord of Austria – that I acknowledge – but only on condition that he recognizes Friedrich as his own lord and prince, and that he gives the same obedience to the emperor that he demands from his own subjects. For though the lordship of Austria has properly been transferred to Ladislaus, Austria is still a lordship directly dependent upon the empire. So, let all who declare themselves to be the partisans of Ladislaus beware not just to support one lord, when they actually have two, and not to offend one or both of them, since they are subject to both the duke and the emperor. [Sect. 47]

And since the emperor holds the greater office, the subjects of his dukes must, in case of conflict, obey him rather than their duke.

If somebody asks: “Who should be obeyed in the case of a conflict between them?”, nobody in his right mind would give priority to the duke: logic points to the emperor. This may seem a severe statement, but if the reason for it is understood, it becomes more acceptable. [Let us take an example:] the duke of Austria commands all men able to bear weapons to go to war. A baron, who had received [his possessions as] a feud from the duke, forbids his men to do so. Who would not give greater weight to the command of the duke? But as the baron is to the duke, so is the duke to the emperor. It is unworthy to disobey the commands of one’s superior if one wants to be obeyed by his own inferiors. If someone argues that this rule has become obsolete and that another custom has grown up in its place, then I shall reply with Cyprian that a custom is erroneous if it is not based on good reason; it is not erroneous because it is based on an old law. What men should follow is not a senseless custom, but honest reasoning. It would be unworthy, absurd and criminal if those people whom I have entrusted to you should prefer you to me, and that those whom you rule in my name should fight against me. That would be like a son hitting his father at the command of his teacher, or like a cleric drawing his sword against the pope at the command of his bishop. [48]
Thus, in the “Sentio”, Piccolomini claims that the subjects of the duchies of the empire must obey the emperor before their own duke and support the emperor in case of a conflict between duke and emperor.

However defensible this position might have been in legal terms, it is completely out of touch with the political situation of the empire in 1452. In practice, the dukes of the empire would certainly not accept that their own subjects had to obey the emperor before their own duke, and neither would the subjects, probably.

In the end, the Austrians gained their cause through military power, all brilliant legal arguments notwithstanding. The success of the armed Austrian rebellion against the emperor, supported by the pope, may have been an important eye-opener for Piccolomini who, six years later, concluded his Historia Bohemica with these words: We are convinced that kingdoms are gained by arms and not by laws.\(^1\)

### 2.3. Appeals from papal decisions

When the papal monitorium of 1 April 1452\(^2\) became known in Austria, the rebels issued the following appeal, written by scholars from the University of Vienna\(^3\) and reported in Piccolomini’s Historia Austrialis:

> Quoniam pontifex maximus imperatoris Federici suasibus motus et nos facere iubet, quae nec nobis nec domino nostro Ladislao conducunt, gravesque poenas in nos minatur, nisi paruerimus, cum id nobis oneri sit, arbitrantes eundem pontificem, ut res inter nos et imperatorem Federicum sese habent, ignorare ab eo parum instructo ad eundem instruendum docendumque magis sive ad concilium generale indictum seu indicendum vel demum ad universalem ecclesiam appellamus.\(^4\)

The appeal from a pope to a better informed pope or from a pope to an ecumenical council or to the universal church, was developed in the late middle ages by opponents of the papacy

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\(^1\) HB, p. 626: Nobis persuasum est armis acquire regna, non legibus
\(^2\) Published in Chmel, II, nr. 4, pp. 4-6. Digitized by Google and available on the web: https://books.google.de/books?id=YTE_AAAAcAAJ&printsec=frontcover&hl=da&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false
\(^3\) Walther, p. 315
\(^4\) HA, II, p. 680 (Under the persuasions of Emperor Friedrich, the Supreme Pontiff commands us to do what is profitable neither to us nor to our lord, Ladislaus, and he threatens us with dire punishments unless we obey. This is unacceptable to us. We believe that the named pope does not know how things are between us and Emperor Friedrich. Therefore, we appeal from him as insufficiently informed [about the matter] to himself as better informed and advised, or to a General Council, already indicted or to be indicted, or to Universal Church)
as a method of circumventing papal authority in general and the papal judicial system in particular.¹

In his oration, Piccolomini endeavours to show that the Austrian appeal against the papal monitorium is not legitimate:

\begin{quote}
The remedy of appeal was invented for the public good so that those who are wrongly oppressed may have a refuge. Nobody doubts that the appeal is an integral part of justice, since justice is a habit of mind that respects everybody’s state while preserving the common good. Therefore, an appeal that goes against the common good should be rejected. The appellant should especially consider three conditions: firstly, that he must have been unreasonably or unjustly wronged; secondly, that he must appeal from a lower court to a higher court; and thirdly, that he must appeal to someone who would be easy to reach. If just one of these conditions is not fulfilled, the appeal is not valid. Moreover, the appellant should ensure that he does not himself change [the status quo] while the appeal is pending. But the Austrians have respected none of these conditions. Therefore, the appeal has no validity since they were not being oppressed, they did not appeal to a higher court, they did not appeal to an accessible judge, and they did not maintain the status quo. [Sect. 99-100]
\end{quote}

After this initial statement, Piccolomini examines each of the three conditions of a legitimate appeal and the Austrian non-fulfillement of them.

His arguments against appeals to a council are particularly interesting since they foreshadow the decree Execrabilis, see below.

Concerning the **appeal to a better informed pope**, Piccolomini says:

\begin{quote}
They claim that the pope was not informed. However, the monitorium shows that the pope was both informed and in possession of the facts of the matter. So, either they think that the pope is ignorant of the facts and are shown to be in error by the account in the monitorium itself, where their manifest and notorious misdeeds are set forth. Or else they stupidly think that the pope is ignorant of the law. All Roman bishops, surrounded by the most learned senate of cardinals, have an abundant knowledge of all law, but Nicolaus himself is ignorant of nothing but ignorance: I believe that the Apostolic See has never been occupied by anybody more learned or more intelligent than he.
\end{quote}

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¹ See Becker
But let us consider further their learned and thoughtful appeal [to a better informed pope]! They want the Roman Pontiff to combine two judges in one person: the judge from whom the appeal is made, and the judge to whom the appeal is made. Oh, good God, to be so clever! Rightly did they make this distinction: what subtle intelligence! I never hear these people without learning something new! Nothing is more profitable than being with good and wise men. However, if we continue in this way, I do fear that we shall glue even more persons on to the pope, so that we not only conjoin the appellant and him against whom they make the appeal, but also make the pope both judge, accused, advocate and witness! I am surprised that he who crafted this appeal does not grow pale or blush, that destroyer of law, that false interpreter of the canons, who endeavours to introduce monstrosities never before seen or heard. What lawgiver ever allowed an appeal to be made from a judge to the same judge? Neither Solon, nor Lycurgus, nor the ten men sent to Greece, nor the responsa of the prudent men, nor the edicts of the praetors, nor the plebiscites, nor the decrees of the senate, nor the decisions of princes, nor the laws of men, nor the customs of the barbarian peoples allow for such a practice. Maybe our adversaries have chased up such a law in the city of Plato which has never been found. Undoubtedly, this madness is far from the Politics of Aristotle. If anybody should dare to claim that this [innovation] is just, the laws and the canons will judge the instigator to be delirious, feeble-minded and foolish, and they will eject him from the college of the learned, as hateful both to muses and to letters. So, the first part of the appeal is nonsense because it goes against the facts of life and introduces a new and unheard of monstrosity, rejected by every law and custom. [Sect. 108-109]

Concerning the appeal to a council, he says:

But they add a second part in which they appeal to the council that has been indicted or will be indicted. This is a slippery, uncertain and unstable ground from which we shall easily cast down our adversaries. We have shown above that only in one case can an appeal be made from an undoubted pope, but that this is not the present case. Therefore the appeal is void. But let us concede something to our adversaries; let us be kind; let us make friends of the mammon of iniquity; let us say that something is true that we know to be false: let us say that it is lawful to appeal the acts of the Roman Pontiff to a council. So what? Shall we then leave the victory to the enemy? Certainly not. But what will we answer? Please listen, all of you. They appeal to the council that has been or will be indicted. The first term is false, the second is ridiculous. Until now nobody has heard that a council has been indicted and in fact it has not been indicted. “But,” they say, “it has been promised to the King of France that a council would be celebrated in his kingdom in the year after the Jubilee,” and since that year has passed they think that a council has been indicted. Here they draw furrows in the thin dust; here they will harvest oats without kernels, and they will gather no wheat. In such an important matter, it is a very superficial person who is moved not by fact, but by opinion and who follows rumours
and silly fables. We are now in the second year after the Jubilee and, God willing, we shall soon be entering the third, and we have not yet heard that a council has been indicted. Who does not understand that their ignorance is affected and false? “Then he does not keep his word to the king,” our adversaries reply. That is pure calumny, for the promise of a council to the king was not given unconditionally, but on the condition that the other kings and princes would agree. But these mostly rejected [the idea]. The kings of Aragon, England and Portugal do not want a council to be held in France. I myself, at the command of the emperor, in a public consistory in Rome at the end of the Jubilee Year, argued against holding this council – and with good reason! Our adversaries know this, and therefore they proposed an alternative by appealing to a council already indicted or to be indicted in the future. They are blathering fools, not learned men: trusting in the snares of syllogisms and dialectical tricks, they invent empty glories. But rushing forward they will be dashed against the rock of truth, and they will not enjoy the fruits of their endeavours. For someone who allows an appeal to a council clearly designates either a council in session or a council to be held in the near future. But a council that has not yet been indicted is neither in session or is to be held, and it cannot – either as a matter of fact or as a matter of hope - be called a council. Who is so stupid, or perverse, or shameful that he would appeal to a judge who has neither been born nor is going to be?

The lawgivers decided on a one-year period in which to make an appeal, and in certain cases two years. But our own wise men here stipulate a period of ten years, for they claim that in Konstanz it was decreed that councils should be celebrated every ten years. What a beautiful and useful thing, fostering peace and concord: someone has robbed me of my house and lands, and I summon him to the court. My adversary is ordered to return the things that he has taken with force. He then appeals to a council, postponing the matter for ten years! How will that trial end? And who will wait for ten years? Time glides by imperceptibly and cheats us in its flight. Heavy expenses, the shortness of life and a thousand kinds of death will grant the case to the appellant. But why do I worry about ten years? I fear that it will take twenty years, no, hundred years before another council is celebrated – to be indicted according to the needs of the time, as the Roman Pontiff sees fit. [Sect. 111-112]

Concerning the appeal to Universal Church, he says:

As you hear, the appeal to the council has now been torn apart, and neither will their appeal to the Universal Church be left standing. I do not know if our sophists have soused their lips in the Nag’s Spring or dreamed on the two-topped Parnassus, for being usually engaged in debating on asinine and fortuitous matters, they have suddenly come forth as specialists in law. Let us hear their words, let us examine the meaning. They appeal to the Universal Church. What it is that they call the Church? I presume that they are not
using this word in the sense of the walls and roofs of the temples, as it is used in common language, but that they are talking about an assembly of the faithful. This term comprises everybody, great and small, men and women, clerics and laymen. In the beginning, such an assembly could sometimes meet in one place, for [at that time] the number of faithful was small. But when the Faith grew, and their sound hath gone forth into all the earth: and their words unto the ends of the whole world, then all the faithful could never again meet in one place. Instead they began to have meetings of a limited number of people, which – since the most important people were present – they considered to represent or constitute the Universal Church. The decrees of those assembled were considered as decisions of the Universal Church. But this kind of assembly, if lawfully convoked, is nothing else than a general council. If our adversaries appeal to the Church in the sense of a council, they actually revert to the second part of the appeal, giving – foolishly, inanely and inappropriately - an alternative that is not really different. And if they really mean the Church itself, spread over the whole Earth, but united in Faith, then nothing can be more childish or insane. For how can the Church, [taken in this sense], examine the matter of appeal, as it cannot be approached [concretely], nor hear the cause nor be heard itself? [Sect. 114-115]

Piccolomini’s argumentation concerning the Austrian appeal of the papal monitorium to a council is especially important as it would form the basis of his papal bull, Execrabilis, of January 1460, in which he formally forbade appeals from a pope to a future council. In the long term, this bull had a profound influence on the development of the monarchical position of the pope in the Roman Catholic Church.

2.4. Austrian rebellion

In his defense of the emperor against the Austrian rebels, Piccolomini endeavoured to refute their arguments concerning the testament of King Albrecht, the pact between the emperor and Austrians, the interests of King Ladislaus, and his dignity.

2.4.1. Testament of King Albrecht II

Concerning the testament of King Albrecht II,¹ Piccolomini – having cast some doubt on its authenticity² – showed that it had not been accepted by the Austrians,³ the Hungarians and

¹ Published in Gutkas, pp. 382-385
² Cf. Gutkas, p. 52; Haller, p. 96, n. 7: Gegenüber den oftmals erhobenen Zweifeln an dem Testament Albrechts II., in dem schon Zeitgenossen eine Fälschung sehen wollten, tendieren neuere Forschungen doch wieder zur Annahme der Echtheit. The authenticity of Albrecht’s testament seems to have been accepted by Koller, p. 57
³ Koller, p. 58
the Bohemians,\(^1\) and that it could not be fulfilled because it stipulated that Ladislaus should be brought up in Hungary which would have been impossible since Hungary was then ruled by a royal rival from Poland whose party would certainly not be interested in keeping the infant King Ladislaus alive. And finally, the testament went against the customs and laws of the House of Austria:

\[
\text{[In conclusion:] the probation of the testament was doubtful and uncertain; the Austr} \\
\text{i} \text{ians decided to disregard it; circumstances changed, and the testament could not} \\
\text{be observed; the Bohemians and the Hungarians did not attach any importance to it at} \\
\text{all; and it went against the customs of Austria and the laws of its princes. For all these} \\
\text{reasons, the Austrian case cannot be supported by invoking the testament. [Sect. 39]}
\]

### 2.4.2. Agreement between the Austrians and the emperor

The emperor’s tutelary government of Austria was based on an agreement between himself and the Austrians concerning the form of government. If this agreement was not upheld by the emperor, the Austrians would be free of their obligations towards Friedrich as party to the agreement.

Over the eleven years the tutelary government lasted, the form of government initially agreed upon by the parties actually became obsolete and was replaced by other arrangements, so in that sense the agreement actually had lapsed. But, argues Piccolomini, this really happened on Austrian initiative and the changes in the form of government were at the time accepted by all parties:

\[
\text{Let us now look at the agreement itself and how it was concluded, since that is what makes our adversaries so arrogant. I shall tell you briefly. When the emperor took over the government of the Principality of Austria, he promised to appoint 12 men among the magnates of Austria by whose counsel he would rule the duchy. If he did not fulfill this condition, the promises of the Austrians, by which they had sworn obedience, would be void, and they would not be bound their pledge or oaths. The emperor then chose 12 men, who were called governors. But when they had governed for some time, they abdicated the magistracy at their own initiative. Then, with the agreement of the people, the form of the government of the country was changed: now 24 governors were appointed by whose counsel the emperor would administer Austria. [At that time,] absolutely no mention of the agreement nor of the promises was made. After yet another period, these governors, too, resigned, leaving the country without a government. When Friedrich was informed of it, he began to govern alone, without any}
\]

\(^1\) Cf. Gutkas, pp. 346-349
[formal] agreement, but with the assent of the people. This is how the matter developed. Now, who does not know that this is true? A specific form of government of the country was established; the agreement became obsolete: the form of government was changed not once, but twice, and at no point did anybody mention the agreement. Who would not consider it to have lapsed? What happened then? For 11 years Friedrich has governed Austria alone, but not without the advice of the people. All have obeyed him, all have been loyal, nobody opposed it, nobody spoke against it, nobody brought up Albrecht’s testament, nobody claimed to be freed from their promises, nobody mentioned the letter of agreement. So why this upheaval, after such a long period? 

[Sect. 44-45]

So far Piccolomini!

2.4.3. Interests of King Ladislaus

Against the Austrians, Piccolomini argued that their rebellion was not in his best interest, and that their objections against the emperor’s treatment of Ladislaus were unfounded.

The arguments concerning the interests of King Ladislaus mostly concern the unlawfulness of disobeying Friedrich, who as emperor was Ladislaus’ direct superior. It would appear that Piccolomini’s arguments in this respect were quite out of tune with the political realities of the times.

As for the emperor’s treatment of Ladislaus, Piccolomini affirmed, with some justice, that

- Ladislaus was not treated as a prisoner,
- That he was given proper nourishment
- That the journey to Rome was not dangerous for Ladislaus but highly advantageous
- Ladislaus was not robbed of his inheritance
- Hungarians and Bohemians were not slighted
- Ladislaus has not gained greater freedom and honour

2.4.4. Dignity of King Ladislaus

The Austrians claimed that it was not befitting the dignity of an underage sovereign prince to have a guardian and to be brought up outside his own country.

Piccolomini countered this claim by referring to a number of examples, both old and contemporary, of such princes to have guardians and to be brought outside his own country.
He appealed both to reason and to authorities to show that even underage princes and kings must have guardians and that they must of necessity be brought up in other countries if it would be dangerous to have them stay in their own country during their minority.

He concluded:

Thus, the four claims that seemed to substantiate the Austrian complaints against His Imperial Majesty are manifestly void, ridiculous and without any merit: they can neither be based on the testament nor on the agreement. Moreover, it is not true that they have acted for the good of their lord and their country. And, finally, the dignity of the lord does not justify overturning the guardianship. Thus, they have championed an evil cause, and they themselves were evil, unjust, unworthy of favour, but worthy of contempt. And thus it is right that these evildoers are restrained by the staff of the High Priest. [Sect. 84]

3. Date, place, audience and format

There can be little doubt that Piccolomini prepared the oration “Sentio” as his main intervention at the peace conference in Vienna, in December 1452.

The venue would have been the hall where a public meeting of the conference was held.

The audience would have been the participants in the peace conference, i.e. the delegates of the emperor, of King Ladislaus and the Austrians, of Bohemia and Hungary, and the German princes.

The format is an oration, but Piccolomini himself also designates it as a “tractatus”, as an “opusculum”, and as a “liber.”

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1 See the above-mentioned letters to Carvajal and Schaumberg
4. Text

4.1. Manuscripts

The oration is extant in three versions.

4.1.1. Version 1

This version was included in three splendid manuscripts containing the “official” collection of Piccolomini’s letters “in episcopatu”.³

- Roma / Biblioteca Apostolica Vaticana
  Urb. lat. 401, ff. 220r-263r (U1)⁴ *
  Ottob. lat. 347, ff. 174r-214r (U2)⁵ *
  Vat. lat. 1787, ff. 214v-260v (U3)⁶

4.1.2. Version 2

Version 2 is extant in a humanist collective manuscript from Venice. It has a number of variants in common both with Version 1 and Version 3.

- Venezia / Biblioteca Marciana
  Lat. XIV.1, ff. 42r-95r (V)

4.1.3. Version 3

The Final Version is included in all seven manuscripts containing the Collected Orations of Pius II, compiled in 1462 under the pope’s direct supervision. The seven manuscripts are the following:

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¹ Concerning the textual transmission of Pius II’s orations, see Collected orations of Pope Pius, vol. 1, ch. 5
² Manuscripts for which an orthographical profile is given in Collected orations of Pope Pius II, vol. 11, are marked with an asterisk
³ Helmrath: Reichstagsreden, p. 133
⁴ Helmrath, p. 321; Kristeller (digital version used)
⁵ Helmrath, p. 320; Kristeller (digital version used)
⁶ Helmrath, p. 316; Kristeller (digital version used)
4.2. Editions

The third version has been published (at least) three times in the 17th - 18th century:

  
  *[On the basis of ms. E from Milan, probably with emendations by Muratori himself]*


  
  *[On the basis of Muratori and the manuscript in Lucca, G]*

4.3. Present edition

For principles of edition (incl. orthography) and translation, see *Collected Orations of Pope Pius II*, vol. 1, ch. 9-10.
Text:

The text is based on all manuscripts listed above. Muratori’s edition has also been collated with a view to assessing its quality.

Pagination: after BAV / Chis. J.VIII 284: red

5. Sources

In this oration, altogether 180 direct and indirect quotations from various sources have been identified:

Biblical: 70
Classical: 43
Patristic and medieval: 66
Contemporary: 1
All: 180

The biblical quotations dominate slightly, but there are quite many quotations from the classics and the fathers.

Biblical sources: 70

Old Testament: 31

- Genesis: 2
- Deuteronomy: 1
- Numbers: 1
- Daniel: 1
- Ecclesiastes: 2
- Ecclesiasticus: 1
- Ezekiel: 2
- Isaiah: 3
- Jeremiah: 1

1 For an analysis of Piccolomini’s use of sources, see Collected Orations of Pope Pius II, ch. 8
• Job: 1
• Jonah: 1
• 1. Kings: 2
• Malachias: 1
• Proverbs: 4
• Psalms: 8

New Testament: 39

• Matthew: 7
• John: 3
• Luke: 8
• Mark: 1
• Acts: 2
• 1. Corinthians: 3
• 2. Corinthians: 3
• Galatians: 3
• 1. John: 1
• 1. Peter: 2
• Romans: 4
• 1. Timothy: 1
• 2. Timothy: 1

Classical sources: 43

• Cicero: 4
• Gellius: 1
• Homer: 1
• Horatius: 5
• Juvenalis: 8
• Lucanus: 1
• Ovidius: 1
• Persius: 1
• Plutarch: 1
• Quintilianus: 1

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1 Academica: 1; De inventione: 1; De officiis: 1; Pro Milone: 1
2 Ars poetica: 1; Carmina: 1; Epistolae: 1; Satirae: 2
3 Metamorphoses
4 Parallel lives
• Sallustius: 3
• Seneca: 2
• Solinus: 1
• Statius: 4
• Suetonius: 1
• Valerius Maximus: 2
• Vergilius: 6

Patristic and medieval sources: 66

• Alexander III: 1
• Augustinus: 5
• Basil of Caesarea: 2
• Cyprianus: 7
• Decretum Gratiani: 36
• Gregorius I.: 1
• Innocentius III.: 1
• Jeronimus: 5
• John Chrysostom: 1
• Pseudo-Isidorus: 5
• Tertullianus: 2

Contemporary sources: 1

• Bruni, L.: 1

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1 Bellum Catilinae 2; Bellum Jugurthinum 1
2 Phaedra 1; Troades 1
3 Thebais
4 Vitae Caesarum
5 Aeneis 3; Eclogae 2; Georgica 1
6 Confessiones 2; Contra Faustum 1; Homiliae 2
7 Ad adolescentes
8 De unitate ecclesiae
9 Homiliae
10 Venerabilem
11 Epistolae
12 Decretales
13 Liber apologeticus
14 Laudatio urbis Florentinae
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- Oratio Aeneae Silvii Piccolominei episcopi Senensis qui postea pontificatum maximum adeptus Pius Secundus appellatus est habita Viennae pro auctoritate Romani pontificis adversus Austriales anno Domini MCCCCLIII. Pp. 199-250

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### 7. Sigla and abbreviations

A = Roma / Biblioteca Apostolica Vaticana / Chis. J.VIII.284  
B = Roma / Biblioteca Apostolica Vaticana / Vat. lat. 1788  
C = Roma / Biblioteca Apostolica Vaticana / Chis. J.VIII.286  
D = Rome / Biblioteca Apostolica Vaticana / Chis. J.VI.211  
E = Milano / Biblioteca Ambrosiana / I. 97 inf  
F = Mantova / Biblioteca Communale / 100
G = Lucca / Biblioteca Capitolare / 544
U1 = Roma / Biblioteca Apostolica Vaticana / Urb. lat. 401
U2 = Roma / Biblioteca Apostolica Vaticana / Ottob. lat. 347
U3 = Roma / Biblioteca Apostolica Vaticana / Vat. lat. 1787
V = Venezia / Biblioteca Marciana / Lat. XIV.1

MU = Muratori, Ludovico Antonio: Opere del proposto Lodovico Antonio Muratori. Tom. 11, parte 2. Arezzo, 1770
Abbreviations

CO = Pius II: *Commentarii rerum memorabilium quae suis temporibus contigerunt* [1464]


MA = Pius II: *Orationes politicae et ecclesiasticae*. Ed. Giovanni Domenico Mansi. 3 vols. Lucca: Benedini, 1755-1759

MPL = Migne, Jacques-Paul: *Patrologia latina*. 217 vols. 1841-1865

RTA = Deutsche Reichstagsakten


II. TEXT AND TRANSLATION
Oratio Aeneae Silvii Piccolominei episcopi Senensis qui postea pontificatum maximum adeptus Pius Secundus appellatus est habita Viennae pro auctoritate Romani pontificis adversus Austriales\(^1\) anno Domini MCCCCLIII\(^2\) \(3\) \(4\) \(5\)

[1] {42v} Sentio, reverendissimi patres, illustriissimi principes, ceterique viri praestabiles, non leve pondus hodie meis humeris imminere\(^6\), quando\(^7\) in re maxima adversus plerosque potentes et\(^8\) insignes Austriae proceres sum verba facturus. Verum quia res ipsa sanctissimum dominum nostrum\(^9\) Nicolaum papam V. concernit, cujus apud has regiones, quamvis impar tanto muneri, oratoris officio fungor, necessarium est silentibus ceteris\(^10\) me consurgere. Indigne namque legati titulos et sanctum populis per saecula nomen assumpsissem\(^11\), nisi mittentis dignitatem pro mea virili\(^12\) defenderem. \textit{Sicut frigus, inquit sapiens\(^{13}\), in\(^{14}\) die\(^{15}\) messis sic fidelis legatus ei, qui misit illum, quoniam illius animam quiescere facit}. Exinde, si \textit{malis aureis in lectis argenteis comparandus est}, qui loquitur verbum in tempore suo, quis non verbis meis favebit, quae summi sacerdotis communisque omnium\(^{16}\) patris et magistri causam tuebuntur?

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\(^1\) Austral. \textit{et passim} V
\(^2\) 1453 (\textit{sic!})
\(^3\) Oratio ... MCCCCLIII : Aenee Silvii episcopi Senensis legati apostolici oratio habita Vienne pro auctoritate Romani pontificis D, G; Oratio pro auctoritate Romani pontificis adversus Austriale U2, U3; Sermo ejusdem ad barones Ungariae V
\(^4\) \textit{This title is also given in MU}
\(^5\) \textit{No title} U1
\(^6\) invenire U1; sum(m)ere B, E, MU
\(^7\) quoniam F; quod V
\(^8\) omit. V
\(^9\) \textit{omit.} F
\(^10\) silentibus ceteris : silentium caveris F
\(^11\) Sanctum legatorum nomen \textit{in marg.} U3
\(^12\) mea virili : virili mea F
\(^13\) Salamon \textit{in marg.} A; Sapiens \textit{in marg.} D, G
\(^14\) \textit{omit.} V
\(^15\) in die : inde U1
\(^16\) omniumque F
Oration of Enea Silvio Piccolomini, Bishop of Siena, who was called Pius II after he became pope, in defense of papal authority against the Austrians, in the year 1453

0. Introduction

0.1. Captatio benevolentiae

[1] Reverend fathers, illustrious princes, and other distinguished men, today I feel a heavy burden on my shoulders as I am going to speak against many powerful and eminent nobles of Austria in a highly important matter. But this matter concerns Our Most Holy Lord, Pope Nicolaus V,\(^1\) and as I am his orator in these regions\(^2\) - though not worthy of such an important office - I must speak out in his defense since everybody else remains silent. For I would not justly have accepted the title and name of legate - a name [that has been held] inviolate\(^3\) among all peoples through centuries - if I did not with all my strength defend the dignity of the one who sent me. As the cold of snow in the time of harvest, says the Wise One, so is a faithful messenger to him that sent him, for he refresheth his soul.\(^4\) Therefore, since to speak a word in due time is like apples of gold on beds of silver,\(^5\) who will not listen favourably as I defend the cause of the High Priest, the common father and teacher of all?

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\(^1\) Nicolaus V [Tommaso Parentucelli] (1397-1455): Pope from 6 March 1447 until his death

\(^2\) In March 1453, Piccolomini was appointed papal legate to Bohemia, Silesia, Austria, Moravia, Styria, Carinthia, Carniola, and later to Hungary

\(^3\) “sanctum”

\(^4\) Proverbs, 25, 13: sicut frigus nivis in die messis ita legatus fidelis ei qui misit eum animam illius requiescere facit

\(^5\) Proverbs, 25, 11: mala aurea in lectis argenteis qui loquitur verbum in tempore suo
Blandior egomet mihi nec sine felicitatis parte me judico, cui tantae majestatis est oblata\textsuperscript{1} defensio, quamquam priscorum quempiam\textsuperscript{2} resurgere\textsuperscript{3} nunc ab inferis optarem, qui garrulam, non dico Australi\textsuperscript{4}u, sed consultorum loquacitatem et tantae praesumptionis audaciam solida, gravi, atque acri, ut olim mos fuit, oratione retunderet. Sed confutabimus nos pro captu nostro haec \textit{vasa terrea sive lignea}, quibus aut virgam ferream aut incendium aeternum\textsuperscript{5}, nisi resipuerint, imminere non dubitamus, quando etsi\textsuperscript{6} sciunt melius esse pro veritate pati supplicium\textsuperscript{7} quam pro adulatione referre beneficium, his\textsuperscript{8} tamen, qui discidium \{43r\} in Austria fecerunt magnosque motus excitarunt, et blandiri, et adulari, et eorum malefac\textsuperscript{9}ta tueri, et appellantiones dictare, ac leges et canones in reprobum sensum exponere non erubescunt. Verum, sicut apostolus Paulus accusatus apud Festum a Judaeis beatum se existimabat\textsuperscript{9}, quod suam causam defensurus esset Agrippa praesente\textsuperscript{10}, qui consuetudines nosset et quaestiones Judaeorum, sic et mihi beatitudinem quandam esse confido, quod pro summo Christianorum patre apud vos audiar, qui leges ac consuetudines Christianas non minus calletis, quam Judaicas Agrippa cognovit. Qui cum doctrina praestatis, tum virtus ea\textsuperscript{11} vobis\textsuperscript{12} est, ut omnem valeatis\textsuperscript{13} iniquitatem irrumpere.

\begin{itemize}
  \item \textsuperscript{1}est oblata : oblata est D, G
  \item \textsuperscript{2}quenquam C
  \item \textsuperscript{3}resurge U2
  \item \textsuperscript{4}corr. ex Australium A
  \item \textsuperscript{5}omit. MU
  \item \textsuperscript{6}si U1
  \item \textsuperscript{7}pati supplicium : supplicium pati G
  \item \textsuperscript{8}is U1
  \item \textsuperscript{9}estimabat U3
  \item \textsuperscript{10}Paulus presente Agrippa \textit{in marg.} D, G
  \item \textsuperscript{11}omit. G
  \item \textsuperscript{12}nobis S
  \item \textsuperscript{13}valeat S
  \item \textsuperscript{14}solum F
  \item \textsuperscript{15}ac U3
  \item \textsuperscript{16}quibus ex : ex quibus V
  \item \textsuperscript{17}fuerit a me : a me fuerit U3
  \item \textsuperscript{18}pro F
\end{itemize}
I am flattered and pleased to have the opportunity to defend such great majesty, although I could wish for one of the ancients to rise up now from the nether world in order to counter in a substantial, grave and vigourous oration - as was the custom then - the loquaciousness and the presumptuous temerity - not of the Austrians, but of their advisors. But we shall to the best of our ability confute these vessels of the wood and of earth. We do not doubt that they are under the threat of the iron rod or eternal fire unless they come to their senses. For though they know that it is better to suffer for the truth than to gain profit from flattery, they are not ashamed to flatter and cajole those who have caused conflict and great disturbances in Austria, to support their evil deeds, to write appeals, and to pervert the sense of laws and canons. When the Jews made accusations to Festus against Paul the Apostle, he thought himself lucky that he was to plead his case before Agrippa who knew the customs and questions of the Jews. In the same way, I am happy to be speaking for the Supreme Father of the Christians to you who understand the Christian laws and customs just as well as Agrippa knew the Jewish ones. Your learning and virtue are so great that you will be able to see through all evil.

Moreover, I know that you venerate the Apostolic See as your mother on whose milk you were nourished, and that your ancestors always revered that holy throne – and justly so, since Christ Our Lord spread the studies of the good arts, all teaching, and the Catholic Faith itself to the Western and Northern regions with the aid of Roman virtue. Therefore, if I say something that is inadequate, unlearned or inept, I hope that it will be improved by your charity, corrected by your learning and tolerated by your benevolence.

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1. 2. Timothy 2, 20
2. i.e. Canon law
3. Porcius Festus was procurator of Judea from about AD 59 to 62
4. Herod Agrippa II (ca. 27-ca. 99): seventh and last king of the family of Herod the Great, the Herodians
5. Acts, 26, 2-3: I think myself happy, O king Agrippa, that I am to answer for myself this day before thee, touching all the things whereof I am accused by the Jews. Especially as thou knowest all, both customs and questions, that are among the Jews (aestimo me beatum apud te cum sim defensurus me hodie maxime te sciente omnia quae apud ludaeos sunt consuetudines et quaestiones)
6. i.e. the liberal arts
7. Note how Piccolomini mentions the liberal arts before the Catholic faith and make them a gift of Christ
Ceterum, quia tres sunt personarum qualitates, adversus quas nostra dicta videri possunt, consultores, actores\(^1\), et is, cujus causa res gestae dicuntur, expediens esse dijudico, priusquam principale negotium\(^2\) attingo, quae sit vel domini nostri vel mea\(^3\) de hisce personis sive sententia sive mens in medium proferre.

De consultoribus\(^4\) primum dicam. Hos\(^5\) ego, qui fuerint\(^6\), nescio nominare, sed ajunt eos litteratos esse ac doctores appellant. Mira res, si doctores dicendi sunt, qui dedocent! Majores nostri quattuor illos illustres et summos viros, jam caelum sublime tenentes, Gregorium, Jeronimum, Ambrosium, Augustinum\(^7\) idcirco doctores appellaverunt, quoniam rectum vitae tramitem et salubrem doctrinam solida et vivaci ratione, non variis\(^8\) elenchis aut sophisticis inventionibus\(^9\) docuerunt. Minime quidem magistri nomen meretur, qui discipulum fallit. Ille doctor, ille\(^{10}\) magister est nominans, cui sermo convenit\(^{11}\) evangelicus: Magister, scimus quia verax es, et viam Dei in veritate doces, et non est tibi cura de aliquo; non enim\(^{12}\) respicis personam\(^{13}\) hominum. At nonnulli, quamvis sint animalia spurca atque probrosa\(^{14}\), nomen tamen\(^{15}\) usurpant sanctissimum, et aut theologi\(^{17}\) dici volunt aut jureconsulti. Quibus titulis simpliciores decipiunt, mala et impia eorum facta laudantes, quae vituperare debuerant.

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\(^{1}\) auctores F

\(^{2}\) negotium principale : principale negotium F

\(^{3}\) in ea F

\(^{4}\) De consultoribus in marg. D, G

\(^{5}\) hoc V

\(^{6}\) fuerunt U1

\(^{7}\) Gregorius, Hieronimus, Ambrosius, Augustinus in marg. A; Divi Gregorius ... Augustinus in marg. U3

\(^{8}\) vanis U1, U2, U3

\(^{9}\) rationibus G

\(^{10}\) omit. V

\(^{11}\) invenit F; inventius U1

\(^{12}\) cum U1

\(^{13}\) personas D, G; persona E; personam MU

\(^{14}\) probra V

\(^{15}\) cum V

\(^{16}\) nomen tamen : tamen nomen F

\(^{17}\) theologici G
0.2. The parties

[4] Before I start on the principal issue, it would seem relevant to explain Our Lord’s¹ and my own position and opinion concerning the three parties against whom I shall be arguing: the counselors, the participants², and the person on whose behalf they claim to have acted.

0.2.1. Counselors

[5] First, I shall speak about the counselors. I cannot name them, but they are said to be educated men and called “doctors”. It is astonishing that people who propound erroneous teachings³ may be called “doctors”! Our forefathers called “doctors” four illustrious and eminent men, who are now in High Heaven: Gregory,⁴ Jerome,⁵ Ambrose⁶ and Augustine,⁷ and they did so because these men taught the right way of living and a salutary doctrine through solid and vigourous reasoning, not through syllogisms and sophistry. Someone who fails his pupil certainly does not merit the name of “teacher”. Only that man should be called a “doctor” or a “teacher” who fulfills the word of the Gospel: Master, we know that thou art a true speaker and teachest the way of God in truth. Neither carest thou for any man: for thou dost not regard the person of men.⁸ But many, though they are foul and shameful beasts, usurp a most respectable title and want to be called either theologians or lawyers. By these titles they fool simple people, praising their bad and impious deeds when instead they ought to reproach them.

¹ I.e. the pope’s
² “actores”
³ “dedocent”
⁴ Gregorius I (ca. 540-604): Pope 590 to his death in 604
⁵ Jeronimus, Eusebius Sophronius (ca. 347-420): Cardinal. Doctor of the Church. Saint
⁸ Matthew, 22, 16
[6] His hominibus\textsuperscript{1}, quantumcumque doctis, non potest aliud dicere summus pontifex, nisi quod minatur Ezechiel\textsuperscript{2} Vae\textsuperscript{3}, dicens, \textit{qui consuunt}\textsuperscript{4} \textit{(43v)} \textit{pulvillos sub omni cubito manus, et faciunt cervicalia sub capite universae aetatis}. Sunt enim assentatores et\textsuperscript{5} animarum deceptores, qui peccata perpetrantibus adulantur. Vellet apostolica sedes hos magistros\textsuperscript{6}, quae\textsuperscript{7} didicerunt in scholis, pura et aperta fronte docere. Quod si facerent, sanctum illum virum imitarentur, qui sicut mala de bonis non\textsuperscript{8} existimabat\textsuperscript{9} ita judicare bona de malis recusabat, dicens: \textit{Absit a me, ut justos vos}\textsuperscript{10} \textit{judicem; donec deficiam, non recedam ab innocentia mea.}\textsuperscript{11,12} Nec plura modo de consultoribus.

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\textsuperscript{1} omnibus G
\textsuperscript{2} Ezechiel pulvillos in marg. D, G
\textsuperscript{3} ut E; \textit{omit.} MU
\textsuperscript{4} consumit U1
\textsuperscript{5} ac C
\textsuperscript{6} magnates MU
\textsuperscript{7} qui U1, V
\textsuperscript{8} \textit{omit.} G
\textsuperscript{9} estimabat U1; estimabat U2, U3; existimat V
\textsuperscript{10} nos V
\textsuperscript{11} ab innocentia mea \textit{omit.} V
\textsuperscript{12} Iob xxvii\textit{io in marg.} A
To these men, however learned they may be, the Supreme Pontiff can say nothing else than the threatening words of Ezechiel: *Woe to them that sew cushions under every elbow: and make pillows for the heads of persons of every age.*¹ For they are toadies and deceivers of souls as they egg on those who commit sins. The Apostolic See would wish these teachers to teach sincerely and openly that which they themselves learned in school. In doing so, they would imitate that holy man who, just as he did not think badly of good people, refused to think well of bad people, saying: *God forbid that I should judge you to be just: till I die I will not depart from my innocence.*²

And for now, no more about the advisors.

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¹ Ezechiel, 13, 18  
² Job, 27, 5
Nunc in agentes sermo descendat. Hi sunt, qui sumentes arma divum Fridericum Caesarem ex administratione ducatus Austriae pepulerunt. Horum est numerosa multitudo. Certare tamen cum his tantum nos oportet, qui sunt in apostolico monitorio nominati. Nam princeps illustris et alto sanguine natus magnoque vir ingenio, comes Ciliae, quamvis campi ductor primas belli partes gesserit, non tamen comminatorias, sed hortatorias ex Romano pontifice litteras accepit, ne se misceret Austrialibus ausis. Qua ratione non paruerit, non est meum nunc discutere. Nulla nobis cum eo lis est, neque sua magnificentia, sicut opinor, apostolicae sedi quidquam imputat, nisi fortasse juvare hos velit, quibuscum foedus habet. Sic de ceteris dicimus, qui ferentes arma contra Caesarem, non habent in monitorio nomen.

Nominati vero, quibus querela videtur competere, quidam clerici sunt, quidam laici; et clericorum quidem alii religiosi, alii, ut vulgi sermo est, saeculares. Fuerunt et actores novitatum clerici, et quamvis in castris non militarunt, subditos tamen suos ire jussrerunt. Negarunt oboedientiam Caesari, contiones tumultuarias adiverunt, administrationi se novae reipublicae miscuerunt, nec mandatum Caesaris, nec summi pontificis jussionem timuerunt. Quid ego de his mentibus adeo rebellibus et durissimisque cervicibus dicam, quae dum sedis apostolicae majestatem impugnant, laqueos sibi nectunt et foveam, in quam ruant, suis manibus fodiunt? Et quid agitis, inquit Symmachus ad clericos Romanae dignitatis impugnatores, de hac mihi per prophetam dictum videtur: Si hoc humilietur, ad cujus confugietis auxilium, et ubi requiretis gloriam vestram?
0.2.2. Participants

[7] Now, let us talk about the participants. They are the ones who, weapons in hand, drove Emperor Friedrich from the government of the Duchy of Austria. They form a large group of people, but we shall only be disputing with those who are named directly in the apostolic monitorium.

For although the Count of Cilli,¹ an illustrious prince of high nobility and a man with great intelligence, had a leading military role in the war, the letter he received from the Roman Pontiff was not a warning letter, but a hortatory letter [asking him] not to involve himself with the Austrian adventurers. Why he did not obey, I shall not discuss now. We have no conflict with him, and I believe that the Apostolic See charges His Magnificence with nothing except, possibly, that he has lent assistance to his allies.²

The samme applies to the others who are not named in the monitorium though they have fought against the Emperor.

[8] Of those who are explicitly named and blamed in the monitorium, some are clerics, and some are laymen. Of the clerics some belong to the religious clergy and some to the secular (to use the common term). Indeed, clerics, too, participated in the rebellion, and though they did not fight themselves, they bade their subjects go to war. They refused to obey the emperor, they attended seditious assemblies, they involved themselves in the new administration of the state, and they respected neither the command of the emperor nor the order of the pope. What can I say about those rebellious minds and stiff necks that fight against the majesty of the Apostolic See and with their own hands tie the noose and dig the pit into which they shall fall.³ And what are you doing?, said Symmachus to those clerics who opposed the Roman dignity. It seems to me that this is what the Prophet spoke about when he said: if this is brought low, where will you go for help and where will you seek your glory?⁴

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¹ Ulrich II. von Cilli (1406-1456): count-prince of Cilli
² Or rather: and I believe that His Magnificence has no problem with the Apostolic See unless ...
³ Ecclesiasticus, 27, 29: He that diggeth a pit, shall fall into it: and he that setteth a stone for his neighbour, shall stumble upon it: and he that layeth a snare for another, shall perish in it. (et qui foveam fodit in illam decidet et qui statuit lapidem proximo offendet in ea et qui laqueum alio peribit in illo)
⁴ Decretum, C.9.3.14 (col. 610): Si haec humiliatur, ad cujus fugietis auxilium et ubi relinquetis gloriam vestram. See Isaiah, 10, 3
Verum non simplices clericorum, sed religiosi quoque adversus Romanum praesulum erigere cornua ac seditiosos gerere magistratus minime formidaverunt. At qui religiosi? Nempe et Bernarditae, quos silvas aut desertas eremi valles incolere vetus institutio praecipit! Et Carthusienses, qui ut divinae contemplationis securi incumbent, neque praedicare verbum Dei, neque confessiones audire, neque ministrare populis sacramenta consueverunt! Nam et abbatem Mellicensem, quem nos altero anno benediximus, et priorem Murbacensem ac praeposatum Noviburgi inter XII viros fuisse constat, penes quos belli et pacis apud Austriales libertas erat. O religiosi, qui mundo mortui et videri et esse vultis, quibus silentium Pythagoricum imperatur, qui conventus hominum veluti pestes evitare jubemini, quibus extra septa prodire sacrilegium est, qui dum celebratis divina, nunc lacrimaminis, nunc suspiratis: quo timor ille Dei recessit? Ubi mundi contemptus? Quid vos nunc ingredi palatinum, interesse rumoribus, sedere pro tribunali, tributum exigere, vectigalia tollere, convocare militias, exercitus comparare summo pontifice prohibente? En animam et mentem cum qua dii nocte loquuntur.

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1 ne MU
2 Bernarditae in marg. A; Religio Bernarditarum in marg. U3
3 eremi valles: heermos V
4 neque confessiones audire omit. G
5 Maurbacensem U3
6 viris U1
7 omit. U3
8 Silencium Pictagoricum in marg. A
9 conventum V
10 jubemur U1
11 septo V
12 lacrimaminis U1
13 tolle U1
14 revocare F
15 add. in marg. U2
16 summo pontifice prohibente: prohibente summo pontifice U1
17 cogit F
0.2.2.1. Clergy

[9] Not only common\(^1\) clerics, but also religious have dared to raise their horns against the Roman bishop and act as seditious magistrates. What religious? Indeed, both Bernardites,\(^2\) whom their old rule bids to live in forests and solitary valleys in the wilderness, and Carthusians, who desiring to devote themselves more surely to divine contemplation neither preach the word of God, nor hear confessions, nor administer the sacraments to the people! For it is a fact that the Abbot of Melk,\(^3\) whom we ourselves blessed last year,\(^4\) the Prior of Mauerbach\(^5\) and the Dean of Neuburg\(^6\) were among the twelve men who would decide on war and peace in Austria. Oh, you members of religious orders, who want to be and to be seen as dead to the world, who are obliged to observe Pythagorean silence\(^7\), who are bidden to avoid the gatherings of men as if they were they were a pest, for whom it is a sacrilege to leave the enclosure, who when celebrating the divine office now cry, now sigh\(^8\): what happened to the fear of God? Where is the contempt of the world? Who has now forced you, against the prohibition of the Supreme Pontiff, to enter the palace, to join the rumour mill, to sit in judgement, to exact taxes, to remove tariffs, to gather troops, and to raise armies: A pretty kind of mind and spirit for the Gods to have converse with by night.\(^9\)

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\(^1\) I.e. secular
\(^2\) i.e. Cistercian monks, the followers of Bernard of Clairvaux
\(^3\) Stephan von Spannberg, abbot of Melk 1451-1453
\(^4\) In his capacity as papal legate, Piccolomini must have officiated at the installation of the new abbot
\(^5\) Prior Johann of Mauerbach
\(^6\) Georg Müstinger from Klosterneuburg
\(^7\) Pythagoreum silentium, see Gellius: Noctes Atticae, 1.9.3-4. Also used by Piccolomini in his De liberorum educatione, written in 1450, and dedicated to King Ladislaus, then 10 years old
\(^8\) An example of Piccolomini’s use of the classical rhetorical device *accumulatio*
\(^9\) Juvenalis: Satirae, 6.531: *en animum et mentem cum qua di nocte loquantur!*
Haec si numquam sedes apostolica prohibuisset, tamen quia contra Caesarem injuste agebantur, nec vestrae\(^1\) religioni conveniebant, vitare atque\(^2\) fugere oportebat, quanto magis postquam Christi vicarius interdixerat? Sed timuistis, ne\(^3\) temporalia vestra perirent. At\(^4\)

*Justum et tenacem\(^5\) propositi\(^6\) virum\(^7\)*
  *non civium ardor prava jubentium,*
  *non vultus instantis tyranni mente quatit solida.*

Sed neque pauperies, neque mors, neque vincula terrent, responsare cupidinibus, conternere honores\(^8\), *fortem et in seipso totum teretem\(^9\) atque rotundum, in quem manca ruit semper fortuna\(^10\).* Quid religiosi faciant\(^11\), quorum professionem stoica disciplina constat esse perfectionem\(^12\)? Veros religiosos non aurum, non sedes, non amici, non proximi, non res ullam saeculares, non vitae dulcedo, non mortis metus ex sancto proposito possunt aut recto divellere tramite, quoniam opes, genus, spem, sedem\(^13\), gratiam, dignitatem non hic in terris, sed in caelis invenire festinant. Ac tantum de clericis dixisse voluimus.

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\(^1\) nostre U1  
\(^2\) ac B, E, MU  
\(^3\) omit. U1  
\(^4\) ac F, U1  
\(^5\) tenecacem A, C  
\(^6\) propositi F  
\(^7\) Justum et tenacem virum *in marg.* D  
\(^8\) homines E, MU  
\(^9\) terentem E, MU; terentem V  
\(^10\) semper fortuna : fortuna semper B, V  
\(^11\) Religiosorum officium *in marg.* U3  
\(^12\) perfectionem D, G  
\(^13\) spem sedem : sedem spem U1, U2, U3
[10] Even if the Apostolic See had never forbidden these things, they ought still to have been avoided and averted, for they were done unlawfully against the emperor and were improper for members of your orders. And how much more should they not have been avoided when they were forbidden by the Vicar of Christ? You were afraid of losing your temporal possessions. But

_the man tenacious of purpose in a righteous cause_
_is not shaken from his firm resolve_
_by the frenzy of his fellow-citizens bidding what is wrong,_
_not by the face of the threatening tyrant._

Neither poverty nor death nor bonds affright him, who bravely defies his passions, and scorns ambition, who in himself is a whole, smoothed and rounded and against whom Fortune in her onset is ever maimed. And what should the religious do whose calling is clearly more perfect than the stoic discipline? True religious may be moved from their holy purpose and the right path neither by money, mansions, friends, relatives, nor by anything secular, nor by a comfortable life, nor by fear of death. For they should not pursue wealth, family interests, hope, mansions, favour and status here on Earth, but in Heaven. This is what we wanted to say about the clerics.

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1 Horatius: _Carmina_, 3.3.1
2 Horatius: _Satirae_, 2.7.83-86. Slightly adapted by Piccolomini
3 Horatius: _Satirae_, 2.7.88
4 Piccolomini considers the quotes from Horace to be an expression of classical stoic philosophy, and the tenor of the argument is that if the pagan stoics of antiquity could behave well, Christians monks should behave even better
Ad laicos\textsuperscript{1} propero, inter quos et insignes comites, et generosi barones, et magni nobiles, et potentes communitates annumerantur. Hos ego et viros sine felle arbitror, boni et aequi amantes, sed deceptos consilio peritorum, qui conatus eorum justos et apostolicam jussionem iniquam dicebant. Nesciverunt\textsuperscript{2} armati milites jura, nec quanta sit imperatoris majestas norant, nec Romani pontificis quanta sit auctoritas. Crediderunt, quod docti suaserunt, quod cleric praedicarunt\textsuperscript{3}. Quis populus errante clero non errat? Et salvantur cum pastoribus greges et pereunt. Eapropter petit horum nobilitatem sanctitas apostolica, ut quemadmodum vulneranti doctrinae prestitit aures, sic et medenti praebeat, ne suam\textsuperscript{4} salutem negligat, ne plus mendacio quam veritati credat. Ne putent\textsuperscript{5} malum bonum et bonum malum. Ne suadeant\textsuperscript{6} sibi mandatis\textsuperscript{8} apostolicis licitum esse adversari. Ne gloriantur in malitia. Ne videri potentes iniquitate velint. Ut recognoscant erratum suum\textsuperscript{9}, sequa humilient, quia melior est, si Calixto\textsuperscript{10}, si vero\textsuperscript{11} credimus, in malis factis humilis confessio, quam in bonis superba glorio. Ego autem cum his molliter agam, amice, absque indignatione, sine ira, sine rigore. Oro, me patienter audiant. Spero futurum ne poeniteat neve taedeat eos\textsuperscript{12} meis verbis aures accomodasse.

\textsuperscript{1} De laicis in marg. A, D, G  
\textsuperscript{2} vestiverunt U1  
\textsuperscript{3} praedicaverunt F  
\textsuperscript{4} negligat corr. ex. negligent E; negligent MU  
\textsuperscript{5} credant MU  
\textsuperscript{6} putet U1; putem V  
\textsuperscript{7} suadent V  
\textsuperscript{8} mandatum V  
\textsuperscript{9} omit. MU  
\textsuperscript{10} Calisto corr. ex Calixto A  
\textsuperscript{11} si vero omit. U1  
\textsuperscript{12} os U1
0.2.2.2. Laity

[11] I hasten on to the laypeople, among whom we find both eminent counts, well-born barons, great noblemen and powerful communes. I know that these men are good men without spite, who love all that is good and just. But they have been deceived by the advice of experts who told them that their enterprise was just, and that the apostolic command was unjust. As military men they did not know the law, nor the greatness of the imperial majesty, nor the vast authority of the Roman Pontiff. They believed what learned men told them and what clerics preached. What people does not stray when the clergy strays? The flocks are saved and destroyed together with their shepherds. Therefore, His Apostolic Holiness asks these nobles to lend ears to a teaching that heals just like they did to a teaching that hurts, so that they do not neglect their salvation or believe in lies more than in truth. They should not believe evil to be good, or good to be evil. They should not persuade themselves that it is lawful to oppose the apostolic mandates. They should not be proud of evil deeds. They should not wish to seem powerful through evil, but recognize their error and humble themselves, for – if we believe Calixtus, and if we believe in truth – it is better to humbly confess evil acts than to proudly glory in good acts.¹

But with these people I shall deal softly, kindly, without indignation, without anger, without rigour. So hear me patiently. I do hope that you will not later regret or be offended at having listened to my words.

¹ Decretum, C.11.3.89 (col. 668). From the Decretals of Pseudo-Isidore
[12] Sed transeo jam ad tertiam\textsuperscript{1} personam, cujus causa factam novitatem asserunt. Is est inclytus atque omni favore dignus Hungariae ac\textsuperscript{2} Bohemiae rex Ladislaus\textsuperscript{3}, quamvis puer ac pupillus, adhuc optimae tamen\textsuperscript{4} indolis et sensu\textsuperscript{5} senior annis. Non est apud me dubium futuros esse nonnullos, qui me suae majestati deferant, nam si Austrialium facta reprobò, quibus rex idem extra manus receptus est imperatoris, atque auctus et magnificatus videtur, quis non me illi adversum infensumque\textsuperscript{6} dixerit, ejus fortunae et gloriae invidentem? At ego si vel re vel animo hujus clarissimi regis utilitati nocere quavis occasione praesumerem, nec sanctissimo domino nostro placerem, neque\textsuperscript{7} verus servus\textsuperscript{8} essem aut nuntius apostolicae sedis. Nam et\textsuperscript{9} omnibus regibus apostolica benignitas favet, huic tamen principi mirum in modum afficitur, cum\textsuperscript{10} propter mores ejus optimos, tum quod eum ad magnam Christianae religionis exaltationem ex infinitis paene periculis in hanc\textsuperscript{11} usque diem autemat divina pietate servatum.\textsuperscript{12} Accedunt et patris Alberti\textsuperscript{13} merita, qui malleus fuit haereticorum, et avi Sigismundi\textsuperscript{14} beneficia, qui divisam ecclesiam apud Constantinam reddidit unioni.

\begin{itemize}
\item[\textsuperscript{1}] partem \textit{add.} V
\item[\textsuperscript{2}] atque E, MU
\item[\textsuperscript{3}] Ladislaus rex \textit{in marg.} A, D, G; Ladislaus rex Bohemie et Hungarie \textit{in marg.} U3
\item[\textsuperscript{4}] optimae tamen : tamen optimae MU
\item[\textsuperscript{5}] sensus D, G
\item[\textsuperscript{6}] infexumque V
\item[\textsuperscript{7}] nec U3
\item[\textsuperscript{8}] severus V
\item[\textsuperscript{9}] si C
\item[\textsuperscript{10}] cui G
\item[\textsuperscript{11}] hunc MU
\item[\textsuperscript{12}] seratum U
\item[\textsuperscript{13}] Albertus \textit{in marg.} A; Albertus hereticorum malleus \textit{in marg.} U3
\item[\textsuperscript{14}] Sigismundus \textit{in marg.} A; Sigismundus rex divise ecclesie uniende auctor \textit{in marg.} U3
\end{itemize}
0.2.3. King Ladislaus

[12] And now I pass on to the third [party, the] person for whose sake they claim to have rebelled. That is the Illustrious King Ladislaus\(^1\) of Hungary and Bohemia, worthy of all honour. He may be a boy and an orphan, yet he is of excellent disposition and mature beyond his years. I do not doubt that many will denounce me to His Majesty, for since I condemn the acts of the Austrians who have removed the king from the emperor and enhanced and increased his state, they will claim that I am his adversary and enemy and envious of his good fortune and glory. But, actually, if I should ever dare to harm or just consider to harm the interests of this noble king, I would neither please Our Most Holy Lord\(^2\) nor be a true servant or envoy of the Apostolic See. For though His Holiness favours all kings, he is extraordinarily attached to this prince both because of the prince’s excellent character and because he believes that Merciful God has until now preserved this prince from almost infinite dangers for the advancement of the Christian religion.\(^3\) To these should be added the merits of the prince’s father, Albrecht\(^4\) who was the hammer of the heretics\(^5\), and the good deeds of his grandfather, Sigismund\(^6\) who in Konstanz reunited the Church.\(^7\)

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\(^1\) Ladislaus the Posthumous of Habsburg (1440 -1457): Archduke of Austria from 1440, King of Hungary from 1444 and King of Bohemia from 1453 until his death

\(^2\) i.e. the pope

\(^3\) In this the pope was sadly mistaken since King Ladislaus died some years afterwards, at the age of 17

\(^4\) Albrecht II of Habsburg (1397-1439): Archduke of Austria. King of Hungary and Croatia from 1437. Uncrowned King of Bohemia. Elected Emperor of the Holy Roman Empire in 1438, but died the next year. Piccolomini was in Vienna when Albert accepted his election and wrote a speech to him for the Milanese ambassador, the “Quid est”\(^3\)

\(^5\) i.e. the Hussites

\(^6\) Sigismund of Luxemburg (1368-1437): King of Hungary and Croatia from 1387, King of Bohemia from 1419, and crowned Holy Roman Emperor in 1433

\(^7\) The Council of Konstanz, 1414-1418, where Emperor Sigismund had a determining influence, deposed three popes and elected a new one instead, thereby ending the Great Schism of the Roman Church
[13] Multae sunt\textsuperscript{1} rationes, quae sanctitatem domini nostri hujus pupilli regis amantem efficiunt. Expertus est hoc ipse\textsuperscript{2} nuper, dum\textsuperscript{3} Romae fuit, nam quibus affatibus aut affectibus apud papam exceptus est? Numquam ejus praesentiam frustra requisivit, nullas incassum preces effudit. Quotiens repulsas aliorum supplicationes reduxit ad gratiam? Quotiens et cardinales et principes de magnis rebus acturos inauditos papa remisit, ut hunc puerum, quamvis regem, audiret? Falsus est et ab omni veritate remotissimus, qui summum pontificem inclyto Ladislao regi non prosperitatem cupere fortunamque\textsuperscript{4} optimam judicat\textsuperscript{5}, qui, postquam Petri cathedram ascendit, et in Hungaria et in Bohemia semper ejus statui et firmitati consuluit, numquam nocuit. Neque monitorium, quod adversantes\textsuperscript{6} criminantur aut noxium aut adversum erat suae serenitati, quemadmodum (45r) futurus sermo docebit. Nemo igitur Romanum sibi praesulem ex amante faciat odiosum. Multa suae celsitudini et apud Hungaros et apud Bohemos imminebunt, quae sedis apostolicae praesidiis indigebunt. Numquam\textsuperscript{7} ei favores aberunt, si progenitorum vestigia sequens matrem suam ecclesiam et Christi vicarium condigna devotione coluerit.

\textsuperscript{1} alie V \\
\textsuperscript{2} tempore MU \\
\textsuperscript{3} nuper dum : dum nuper V \\
\textsuperscript{4} fortuna morum U1 \\
\textsuperscript{5} iudicavit U1 \\
\textsuperscript{6} adversus U1 \\
\textsuperscript{7} numquid MU
Many are the reasons that make Our Holy Lord love this orphan king, as the King himself must have felt during his recent stay in Rome. Did the pope not receive him with kind words and sentiments? Never did the king ask in vain to see him, never was a request of his denied. How often did he not cause rejected supplications made by other people to be accepted after all? How often did the pope not send cardinals and princes away unheard though they had come to talk about important matters, only to receive this boy (though king)? It is false and absolutely untrue to claim that the Supreme Pontiff does not desire prosperity and good fortune for the Illustrious King Ladislaus. Since the pope ascended to the Chair of Peter, he has always been concerned about the king’s status and position both in Hungary and Bohemia, and he has never undertaken anything that might harm him. Nor is his monitorium, so criticized by the opponents, damaging or harmful to His Serenity, as our speech will show. Thus, no one may claim that the Roman Bishop is an enemy of the King for he loves him well. Both in Hungary and in Bohemia many dangers will threaten His Highness, and then he will need the protection of the Apostolic See. Never shall he lack its favour if he follows in the footsteps of his forefathers and shows devotion both to his mother, the Church, and to the Vicar of Christ.

1 Strangely prophetic words: when Ladislaus died some years afterwards in Prague, he may have died of the plague or other natural causes, but many thought that he had been murdered (by poison), as Piccolomini was quite aware cf. HB, p. 624: ... *Georgius Pogiebratius rex pronuntiatur ...* *Ea res necati regis suspicionem maxime auxit*

2 This passage echoes a passage in the oration “*Cum animadverto*” – presumably written in the beginning of the year by Piccolomini himself – for King Ladislaus, as an oration of obedience to Pope Nicolaus V: *For my forefathers, who governed Hungary, Bohemia, Austria, have always had especial love and reverence for this divine See. Following in their footsteps, I shall show, as long as I live, the highest reverence for you as the keybearer of eternal life*
[14] Ego, vero, quamvis cinis\textsuperscript{1} sum et pars vilissima luti, inutilis Christianus, indoctus presbyter, indignus episcopus, tamen postquam vidi primum hunc regem Ladislaum, semper ejus sublimitati, suae gloriae, suis fortunis, suis regnis\textsuperscript{2} studui. Saepe\textsuperscript{3} in Hungarium pro eo, saepe in Bohemiam\textsuperscript{4}, saepe ad Romanam curiam litteras dedi. Praeceptoribus suis libellum scripsi ac praeceptiones tradidi, quibus institui formarique pueritia regis deberet, Quintilianis\textsuperscript{5} atque Plutarchi\textsuperscript{7} doctrinam secutus. Praetereo in conventu Bohemorum apud Benes\textsuperscript{8}, in Roma, in Neapoli, in Norimberga, in Colonia, in Venetiis\textsuperscript{9} pluribusque aliis locis quanta sum retroactis temporibus pro sua dignitate locutus. Itaque non est cur me hodie quispiam contra suum bonum loqui praesumat. Sed ago suam causam, ipsum juvo, ipsum laudo, ipsum magnifico, sibi faveo, sibi consulo, dum sedis apostolicae magnitudinem, eminentiam excellamque defendo. Quod et ipse postquam magis sapiet, verum faturebit, et vos ex his, quae mox subjiciam, plenius intelligetis. Nunc jam tempus expetit ad ea, quae Romano pontifici nostri adversantes objectant descendere atque in campo consistis\textsuperscript{10} manibus\textsuperscript{11} decertare.

\begin{footnotes}
\footnote{1} cuius\textsuperscript{1} U1
\footnote{2} suis regnis\textsuperscript{2} omit. B, E, MU
\footnote{3} semper\textsuperscript{3} V
\footnote{4} saepe in Hungarium ... Bohemian\textsuperscript{6} omit. U1
\footnote{5} Quintilianus in marg. A, U3
\footnote{6} ac B, E, MU; autem F
\footnote{7} Plutarchus in marg. A, U3
\footnote{8} Benes\textsuperscript{8} U1
\footnote{9} In Roma ... Venetis: Rome, Neapoli, Noremberge, Colonie, Venetis U1; Rome, Neapoli, Noremberge, Colonie, Venetis\textsuperscript{9} corr. ex in Roma, in Neapoli, in Norimberga, in Colonia, in Venetiis U2
\footnote{10} consistis U1
\footnote{11} quo minus V
\end{footnotes}
[14] I myself am but ash and trash, a useless Christian, an unlearned priest, an unworthy bishop, but since I first saw King Ladislaus, I have always supported His Highness, his honour, his fortunes and his realms. Often have I sent letters concerning him to Hungary, to Bohemia and to the Roman Curia. I have even written a book to his teachers and given them precepts for the instruction and education of the boy king, based on the teachings of Quintilian¹ and Plutarch.² ³ I pass over how much I have previously spoken in defence of his interests in the Bohemian Assembly at Beneschau,⁴ in Rome, in Naples, in Nürnberg, in Cologne, in Venice and in many other places. Therefore, no one should have the temerity to claim that today I am speaking against his interests. When I defend the greatness, the eminence, and the excellence of the Apostolic See, it is Ladislaus’ cause that I defend, it is him that I help, it is him that I praise, it is him that I extol, it is him that I favour, it is him that I assist.⁵ Later, when he knows more, he will recognize that this is the truth, and so will you, when you fully understand what I am going to say shortly.

And now it is time to address the assertions of those who oppose the Roman Pontiff, to step down into the arena with knotted fists and fight hand to hand.

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¹ Quintilianus, Marcus Fabius (ca. 35-ca. 100): Roman rhetorician from Spain, author of the *Institutio Oratoria*

² Plutarch, Lucius Mestrius (ca. 46-120 AD): Greek historian, biographer, and essayist, known primarily for his *Parallel Lives* and *Moralia*

³ Piccolomini had used both Quintilian and Plutarch, among others, in his work *De Liberorum educatione* from 1450, on the education of the then 10-year old boy king, Ladislaus

⁴ Piccolomini represented the emperor at a meeting of the Bohemians in Beneschau in July 1451 and gave the oration “Petivistis ex Caesare” [16] from 1451 in which he defended the emperor’s wardship over Ladislaus, as he had done previously in Rome in the oration “Tritum est sermone” [12] (1447) and in a now lost oration to the Venetian Senate

⁵ An example of the classical rhetorical device of *accumulatio*

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1 Adversarii quid in marg. A, D, G  
2 absolvam E [not MU]  
3 uestrum U1  
4 foro quae U1  
5 nomine U1  
6 attingerit A  
7 fuit G  
8 irretinuit U1  
9 blaterant MU  
10 jus MU  
11 omit. MU
0.3. Subject of oration

[15] If I understand correctly, there are three particular spears that our adversaries throw at us,¹ three main objections. You have heard what they say. They claim that Our Lord² has dared something inappropriate, unworthy and unusual. He has sent an unjustified and impious monitorum with threats of punishment to the Austrians. He has interfered in a secular, political³ and profane matter outside his own area of competence and tried to prevent them from acting justly in the interests of their lord. And he has troubled great prelates and noble barons with fearsome and unheard-of censures though they had not been able to present their defense and be heard by him.

All that is said by the opposite party is contained in these few words. Our opponents blather much, but the essence of their grievances consists in these three points.

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¹ Concerning Piccolomini’s use of spears and arrows in duels as metaphor for sharp arguments in debates, see the oration “Si putarem”; [5] sect. 35
² i.e. the pope
³ “mundanum”
[16] Quaero hic, priusquam objecta repello: monitorium apostolicum, quod tantopere damnant, Austrialibus insinuatumne sit an non? Nam si non est insinuatum, non est quod accusare pontificem queant; nihil enim his nocuit, et revocata videtur esse praecipio, cujus negligentia executio. Si vero moniti sunt Austriales aut per eos factum est, ne moneri possent, longe melius absolutionem peterent, quam monitorium accusarent. Non {45v} est scelere velandum scelus. Sicut aequum atque iniquum regis imperium ferre, sic pastoris et justam atque injustam timere ac tueri sententiam oportet. Numquid gloriabitur securis contra eum, qui secat in ea, quae sit in rebus sanctissimi domini nostri mens: Numquid gloriabitur securis contra eum, qui secat in ea, quae sit in rebus sanctissimi domini nostri mens? 

[16] But before I counter the objections, I ask: has the apostolic monitorium, which the Austrians so greatly criticize, been properly communicated to them or not? If not, they have no reason for accusing the pontiff, for then it has not hurt them: failing to enforce a directive is equivalent to revoking it.

But if the monitorium has been properly communicated to the Austrians or if they have actively prevented its publication, it would be much better for them to seek absolution than to criticize it. *One crime should not be covered by another crime.* Just like we should accept both the just and the unjust command of a king, we should also fear and respect both the just and the unjust judgment of the pastor. *Shall the axe, asks the Prophet, boast itself against him that cutteth with it? or shall the saw exalt itself against him by whom it is drawn?*

### 0.4. Structure of oration

[17] But let us now refute the objections. As we have said, the adversaries make three objections, and we shall structure our reponse accordingly.

Firstly, we shall show that the matter concerning which the Austrians have been admonished belongs to the pope’s jurisdiction. Secondly, we shall prove that the Austrians have not acted justly towards the emperor, and that they have not advanced the cause of King Ladislaus. And thirdly, we shall demolish and refute all the claims of the adversaries and show that the apostolic monitorium is in accordance with the laws and canons. Then we shall have something to say about the appeals that have been made and about the obstinate resistance [against the monitorium]. And finally, we shall explain what is Our Most Holy Lord’s intentions in this matter. Our whole oration will thus consist of these five parts.

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1 Seneca: *Phaedra*, 721
2 Isaiah, 10, 15
[18] Ac jam primum aggredior membra. "Res temporalis erat," inquiunt adversarii, "super qua monitorium missum est: de tutela pupilli principis agebatur, de gubernatione ducatus Austriae, de promissionibus et obligationibus inter laicos agitatis. Romani pontificis\(^1\) est praedicare verbum Dei, clerum instruere, sacramenta conficere, ecclesiastica beneficia\(^2\) conferre, spirituales causas agitare, tueri fidem, extirpare haereses, mores plantare bonos. Si quid ulterius quaerit, saecularibus judicibus, ducibus, regibus, imperatoribus est injurius. \textit{Duo sunt enim, quibus principaliter hic mundus regitur, auctoritas sacra pontificum et regalis potestas, suntque actibus propriis et dignitatis distinctis officia potestatis utriusque discreta. Nihil Romanam Sedem magis decet, quam suum cuique jus illaesum servare. Si Cypriano, si Gelasio, si Nicolao volumus aut Gregorio\(^3\) fidem praebere\(^4\), spiritualia curet pontifex, temporalia princibus saeculi permittat. Quod si de regnis agere saecularibusque dominis\(^5\) coeperit\(^6\), non audiemus ejus vocem, non parebimus suis legibus. Quid nobis et papae? Quid Austrialibus et Apostolicae sedi? Quid populo et clero?"

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\(^1\) Pontificis maximi officia \textit{in marg.} U3  
\(^2\) Beneficia \textit{in marg.} D  
\(^3\) Cyprianus, Gelasius, Nicolaus, Gregorius \textit{in marg.} A; Divi Cyprianius, Gelasius, Nicolaus, Gregorius \textit{in marg.} U3  
\(^4\) prebem V  
\(^5\) dominis V  
\(^6\) coepti MU
1. Popes have final authority in secular matters

1.1. Position of the insurgents

[18] And now, let us begin the first part. This is what our adversaries say:

“The monitorium sent by the Pope concerned a secular\(^1\) matter, that is the wardship of the orphan prince, the government of the Duchy of Austria, and promises and obligations between laymen. The function of the Roman Pontiff is to preach the word of God, to instruct the clergy, to administer the sacraments, to confer ecclesiastical benefices, to deal with spiritual matters, to uphold the faith, to uproot heresies, to nourish morality. If it goes beyond that, it offends against the secular judges, dukes, kings and emperors. For this world is ruled by two powers: the holy authority of popes and the power of kings.\(^2\) These are two distinct offices of government, each with its separate functions, competencies and powers.\(^3\) Nothing more behooves the Roman See than to keep intact the rights of each party. If we believe Cyprian,\(^5\) Gelasius,\(^6\) Nicolaus\(^7\) and Gregory,\(^8\) the pontiff should be concerned with spiritual matters and leave temporal matters to the secular princes.\(^9\) If he begins to interfere in matters concerning kingdoms and secular dominions, we shall neither heed him nor obey his laws. Why should we care about the pope? Why should the Austrians care about the Apostolic See? Why should the people care about the clergy?

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\(^1\) “temporalis”
\(^2\) Decretum, D.96.10 (col.340): *Duo sunt, quippe, imperator Augustus ...* Pope Gelasius to Emperor Anastasius
\(^3\) “potestas”
\(^4\) Decretum D.10.08 (col. 21)
\(^5\) Cyprianus, Thascius Caecilius (ca. 200-258): Bishop of Carthage and an important Early Christian writer
\(^6\) Gelasius I (d. 496): Pope from 492 to his death
\(^7\) Nicolaus I (ca. 800-867): Pope from 24 April 858 to his death in 867
\(^8\) Gregorius I (ca. 540-604): Pope 590 to his death in 604
\(^9\) The Austrians defend their position by invoking certain canons in the *Decretum Gratiani* connected with the popes mentioned
1.2. Position of Piccolomini

[19] Painful are these words, impious, dangerous, and fatal. Those lights of the world\(^1\) who, surrounding the majesty of the Apostolic See, illumine the world and whose learning make the Church shine like the sun and the moon\(^2\) what would they say about the Austrian claims? We must fight hard for the sake of the testament of Christ and the authority of the Roman Highness and spend all our strength in this battle. For even a child can see that what the Roman Pontiff has done is both just and reasonable. Therefore, it seems monstrous to me that some are found here, in this city of Vienna,\(^3\) the home of an old school of learning\(^4\), who have dared to challenge the eminence of the Roman See.\(^5\) For, in the words of Leo the Great\(^6\): Anyone who tries to diminish the power of the Holy See, is really trying to violate, impiously and presumptuously, that solid foundation of the rock of Christ which the Lord himself has built.\(^7\) But, like a ship, the Roman See must of necessity suffer many storms and many winds blowing against it: some are resentful because they have been denied bishoprics, others are angry because of money issues, others are moved by fear, and others again are agitated in matters of petitions [to the Holy See]. However, though the bark of Saint Peter may be shaken by storms, it does not sink; it may be hit, but it is not destroyed; it may be attacked, but it is not overcome,\(^8\) for the gates of hell do not prevail against it.\(^9\)

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\(^1\) I.e. the College of Cardinals. It is remarkable that Piccolomini here supports the position of the Papacy with a reference to the prestige and authority of the College of Cardinals.

\(^2\) From the liturgical antiphon \textit{Isti sunt viri sancti}

\(^3\) Indicates that the oration was held in or intended to be held in Vienna.

\(^4\) i.e. the University of Vienna

\(^5\) See also Piccolomini: \textit{Europa} (Brown), p. 128: \textit{It was then that the learned university of Vienna issued an ignorant opinion, when it ruled that the orders of the pope could be suspended by appealing to a future council.}

\(^6\) Leo I (ca. 400-461). Pope from 440 to his death. Saint. Strong proponent of supreme papal authority

\(^7\) Decretum, D.19.7. (col. 62). Leo I ad episcopos Vienenses, ep. 87


\(^9\) Matthew, 16, 18
[20] Quibus ex rebus monemus adversarios, ne sacros canones parvifaciant, ne Romanae sedis decreta contemnent. *Qui vos speminit, ait in evangelió dominus, me speminit. Nulí fas est*, inquit *Gregoriús*¹, *vel velle vel posse transgredi apostolicae sedis² praecépta*. Et *Agathó*³ cunctis episcopis scribit: *Sic omnes apostolicae sedis² sanctiones accipiendae sunt, tamquam divina Petri voce firmatae⁵*. Denique perpetuo anathemate damnari et cum impiis reputari, qui non resurgunt in judicio, atque omnipotentis Dei contra se iram sentire debent, qui Romanam ecclesiam confundere praesumunt, ut *fiat*⁶ *habitatio eorum deserta, et in tabernaculis eorum*⁷ *non sit, qui inhabitet*.


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¹ Gregorius *in marg.* A, D, G, U3  
² apostolicae sedis : sedis apostolicae G  
³ Agat(h)o *in marg.* A, D, G, U3  
⁴ praecépta et Agathó ... sedis *omit.* U1  
⁵ firma F  
⁶ *omit.* MU  
⁷ et in tabernaculis eorum *omit.* U1  
⁸ de vero V  
⁹ te constitui : constitui te G  
¹⁰ evellas *add.* U1, U2; evelles *add.* U3
1.2.1. Arguments from Canon Law

[20] For these reasons, we warn our adversaries not to belittle the sacred canons\(^1\) nor to disparage the decrees of the Roman See. In the Gospel the Lord says: *He that despiseth you despiseth me.*\(^2\) And Gregory\(^3\) says: *It is not right to wish or be able to disobey the precepts of the Apostolic See.*\(^4\) And Agatho\(^5\) writes to all bishops: *Thus, all the sanctions of the Apostolic See should be accepted as if they were confirmed by Blessed Peter himself.*\(^6\) Indeed, those who dare molest the Roman Church should be condemned with an eternal curse and accounted among those impious men who do not rise again at the [last] judgment, and who ought to feel the anger of omnipotent God: *Let their habitation be made desolate: and let there be none to dwell in their tabernacles.*\(^7\)

1.2.2. Arguments from The Old Testament

[21] In Deuteronomy we read that the *judgment between blood and blood, cause and cause, leprosy and leprosy*\(^8\) belongs to the High Priest. Who, here, excludes the secular domain from the [authority of] the Apostolic Highness? For when the priesthood was transferred,\(^9\) was not the law\(^10\) transferred together with it? In Isaiah the Lord says: *I have set thee over the nations, and over kingdoms, to destroy, and to build and to plant.*\(^11\)

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\(^1\) I.e. Canon Law  
\(^2\) Luke, 10, 16  
\(^3\) Gregorius IV (ca. 795-844): Pope from 827 to his death  
\(^4\) Decretum, D.19.5. (col. 61)  
\(^5\) Agatho (d. 681): Pope from 678 to his death. Saint  
\(^6\) Decretum, 19.2. (col. 60). Agatho papa omnibus episcopis  
\(^7\) Psalms, 68, 26  
\(^8\) Deuteronomy, 17, 8 (*si difficile et ambiguum apud te iudicium esse perspexeris inter sanguinem et sanguinem causam et causam, lepram et lepram*)  
\(^9\) I.e. from the Jewish priesthood to the Christian clergy. Note the claim that the legal powers of the Jewish high priests have been transferred to the successors of Peter together with the transfer of the priesthood from the the Old Testament to the New Testament, i.e. the Christian clergy. In 1440, Piccolomini had also written on this theme in his *De gestis concilii Basiliensis* (Hay, p. 74)  
\(^10\) I.e. the legal rights and obligations of the priesthood  
\(^11\) Jeremiah 1, 10: *Lo, I have set thee this day over the nations, and over kingdoms, to root up, and to pull down, and to waste, and to destroy, and to build, and to plant* (*ecce constitui te hodie super gentes et super regna ut evellas et destruas et dispersas et dissipes et aedifices et plantes*)

Ex qua re moti veteres sanctique patres Romanam ecclesiam beatorum Petri et Pauli martyrio consecratam in orbe toto venerabilem praecipuamque sanxerunt. Nec dubium est, quin illi quidquid ubique fidelium est, commissum videatur, quae totius corporis caput esse designatur. Talibus igitur institutis talibusque fulti auctoritatibus plerique pontificum, alii reges, alii imperatores excommunicaverunt. Et si speciale requiritur de principum personis exemplum, beatus Innocentius papa Arcadium imperatorem percussit anathemate, quia Johannes Chrysostomus, ut sua pelleretur sede, concessit. Zacharias regem Francorum non tam pro suis iniquitatibus quam pro eo, quod tantae potestati erat inutilis, a regno deposuit ac Pipinum, Caroli magni patrem, ejus loco suffecit.
1.2.3. Arguments from the New Testament

[22] Who would say that the bishop of the New Law is inferior to the pontiff of the Old Testament? *Know you not,* says Paul to the Corinthians, *that we shall judge angels? How much more the matters of this world?* If we want to carry the name of Christian, to be called sheep of the Lord’s flock, to be saved, then we must revere the Vicar of Christ and obey his precepts. For he it was Peter whom the Lord chose when he made him the pastor of his flock, saying: *Feed my sheep,* and again, *and I will give to thee the keys of the kingdom of heaven. And whatsoever thou shalt bind upon earth, it shall be bound also in heaven: and whatsoever thou shalt loose on earth, it shall be loosed also in heaven.* And the Lord Our Saviour did not entrust any particular domain to Peter, but gave him responsibility in all matters without limitation.

1.2.4. Arguments from historical precedents

[23] Therefore, the old and holy fathers attested that the Roman Church, consecrated by the martyrdom of the blessed Peter and Paul, is venerable and preeminent in the whole world. And there is no doubt that any matter concerning Christians, wherever they are, is entrusted to that Church which is designated as the head of the whole body. The pontiffs are endowed with such great powers and authority that several of them have excommunicated kings and emperors. If you need concrete examples concerning the emperors, Pope Innocent struck Emperor Arcadius with the anathema because he had consented to the expulsion of John Chrysostom from his see. And Zacharias deposed the King of the Franks not because of evil deeds, but because he was unfit for so great a power, and then replaced him with Pepin, the father of Charlemagne.

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1. Corinthians, 6, 3
2. John, 21, 17
3. Matthew, 16, 19
4. “fideles”
5. Decretum, C.9.3.14 (col. 610): *dum illi quicquid fidelium esse ubique submittitur, dum totius corporis caput esse designatur*
6. Innocentius I (d. 417): Pope from 401 to his death
7. Arcadius, Flavius Arcadius Augustus: (377/378-408): Eastern Roman Emperor from 395 to his death
9. Decretum, D.96.10 (col. 340)
10. Zacharias (679-752): Pope from 741 to his death
11. Childeric III (ca. 717-ca.754): King of the Franks from 743 until he was deposed in March 751 at the instigation of Pepin the Short.
12. Pepin the Short (ca. 714-768): King of the Franks from 751 until his death. Father of Charlemagne
13. Charlemagne (742/747/748-814): also known as Charles the Great. King of the Franks from 768, King of Italy from 774. In 800 crowned by the pope as the first emperor in Western Europe since the collapse of the Western Roman Empire three centuries earlier
Romanum imperium, quod apud Graecos in orienti\textsuperscript{1} sedebat, Stephanus pontifex, sive is Hadrianus\textsuperscript{2} fuit, in occidentem \textit{transruit ad Germanos}\textsuperscript{3}, cum rogati adversus Longobardos Graeci non mitterent auxilia. Et Leo quidem Germanorum primum imperatorem Carolum\textsuperscript{4} \textsuperscript{5}, si Ottoni credimus historico, coronavit. Gregorius septimus Henricum tertium\textsuperscript{6} imperatorem\textsuperscript{7} excommunicationis vinculo innodavit, quod\textsuperscript{8} accusatus a Saxonibus\textsuperscript{9} de simonia, satisfacere conternebat, adversus quem filius suscepit imperium. Sed hic quoque, dum investituram episcoporum invitato sacerdotio vult retinere, a Calixto secundo\textsuperscript{10} excommunicatus est, quamvis postea satisfaciens absolvit \textsuperscript{11}. Quid de Friderico II.\textsuperscript{12}? Quid de Ottone quarto\textsuperscript{13}? Quid de Manfredo\textsuperscript{14}, imperatoris Friderici filio? Quid de Conradino\textsuperscript{15} dicam? Longum enumerare fuit\textsuperscript{16}, quot\textsuperscript{17} principes\textsuperscript{18}, dum superbire voluerunt\textsuperscript{19}, ex alto fastigio Romana sedes excusserit\textsuperscript{20}.

\textsuperscript{1} oriente B, E, G, MU; in orienti : morienti U1
\textsuperscript{2} Stephanus, Adrianus in marg. A; Stephanus sive Adrianus in marg. D, G
\textsuperscript{3} Translatio imperii ad Germanos in marg. U3
\textsuperscript{4} Leo in marg. A ; Leo Carolum in marg. D, G; Leo pont. max. in marg. U3
\textsuperscript{5} Carolus primus coronatur a Leone in marg. U3
\textsuperscript{7} omit. G
\textsuperscript{8} qui D, G, V
\textsuperscript{9} omit. V
\textsuperscript{10} Calistus II in marg. A, D, G; Callistus II. pont. max. in marg. U3
\textsuperscript{11} meruit E, M
\textsuperscript{12} Fridericus in marg. A; Fridericus II. imperator in marg. U3
\textsuperscript{13} Otto III in marg. A; Otho quartus in marg. U3
\textsuperscript{14} Manfredus in marg. A, U3
\textsuperscript{15} Corradinus in marg. A; Conradinus in marg. U3
\textsuperscript{16} fiat MU
\textsuperscript{17} quod U1
\textsuperscript{18} princeps F
\textsuperscript{19} voluerint V
\textsuperscript{20} exusserit C
The Roman Empire was vested in the Greeks in the East, but when they were asked for help against the Lombards¹ and did not send it, Pope Stephanus² – or was it Hadrian?³ – transferred it to the Germans in the West⁴. And if we believe the historian Otto⁵, [Pope] Leo⁶ also crowned Charles as the first emperor of the Germans. Gregory VII⁷ put the chains of excommunication on Emperor Heinrich III⁸ because he refused to make satisfaction when the Saxons accused him of simony. His son⁹ then seized the imperial power, but he too was excommunicated, by Calixtus II¹⁰, when against the will of the clergy he wanted to retain the investiture of bishops. Later, however, he gave in and gained absolution. What shall I say about Friedrich II?¹¹ About Otto IV?¹² About Manfred,¹³ the son of Emperor Friedrich [II]? About Konradin?¹⁴ It would indeed take long to enumerate all those princes who in their arrogance were struck from the high position by the Roman See.

¹ Lombards (or Longobards) (Latin: Langobard): Germanic tribe who ruled Italy from 568 to 774
² Stephanus III (ca. 720-772): Pope from 768 to his death. In later orations, Piccolomini attributed this act to Pope Leo III who crowned Charlemagne emperor in 800, see the oration “Cum bellum hodie” [45], sect. 17
³ Hadrianus I (ca. 700-795): Pope from 772 to his death
⁴ See Innocentius III: Venerabilem: Unde illis principibus jus et potestatem eligendi regem, in imperatorem postmodum erigendum, recognoscimus, ut debemus, ad quos de jure ac antiqua consuetudine noscitur pertinere, praesertim cum ad eos jus et potestas hujusmodi ab apostolice sede pervenerit, quae Romanum imperium in persona magnifici Caroli a Graecis transtulit in Germanos. MPL, CCXVI, col. 1065
⁵ Otto of Freising (ca. 1114-1158): German churchman and chronicler. Bishop of Freising from 1113
⁶ Leo III (750-816): Pope from 795 to his death. Protected by Charlemagne from his enemies in Rome, he subsequently crowned him Roman Emperor
⁷ Gregorius VII [Ildefrando da Soana](d. 1085): Pope from 1073 to his death
⁸ Heinrich III (1017-1056): Holy Roman Emperor, second emperor of the Salian Dynasty
⁹ Heinrich IV (1050-1106): elected King of the Germans in 1056. From 1084 until his forced abdication in 1105 he was also referred to as King of the Romans and Holy Roman Emperor. He was the third emperor of the Salian dynasty and one of the most powerful figures of the 11th century. His reign was marked by the Investiture Controversy with the Papacy
¹⁰ Calixtus II [Guy of Burgundy] (d. 1124): Pope from 1119 to his death. His pontificate was marked by the Investiture Controversy which he settled through the Concordat of Worms in 1122
¹¹ Friedrich II [Hohenstaufen] (1194-1250): Crowned Holy Roman Emperor in 1220
¹² Otto IV (1175-1218): one of two rival kings of Germany from 1198 on, sole king from 1208 on, and Holy Roman Emperor from 1209 until forced to abdicate in 1215. Excommunicated by Pope Innocent III in 1210
¹³ Manfred (1232-1266): King of Sicily from 1258 to 1266. Natural son of the Emperor Friedrich II
¹⁴ Konrad [usually known by the diminutive Konradin, Italian: Corradino] (1252-1268): Duke of Swabia 1254–1268, King of Jerusalem 1254-1268, King of Sicily 1254-1258. Executed as traitor by Charles II d’Anjou in 1268
[25] Illud ad rem nostram accomodatum exemplum nequeo praeterire: post Henricum quartum Lotharius Saxo ¹ ad imperium vocatus est, adversus quem cum Fridericus et Conradus, magnanimi juvenes, arma movissent, quia genus Henrici, cujus sorores matrimonio sibi assumpserant, humiliare atque opprimere videbatur ², ab Honorio ³ papa sunt excommunicati, nec prius absolutionis obtinere beneficium ⁴ quam Caesaris gratiam potuerunt. Quid mirum si Austriales aliquos suo principi insultantes Nicolaus pontifex admonet? Beatus Ambrosius⁵, licet sanctus, non tamen universalis ecclesiae episcopus, pro culpa, quae aliis sacerdotibus non adeo gravis videbatur, Theodosium⁶ magnum imperatorem excommunicans ab ecclesia exclusit.

¹ Lotharius Saxo in marg. A; Lotharius Saxo Imperator in marg. U3
² videbantur V
³ Honorius in marg. A, D, G; Honorius pont. max. in marg. U3
⁴ obtinere beneficium : beneficium obtinere B, E, D, G, MU
⁵ Ambrosius in marg. D, G
⁶ Theodosius in marg. D, G; Theodosius Imperator ab ecclesia excluditur in marg. U3
I cannot omit an instance that is highly relevant to our case: after Heinrich IV, Lothar the Saxon\(^1\) was called to be emperor. But when he began to humiliate and molest the family of Heinrich,\(^2\) whose sisters had been given in marriage to Friedrich\(^3\) and Konrad,\(^4\) these two high-spirited youths rose in arms against him. Therefore, they were excommunicated by Pope Honorius,\(^5\) and they could not get absolution before they had regained the grace of the emperor.\(^6\) So, it is no wonder that Pope Nicolaus admonished some Austrians when they rebelled against their prince. *Blessed Ambrose,\(^7\) a saint, but not the bishop of the universal Church,\(^8\) even excommunicated Emperor Theodosius the Great\(^9\) from the Church because of a sin that did not seem very grave to other priests.\(^10\)

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1. Lothar III (ca. 1075-1137): Duke of Saxony as well as King of Germany from 1125 and Holy Roman Emperor from 1133 until his death. His reign was troubled by the constant intriguing of the Hohenstaufen Duke Friedrich II of Swabia and Duke Konrad III of Franconia

2. Heinrich IV

3. Friedrich II (1090-1147): second Hohenstaufen duke of Swabia from 1105


5. Honorius II [Lamberto Scannabecchi] (d. 1130): Pope from 1124 to his death

6. The significance of relatives rebelling against the emperor would not have been lost on Piccolomini’s audience since all knew that Emperor Friederich’s own brother, Albrecht, was involved in the rebellion of the Austrians against him – not to mention that King Ladislaus was the Emperor’s own cousin


8. i.e. pope

9. Theodosius I [Flavius Theodosius Augustus] (347-395): Roman Emperor from 379 to his death

10. Decretum, D.96.10 (col. 340)
[26] Advertant igitur caveantque vestri\textsuperscript{1} doctores, qui Romano pontifici de rebus saecularibus\textsuperscript{(47r)} adimunt potestatem, quia \textit{quisquis}, ut ajunt\textsuperscript{2} canones, \textit{cujslibet ecclesiae jus}\textsuperscript{3} suum detrahit, \textit{injustitiam facit}. \textit{Qui autem Romanae ecclesiae privilegiium ab ipso summo omnium ecclesiarum capite traditum auferre conatur}\textsuperscript{4}, \textit{hic procul dubio in haeresim labitur}. \textit{Et cum ille notetur injustus, hic est dicendus}\textsuperscript{5} haereticus. Non enim, ut adversarii delirant, de rebus dumtaxat spiritualibus Romanae sedis arbitrium est, cui dominus in evangelio de re quacumque\textsuperscript{6} tribuit potestatem, qui \textit{beato Petro, aeternae vitae clavigero, terreni simul et caelestis imperii jura commisit}. Quod Petro, hoc et\textsuperscript{7} successoribus ejus Romanae urbis\textsuperscript{8} antistibus.

[27] Verum, ut ad ea respondeamus, quae de Gelasio, Cypriano, Nicolao atque Gregorio sunt opposita, quibus illi affirmare videntur, \textit{nec imperatorem jura pontificatus arripere, nec pontificem nomen imperatorum}\textsuperscript{9} usurpare debere, dicimus cum Innocentio III.\textsuperscript{10}, quia non passim et absque causa, sed aliquando et cum causa temporalem jurisdictionem\textsuperscript{11} pontifex Romanus exercet et saecularia judicat. Quotiens enim alius deest, qui vel possit vel audeat saecularia judicare, quotiens res temporalis manifesto crime ducitur\textsuperscript{12}, et offenditur divina majestas, nec saeculares obviant judices, quotiens justitia denegatur, licet Romano pontifici manus apponere, quoniam praesulatus sui magisterium non solum de sacerdotum, sed etiam de saecularium utilitatis debet esse sollicitum. Sic et in Hungaria\textsuperscript{13} saepe lites de regno Romani pontificis arbitrio sunt sopitae\textsuperscript{14}. Sic et Franciae contentiones extinctae. Sic et in regno Portugalliae\textsuperscript{15} regi\textsuperscript{16} dissipatorii\textsuperscript{17} per Romanum pontificem coadjutor datus. Sic et aliarum provinciarum discidia\textsuperscript{18} terminata, quae superiorem in temporalibus non admissunt. Sic et\textsuperscript{19} ad saeculares dignitates Romana sublimitas saepe laicos ex adulterio genitos et\textsuperscript{20} ad legitima jura reduxit. Sic et imperio vacante\textsuperscript{21} vices aliquando supplevit imperatoris.

\textsuperscript{1} nostrri U3, V; viri MU
\textsuperscript{2} dicunt V
\textsuperscript{3} omit. V
\textsuperscript{4} conatus U1
\textsuperscript{5} est dicendus : dicendus est V
\textsuperscript{6} quamcumque V
\textsuperscript{7} omit. F
\textsuperscript{8} sedis MU
\textsuperscript{9} imperatorem MU
\textsuperscript{10} Innocentius III. in marg. A; Nota verba Innocentii III. in marg. D, G; Innocencius tercius in marg. U3
\textsuperscript{11} pontificem add. U1
\textsuperscript{12} dicitur U1
\textsuperscript{13} Francia. Portugalliae in marg. A; In (H)ungaria, Francia, Portuga(l)lia in marg. D, G
\textsuperscript{14} sopites A; sopite corr. from sopites C, D
\textsuperscript{15} deficiente add. V
\textsuperscript{16} regii U1
\textsuperscript{17} dissipatori U1
\textsuperscript{18} decidia U1; dissidia U3, V
\textsuperscript{19} omit. B, E, MU
\textsuperscript{20} omit. MU
\textsuperscript{21} vocante E
1.2.5. Conclusion

[26] Let your doctors who would deprive the Roman Pontiff of his power in secular matters take note of this and beware. For - as the canons say - he who infringes on the rights of any Church, commits an injustice, but he who tries to deprive the Roman Church of the privilege bestowed on it by Him who is the head of all the Churches\(^1\) undoubtedly falls into heresy: the former\(^2\) is branded as unjust, but the latter\(^3\) must be considered as a heretic.\(^4\) Contrary to the delirious blatherings of our adversaries, the authority of the Roman Church is not limited to spiritual matters, for in the Gospel the Lord gave it power in all things, and to Saint Peter, the keybearer of eternal life, he gave power\(^5\) both in the earthly and the heavenly realm.\(^6\) And what [he gave] to Peter, [he] also [gave] to Peter's successors as bishops of the City of Rome.

[27] Our adversaries claim that Gelasius, Cyprian, Nicolaus and Gregory\(^7\) appear to declare that neither should the emperor seize the powers of the papacy, nor should the pope usurp the name of emperor.\(^8\) To them we reply, with Innocent III,\(^9\) that the Roman Pontiff does not exercise secular jurisdiction nor give judgment in secular matters indiscriminately\(^10\) and without good cause, but only rarely and with cause.\(^11\) For whenever nobody else can or dares give judgment in a secular matter, whenever a secular matter is evidently conducted criminally and divine majesty is being offended, and no secular judges oppose it, and whenever justice is denied, then the Roman Pontiff is free to intervene, for his pontifical magisterium is concerned not only with the affairs of priests, but also with secular affairs. Thus, conflicts about the kingship in Hungary were often solved by the judgment of the Roman Pontiff. Thus, struggles in France were ended. Thus, a wastrel king in Portugal was given a coadjutor by the Roman Pontiff. Thus, conflicts were brought to an end in many regions which do not recognize a superior in secular matters. Thus, His Roman Highness has often given rights of legitimacy and secular dignity to laymen born in adultery. And thus, when the empire was vacant, did he sometimes act in the emperor’s stead.

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\(^1\) i.e. Christ
\(^2\) i.e. the one who molests a local Church
\(^3\) i.e. the one who molests the Roman Church
\(^4\) Decretum, D.22.1. (col. 73)
\(^5\) “jura”
\(^6\) Decretum, D.22.1. (col. 73)
\(^7\) See sect.18
\(^8\) Decretum, D.96.6 (col. 339)
\(^9\) Innocentius III [Lotario dei Conti di Segni] (ca. 1160-1216): Pope from 1198 to his death. Strong proponent of papal supremacy, also in temporal affairs
\(^10\) “passim”
\(^11\) Innocent III himself claimed only to exercise his supremacy vis-a-vis secular rulers in case of sin (causa peccati), see Sayers, pp. 167-168
[28] Quid nunc in casu nostro dicemus? Arripuerunt arma nonnulli ex Austria; ducatus regimen, quod imperator obtinuerat, invaserunt; judices\(^1\), quos ille constituerat, excluserunt; putaverunt\(^2\) se jure uti suo. Contra, Caesar offensum se dicit. Quis hic judex? Quis litis decisor erit? Non Bohemus aut Hungarus: nihil ad hos Austriae negotia pertinent\(^3\). Non Suevus, non Bavarus, non electores imperii\(^4\): nullus hic regum\(^5\) judicium hoc jure suscipiet, omnes imperatore minores sunt. Quis igitur in tali negotio, nisi Romanus praesul\(^6\) legitime judicabit\(^7\), qui communis est omnium pater, ecclesiae caput, magister fidei, dux veritatis, Christi vicarius, sacerdos in aeternum secundum ordinem Melchisedech, constitutus \{47v\} a Deo judex vivorum et mortuorum?

[29] Advertant igitur Austriales neque his credant, qui censuram ecclesiae parvipendunt, qui Romani pontificis auctoritatem extuuant, qui vicarium Christi contemnunt, nolentes intelligere, ut bene\(^8\) agant. Hos\(^9\), qui talia suadent, filios perditionis asserimus, diabolo, et angelis ejus, ac perpetuo Gehennaeancipio lucrifactos. Quibus dum ajunt: “Quid nobis\(^10\) et papae? Quid clero et populo?”, dicimus rursus ad eos: “Quid vobis et veritati? Quid vobis et evangelio? Quid vobis et Christo? Quid vobis et caelo?” Nec miseri lux tenebris potest, nec Belial Deo. Nec plura de primo membro, in quo satis expressum esse\(^11\) \(\text{esse expressum}\) D confidimus\(^12\) hoc Austriale judicium ad primae\(^13\) sedis examen pertinuisse, a cujus praeceptis nemini licet deviare.

\(^1\) officiales \(\text{V}\)
\(^2\) omit. \(\text{U1}\)
\(^3\) pervenit \(\text{V}\)
\(^4\) omit. \(\text{V}\)
\(^5\) regnum \(\text{V}\)
\(^6\) Quis Romanus pontifex \(\text{in marg.} \ D, G; \text{Pontificis auctoritas in marg.} \ U3\)
\(^7\) iudicabitur \(\text{V}\)
\(^8\) bena (sic!) \(\text{E; bona \ MU}\)
\(^9\) \(\text{em.} \ G; \text{nos A, B, C, D, E, F, U1, U2, U3, V, MU}\)
\(^10\) vobis \(\text{V}\)
\(^11\) omit. \(\text{G}\)
\(^12\) expressum esse : esse expressum \(\text{D}\)
\(^13\) confundimus \(\text{F}\)
\(^14\) ad primae : apprime \(\text{V}\)
[28] So, what shall we say about the present case?

[On the one hand,] some people from Austria took up weapons; they seized the government of the duchy that the emperor had obtained previously; they deposed the judges appointed by him, and they usurped his rights.

On the other hand, the emperor claims that his rights have been violated. Who will be the judge in this affair? Who will decide the case? It cannot be a Bohemian or a Hungarian, for the affairs of Austria do not concern them. Neither can it be a Swabian, nor a Bavarian, nor the prince electors of the empire, for none of these may legitimately pass judgment on kings, and they are all inferior to the emperor. So, who can legitimately judge this affair if not the Bishop of Rome who is the common father of all, the head of the Church, the teacher of faith, the leader in truth, the Vicar of Christ, a priest for ever according to the order of Melchisedech,¹ who has been made judge of the living and the dead by God himself.

[29] Let the Austrians be aware of this and not believe those who belittle the sanctions of the Church, who weaken the authority of the Roman Pontiff, who spurn the Vicar of Christ, and who do not wish to understand how to act rightly. We declare that those who argue thus are sons of perdition² and that their reward is eternal slavery to the Devil, to his angels and to Hell. To those who say: “What matters the pope to us? What matters the clergy to the people?” I reply: “What matters the truth to you? What matters the Gospel to you? What matters Christ to you? What matters Heaven to you?” Light cannot be mixed with darkness, or Belial with God.

Now, no more about the first part where, as we believe, we have sufficiently shown that the judgment in the Austrian matter legitimately pertains to the First See, whose precepts nobody may disobey.

¹ Psalms, 109, 4. The reference to Melchisedech had significant ideological overtones: Melchisedech was king and high priest, exercising both temporal and spiritual authority, just like the medieval popes claimed to do, see Sayers, pp. 14-15. Pope Innocent III often used this reference
² John, 17, 12

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1 Secundum membrum in marg. A, D, G
2 benefacere eum : eum benefacere G
2. Austrians have acted unjustly towards the emperor, and they have not acted in the best interest of King Ladislaus

[30] I now pass on to the discussion of the second part, which concerns the second objection of our adversaries.

2.0 Introduction

2.0.1. Position of the insurgents

This is what they say: “Even though the office of the Roman priest has broad powers, it may not give evil commands. According to the Apostle, the Church has received its power unto edification and not for destruction.¹ Nothing is more unjust than the monitorium of Nicolaus for it commands the Austrian nobles, fighting for their natural lord, to give up their just war. But the authority of Scripture admonishes us not to withhold him from doing good, who is able: if thou art able, do good thyself also.²

¹ 2. Corinthians, 10, 8. Arguments used by conciliarists to circumscribe the pope’s power
² Proverbs, 3, 27
2.0.2. Position of Piccolomini

[31] This I can refute in few words.

I do not deny that the Apostolic See should give just, and not evil commands. But, I declare that nothing evil has been commanded. When the adversaries claim that the cause of the Austrians was just, then I must hear not just one party, but both. The emperor denies the claims of the Austrians, and by virtue of this denial the matter becomes dubious. This is undeniably sufficient for the Roman Pontiff to initiate an investigation into the matter. Still, let us enter this sea and consider the cause of the Austrians: do they, as they claim, defend equity and decency? Here, we shall give an overview of how the matter developed, so that we may more easily examine its justness. So, listen benevolently as I give a brief summary of the facts of the case.
Undecim aut eo amplius annis imperator Fridericus tamquam pupilli tutor Ladislai regis Austriam gubernavit. Omnes sibi indigenae oboedientiam promiserant; nonnulli etiam juraverant, donec pubertatis annos Ladislaus impleret. Sic pacificus Austriae ducatum Fridericus administrabat. At cum anno proxime decurso animus ei esset Romam petere, imperiales ut infolas more majorum ex manu summi pontificis assumeret, deque salute communi Christianae religionis et infidelium oppugnatione cum Christi vicario tractaret, jamque gubernatores, qui se absente Austriam regerent, consentientibus indigenis ordinasset, seque itineri commisisset, nonnulli ex Austria, duce Ulrico Heizinger, non multi numero neque majores, trans Danubium convenientes immutare regimen Austriae statuerunt. Legatos ad Caesarem in Novam Civitatem miserunt, qui dicrent se, cum de privatis rebus acturi convenissent, etiam de suo domino Ladislao rege cogitasse, bonumque sibi visum fuisse, ut is ad dominia sua mitteretur et maxime ad oppidum Vienense, quodque circa gubernationem ejus id servaretur, quod in ultima voluntate pater Albertus statuisset, atque haec ex Caesare peterent.

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1 Incipit narratio in marg. A
2 plus V
3 Quando rexerit Austriaam Fridericus in marg. U3
4 et MU
5 tutaverant F
6 ei esset : esset ei D, G
7 omit. G
8 assumere F
9 salute communi : communi salute F
10 omit. U3
11 convenisset U1
12 omit. U3
13 sibi visum : jussion F
14 opus F
15 quoque B, E; in quo MU
2.0.3. Piccolomini’s version of the facts of the case

[32] For eleven years or more, Emperor Friedrich has governed Austria as guardian of the orphaned King Ladislaus. All the people\(^1\) had promised him obedience, and many had even sworn obedience until Ladislaus reached puberty. Thus, Friedrich has administered the Duchy of Austria peacefully. Last year, he decided to go to Rome in order to receive, after the manner of his forefathers, the imperial crown from the hands of the Supreme Pontiff and to consult with the Vicar of Christ on the common welfare of the Christian religion and on the fight against the infidels. With the consent of the people, he appointed governors to rule Austria in his absence and made ready to depart. Then some Austrians, not many and not among the greatest, at the instigation of Ulrich Eyczing,\(^2\) met across the Danube\(^3\) and decided to change the government of Austria. They sent representatives to the emperor in Wiener Neustadt to inform him that, having been gathered in order to deal with certain private matters, they had also taken thought of their lord, King Ladislaus: it seemed proper to them that Ladislaus should now be sent to his own dominions and especially to the city of Vienna, and that it was time to fulfil the last will of King Albrecht concerning the guardianship. So, these things they requested from the emperor.

\(^1\) “indigenae”

\(^2\) Eyczing, Ulrich (bef. 1398-1460): „Hubmeister“ of the Holy Roman Emperor (uncrowned), Albrecht II

\(^3\) 14 October 1451 in Mailberg, from where the name “Mailberger Bund”
[33] Quibus cum Caesar respondisset Romam se propediem petiturum, neque vacare sibi de illa re tunc agere, sed velle cum rediret conventum habere indigenarum ac principum, qui sibi et Ladislao sanguine proximarent, in negotio tutelae patruelis sui facturum, quod illi consulerent, mox furore incensi apud Viennam convenerunt, tractisque non aegre in suam sententiam civibus et aliis pluribus, Caesari in itinere versus urbem constituto, nolle se deinceps sibi ut tutori parere scripsersunt, ac paulo post oboedientiam eidem subtraxerunt, Hungaros ac Moravos in societatem vocaverunt. Magnum et clarum principem Ulricum, comitem Cilia, praecedentem, Ulricum Heizingerum, qui novitatis auctor fuerat, non infimum baronem, capitaneum creaverunt; magistratus, quos Caesar ordinaverat, ejecerunt novosque suffecerunt; vectigalia exegerunt; judicia exercuerunt; universum Austriae regimen in se receperunt; nobles, qui fidem servare et in oboedientia Caesaris perseverare voluerunt, viribus atque armis oppresserunt. Hoc est quod factum nos dicimus, et adversantes negare non possunt.
[33] The emperor replied that he was just about to set off for Rome and therefore did not have time to deal with this matter. But when he came back, he would meet with the people and the princes most closely related to himself and Ladislaus, and would follow their advice in the matter of the wardship of his cousin. They became furious and soon gathered in Vienna where it was easy for them to attract the citizens and many others to their cause. Then they wrote to the emperor, already on his way to Rome, that they would no longer obey him as guardian of their prince, and shortly afterwards they withdrew their obedience from him. They also invited the Hungarians and the Moravians to join an alliance. They appointed the great and noble prince Ulrich, Count of Cilli, as their leader, and the important baron Ulrich Eyczing, who had instigated the rebellion,¹ as their captain. They threw out the magistrates appointed by the emperor and replaced them with new ones. They collected taxes, administered justice, and took over the whole government of Austria. Those nobles who wanted to remain loyal and obedient to the emperor they attacked with forces and arms. This is what we say happened, and our adversaries cannot deny it.

¹ “novitas”
Sed licuisse hoc Austrialibus astraunt, idque ita deducunt. Ajunt Alberto mortuo, qui fuit Ladislai pater, compertum esse testamentum ejus, in quo puerum, qui post se posthumus nasceretur, in arce Possoni tenendum, virisque octo gubernandum mandavit, quorum duos Hungaros, duos Bohemos, duos Austriales, duos Moravos esse voluit. Hisque tum regnorum ac dominiorum tum pupilli curam commisit. Nato autem Ladislao atque in Alba Regali coronato, reginam Elisabeth, ejus matrem, in cujus testamentum ejus, in arce Possoni tenendum, viri etque octo gubernandum mandavit, quorum duos Hungaros, duos Bohemos, duos Austriales, duos Moravos esse voluit. Friderico, Romanorum regi, puerum transmisisse; Fridericum vero, illo suscepto, administrationem ducatus Austriæ tutorio nomine petivisse; consentisse barones et incolas Austriæ fidemque sibi tamquam tutori dedisse, contraque Fridericum litteras his tradidisse, quibus certo modo promiserit Austriam gubernare; id nisi servaret neque ratam esse promissam fidem, neque juramenta tenere. Fridericum etsi diu rexerit non tamen servasse, quae promiserat, alienasse bona ducatus, non usum esse consilio baronum Austriæ, pupillum non bene instruxisse, neque, ut par fuisse, regis filium gubernasse.

Convenisse ob eam rem plerosque Austriales, scripsisse majestati Caesareae, quia nollent ejus gubernationem diutius ferre; suum principem, suum dominum petivisse; velle se testamento parere, quod Albertus reliquisset; indignum esse coronatum regem tutoris arbitrio vivere; noluisse petitionibus auscultare Caesarem; compulsos, qui Ladislai rebus studebant, quod precibus assequi non valebant, armis exquirere. Quis Austrialium causam non probaverit? Quis eos non bene fecisse dixerit, qui non suo tantum, sed domini quoque sui jure sunt usi? Iniquum ergo monitorium papae, quod justos impedire homines nitebatur. Arbitror non esse paucos, qui rationibus hisce moveantur.
2.0.4. Insurgents’ version

[34] But they claim that the Austrians were free to do so, and here is how they reason: they say that when Albrecht, the father of Ladislaus, died, his testament was found in which he stipulated that if a son was born to him posthumously, the boy should be kept in the castle of Pressburg\(^1\) under the governorship of eight men, two from Hungary, two from Bohemia, two from Austria, and two from Moravia. To these men he entrusted the care both of his realms and dominions and of the orphan boy. But when Ladislaus was born and had been crowned in Székesfehérvár\(^2\), his mother, Queen Elizabeth,\(^3\) in whose care\(^4\) he was, sent the boy to Friedrich, Holy Roman King. Friedrich received the boy and requested the government of Austria in his capacity as guardian. The barons and the people of Austria agreed and made an oath to him as guardian, and on his part Friedrich gave them a letter in which he promised to govern Austria in a specified way. If he did not keep his promise, their oath was to be considered as null and void, and the sworn promises were not to be kept. Though Friedrich ruled for a long period, he had not kept his promises, [they claim], he had alienated properties of the duchy, he had not used the counsel of the Austrian barons, he had not educated the orphan properly, and he had not exercised his guardianship\(^5\) in a manner befitting a king’s son.

Therefore a number of Austrian had assembled and written to his Imperial Majesty that they would no longer accept his governorship, that they requested their prince and lord to be handed over to them, that they wanted to respect the testament which Albrecht had left, that it was unworthy for a crowned king to live at the discretion of a guardian, that the emperor had not wanted to hear their petitions, and that they - working in the interest of Ladislaus - were forced to obtain by arms what they could not gain by pleading.\(^6\) Who would not approve the cause of the Austrians? Who would not say that they had done well in maintaining not only their own rights, but also the rights of their lord?\(^7\) In consequence, the papal montorium was unjust\(^8\) since it aimed at preventing [the actions of] just men.

Many people, I think, would be moved by such reasoning.

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1 Possonium = Pressburg = Bratislava
2 Alba Regalis = Stuhlweissenberg = Székesfehérvár, city in central Hungary around 65 km southwest of Budapest. In the Middle Ages the city was a royal residence and one of the most important cities of Hungary. In the Székesfehérvár basilica, 37 kings were crowned, 15 rulers have been buried there, and there the diets were held and the crown jewels were kept
3 Elizabeth of Luxembourg (1409-1442): Daughter of Emperor Sigismund. Married to (elected) Holy Roman Emperor, Albrecht II. They had two daughters. When Albrecht died in 1439, Elizabeth was pregnant with a boy, the future Archduke of Austria and King of Hungary and Bohemia, Ladislaus
4 “potestate”
5 “gubernare”
6 An example of the classical rhetorical device of antithesis
7 An example of the classical rhetorical device of the rhetorical question
8 “malum”
At cum partis alterius in medium vox sonuerit, intelligent, qui ratione, non appetitu
ducuntur\(^1\), quibus nec amor nec odium dominatur, boni amantes et aequi, neque juste neque
utiliter ab Austrialibus esse processum. Quod ut palam fiat, articulatim respondere oportet.
Quattuor\(^2\) sunt, quae justitiam Austrialium videntur arguere: testamentum, pactum, utilitas
domini, dignitas regis.

\(^1\) dicuntur V
\(^2\) Quatuor fundamenta Austrialium *in marg.* A; Responsio ad obiecta Austrialium *in marg.* D, G
2.0.5. Structure of Piccolomini’s reply

[36] But when the voice of the other party has been heard, all those who are not led by feelings,¹ but by reason, who are not dominated by love or hate,² who love goodness and justice, will understand that the Austrians have proceeded neither justly nor sensibly³. To make this clear, I shall respond point-by-point.

The justice of the case of the Austrians appear to rest on four issues: the testament, the agreement, the advantage of their lord, and the dignity of the king.

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¹ “appetitus”
² Cf. Caesar’s exhortation to the Roman Senate: Conscript Fathers, all men who deliberate upon difficult questions ought to be free of hatred and friendship, anger and pity. Sallustius: Bellum Catilinae, 51.1
³ “utiliter”
De testamento \(^1\) rationemur \(^2\) primum. Magna vis testamenti est. Servanda \(^3\) est \(^4\) suprema patris voluntas. At quamvis testamenta principum\(^5\) liberiora quam privatorum sint nec juris sollemnia quaevis desiderent, sic tamen\(^6\) edi producique debent, ut fidem faciant\(^7\). Verum Alberti testamentum neque probatum est umquam neque productum. Incassum allegatur, quod non docetur. Quod si verum testamentum fuisset, non tamen Austriales ejus adminicul0 juvari possent, a cujus observantia sponte recesserunt. Muliebre vitium est nunc velle nunc nolle\(^8\), dictum indictum facere: viros omnis\(^9\) inconstantia dedecet. Multa insuper illis temporibus emersere, propter quae, etiam si validum testamentum fuisset, nec debuit nec potuit observari. Hungari sive jure sive injuria - non recipio hujus ad\(^10\) me facti judicium - ex Polonia novum sibi\(^11\) regem accersiverant atque in Hungariam deductum coronaverant. Arcem Possonii, ubi servari pupillus ex testamento debuit, adjutores novi regis occupaverant\(^12\). Qualis illic pupilli securitas\(^13\) fuisset, ubi hostes dominabantur? Quis pupilli personam \(^{49r}\) Hungaris committendam suasisset, quorum pars major adversanti regi studebat.

\(^{1}\) De testamento in marg. A
\(^{2}\) rationemur G
\(^{3}\) secunda F
\(^{4}\) omit. U1
\(^{5}\) principis MU
\(^{6}\) tam D, G
\(^{7}\) Qualia esse oporteat principum testamenta in marg. U3
\(^{8}\) nunc nolle omit. V
\(^{9}\) omnes V
\(^{10}\) a V
\(^{11}\) omit. G
\(^{12}\) occupaverant U3
\(^{13}\) pupilli securitas : securitas pupilli MU
2.1. Testament of King Albrecht II

[37] Let us first present our arguments concerning the testament.

Great is the power of a testament, and the last will of a father should be respected. But although testaments made by princes can be made more freely than those made by private persons and do not have to observe all usual the legal formalities, they must - in order to be credible - be received probate and produced. But the testament of Albrecht has never been received probate or produced.¹ Unproven claims are to no purpose.

But even if the testament should be genuine, the Austrians cannot base their case on it since they themselves have freely chosen to disregard it. It is a womanly fault to shilly-shally, and first to say one thing and then another. Inconstancy does not befit a man at all.

Moreover, many things happened at that time because of which the testament neither could nor ought to be respected even if it had been valid. The Hungarians summoned a new King from Poland,² brought him to Hungary, and crowned him (I do not presume to judge whether they did so rightly or not). The partisans of the new king held the castle of Pressburg where, according to the testament, the orphan boy was to be kept. How could the boy be safe where his enemies were masters? Who would have argued for entrusting the orphan to the Hungarians, when their majority preferred the rival king?

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¹ In his Europa, Piccolomini described Albrecht’s death and the ensuing events, confirming that Albrecht actually made and sealed a testament, cf. Piccolomini: Europa (Brown), p. 56-57: But on the journey, he grew sicker and sicker and, after sealing his will, he died at Neszmély on the 27th of October
² Władysław III (1424-1444): King of Poland from 1434, and King of Hungary from 1440, until his death at the Battle of Varna between the Hungarians and the Turks

Constatat insuper id testamentum quantum ad gubernationem Austriæ ducatus, de qua re quaestio nunc vertitur, adversus consuetudines priscas et jura patriæ factum, quæ pupillos principes sub tutela seniorum esse volunt. His Albertus neque uti dux Austriæ, neque uti rex Hungariae aut Bohemiae potuit derogare. At erat, dicet fortasse quispiam, Romanorum rex, licuitque sibi ex causa consuetudini ea vice detrahere. Id, si quis astruat, non papyreis cedulis aut testibus rusticis, sed authenticis litteris et sigillis probandum erit. Addamque postremo, quemadmodum ex causa fas fuit Alberto Austriæ jus evertere, sic et Friderico potestas fuit, suadente atque urgente ratione, testatoris voluntatem infringere, jam Romanorum regi declarato. Cum ergo testamenti probatio sit aneps atque incerta; cum Austriales ab eo recesserint; cum rebus mutatis nequiverit observari testamentum; cum Bohemi atque Hungari nihil in eo momenti posuerint; cum Austriæ consuetudinibus ac principum juribus esset adversum: nihil est, quod Austriæ testamenti nominatio suffragetur.

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1 vidisset F
2 mentionem corr. ex. intentionem A; intentionem D, F, G
3 voluntatis mentionem : mentionem voluntatis U3
4 qua U1
5 regni U1
6 hoc U1, U2, U3
7 Austriæ ducatus : ducatus Austrie U1, U2, U3, V
8 agitur U3
9 quaestio ... vertitur : nunc quaestio vertitur F; nunc vertitur questio MU
10 Consuetudines de tutela pupillorum principum in Austria Hungariaque in marg. U3
11 omit. MU
12 ait add. MU
13 ea vice omit. B, E, MU
14 consuetudini ea vice : ea vice consuetudini G
15 addam MU
16 omit. F
17 et U3
18 omit. V
19 posuerunt U1, U3
When the Bohemians heard about Albrecht’s will, they called it a delirium rather than a testament, for in it they heard that the Moravians whom they consider as their subjects were treated as their equals. Since the Hungarians had elected another king¹ and the Bohemians had denounced the dispositions of the testament and rejected it, only the Moravians and the Austrians could accept the testament. But who would entrust so great a king to the Moravians and Austrians alone? The boy would have been finished if he had not come into the hands of the emperor. But, as already mentioned, before the present conflict neither the Austrians nor the Moravians have shown any concern about the testament at all.

Moreover, in the matter of the government of the Duchy of Austria, that we shall speak about now, the testament clearly went against the old customs and laws of the country according to which orphan princes should be under the guardianship of the senior princes. Neither as Duke of Austria nor as King of Hungary and Bohemia, could Albrecht dispense from these rules. Possibly someone will say that in this case he could, as King of the Romans and with good cause, dispense from the customary rule. If anyone claims that this is what he actually did, they should prove it, and not by notes on paper or with peasant witnesses, but by authentic letters and seals. Finally, I add that if Albrecht² had the right, with good cause, to dispense from the law of Austria, then Friedrich – who had by then been declared King of the Romans – had the [same] power to annul the will of the testator, for good and urgent reasons.

[In conclusion:] the probation of the testament was doubtful and uncertain; the Austrians decided to disregard it; circumstances changed, and the testament could not be observed; the Bohemians and the Hungarians did not attach any importance to it at all; and it went against the customs of Austria and the laws of its princes. For all these reasons, the Austrian case cannot be supported by invoking the testament.

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¹ And thereby rejected the testament
² As King of the Romans and Emperor Elect

2.2. Pact between the Austrians and the emperor

[40] Having refuted this claim, we must now speak about the agreement. The Austrians say that the emperor had given them a letter confirming that if His Majesty did not govern Austria in the specified manner, the promises made by the Austrians would be null and void. Let us assume that this is correct, for I do not presume to determine the truth of the matter.\(^1\) But what then? I do not deny that a promise should be kept, for we should always sincerely endeavour to fulfill our promises, and the words of a prince should not be fickle. But if you add to the agreement: “If you do not go to Rome, having given ten,”\(^2\) then the emperor is not guilty of breaking his promise gave ten while at home.\(^3\) “But this is what we want,” they will say. “The emperor did not rule as he had promised. Therefore, we are no longer bound by our promises to him. Thus it is stipulated in the agreement, and princes, too, are bound by their agreements.” But even if what they say is a fact, why would the promises become void? “If we are not bound by the promise,” they will say, “then we are free and under no obligation to obey the emperor. Therefore, we have lawfully thrown off his yoke.” But what I claim is that even if the promises should have become void, the Austrians are still not free, for agreements, interpreted strictly, do not have any effect nor create any obligation beyond the matter in question.

[41] Let us now explain what actually happened. When the agreement in question was negotiated, Friedrich requested the administration of the Duchy of Austria that was his right as guardian. First the Austrians refused it, then the two parties came to an agreement, and in the end the government was transferred as requested. Let us, for the sake of argument, admit that the government did not, on all points, respect the terms of the agreement (though later we shall argue against this view). In that case, to what extent are the parties bound by the agreement? Does it then give the Austrians such freedom that they owe the emperor nothing? Absolutely not!

It may reasonably be held that since they are freed from their promises, they are not bound by the agreement: whatever was stipulated in the pact has been annulled. They made a promise: they are not obliged to keep that promise. They swore an oath: they are not bound by that oath. They made a pledge: the pledge has lapsed.

So, do they no longer have any obligations towards the emperor? Not so, I say.

\(^1\) “nam veri periculum mihi non arrogo.” Expression of Solinus: Veri periculum ad me non recipio
\(^2\) “decem dare”: meaning unclear
\(^3\) The meaning of this passage is unclear
Let us turn back to the original situation, and [let us assume that] the Austrians had promised Friedrich nothing. Still, he would not lose the government of the duchy because the promise was not kept, for other obligations remained by virtue of which he could retain the government of Austria until the orphan boy had reached puberty. There was civil law which entrusts the guardianship of orphans to their closest relatives. There was the customary law of the country which entrusts the care of an orphan prince to the senior prince of his house. There was the law of the Holy Empire, to which Friedrich had been elected afterwards, and by force of which none had a better right than he to rule Austria and have charge of Ladislaus. So, even if the Austrians cut one of their several ties of obligation to the emperor, they still had other ties to him because of which they ought not withdraw their obedience.

I have now, I believe, destroyed the basis of the Austrian arguments concerning the letter of agreement. The arrows of children are their wounds.¹

¹ Psalms 63, 8
Addemus tamen et alia contra pactiones\(^1\), neque locum his ullum relinquamus. Administrationem cum Fridericus Austriae suscepit, cum communitate regionis sive\(^2\) universitate contraxit, non\(^3\) cum duobus aut tribus: respublica\(^4\), res universitatis agebatur\(^5\), non paucorum. Si quid\(^6\) adversus contractum dicendum erat, universitatis aut majoris vel\(^7\) sanioris\(^8\) partis reclamatio fuit, non duorum aut trium sive minoris\(^9\) partis. At eo tempore, quo reclamatio coepta est, Ulricus Eyzinger\(^{10}\) et pauci cum eo fuerunt, qui trans Danubium convenere. Pars major et sanior\(^{11}\), cujus erat [50r] de republica consilium, cum Friderico sentiebat. Paucos, qui sequebantur Ulricum, universitatis abrumpere promissa non decuit. Nam si se liberos nullisque\(^{12}\) Caesari promissionibus obnoxios dicere voluerunt\(^{13}\), angariare ceteros, quibus servanda fides videbatur, et universam invadere rempublicam nemo sapiens paucorum ambitioni permiserit. Quod si major pars conquista fuisset, aut auscultasset ei Caesar, aut\(^{14}\) illi\(^{15}\) dixisset: "Si non teneris pacto, at\(^{16}\) jure patriae\(^{17}\), jure\(^{18}\) civili, jure imperii teneris." Quid plura?

\(^{1}\) Rationes contra pactiones in marg. D, G
\(^{2}\) suae E; suae et MU
\(^{3}\) nam MU
\(^{4}\) respublica : res peracta MU
\(^{5}\) agebatur F
\(^{6}\) si quid : sicut U1
\(^{7}\) vel G
\(^{8}\) senioris V
\(^{9}\) majoris G
\(^{10}\) Azingher in marg. A; Ulricus Eyzinger in marg. U3
\(^{11}\) sanior corr. ex senior V
\(^{12}\) nullis C; nullique F
\(^{13}\) voluerint MU
\(^{14}\) ut F
\(^{15}\) ille F
\(^{16}\) aut F, U1
\(^{17}\) jure patriae omit. U1
\(^{18}\) omit. V
[43] Let us add some other things concerning the agreement and leave no room for their arguments at all. When Friedrich took over the administration of Austria, he was dealing with the whole region, and not just with two or three people: the matter concerned the whole country and commonwealth, not a few individuals. If anything should be said against the treaty, the complaint would therefore have to be made either by the whole community or by a majority or by the sounder part,\textsuperscript{1} and not by two or three people or a minority. But when they began to make complaints, it was only Ulrich Eyczing and a few followers who gathered across the Danube. The major and sounder part, whose responsibility it was to provide for the whole state, sided with Friedrich. The few who followed Ulrich did not have the right to break the promises of the whole community. For even if they wanted to declare themselves free and under no obligation to the emperor, no wise person would allow the ambitious few to harass the others, who wanted to keep their promises, and take over the whole state. Had it been the majority complaining, the emperor would either have heard them or said to them: “Even if you are not bound by the agreement, you are still bound by the law of the land, by civil law and by the law of the empire.” What more needs to be said?

\textsuperscript{1} “sanior pars”
Aperiamus tandem quenam\textsuperscript{1} sint ea pacta, quibusve modis inita, quae superbos\textsuperscript{2} adversarios reddunt\textsuperscript{3}. Dicam brevissime. Principatus\textsuperscript{4} Austriae cum regimen imperator accepit, viros XII assumere promisit ex primoribus Austriae, quorum consilio ducatum regeret. Nisi hoc impleret, irritas esse promotiones Austrialem, quibus oboedientiam praestitissent, neque data\textsuperscript{5} illos fide aut juramentis teneri. Elegit illos Caesar XII viros, qui gubernatores dicti sunt. At hi, cum aliquandiu gubernassent, postea tamen suopte ingenio magistratu se abdicarunt\textsuperscript{6}. Tunc ex consensu indigenarum\textsuperscript{7} mutata est facies reipublicae: quattuor et viginti\textsuperscript{8} gubernatoribus constitutis, quorum consiliis Austria Caesar administraret. Sed neque pactiones ullae neque promissiones\textsuperscript{9} adhibitae\textsuperscript{10} sunt. Rursus et hi\textsuperscript{11} post tempus gubernationem resignantes vacuum reipublicam dimiserunt. Quod Fridericus\textsuperscript{12} animadvertens, sine quovis pacto, assentiente communitate\textsuperscript{13}, gubernationem solus iniit. Sic\textsuperscript{14} res acta est. Quis modo non intelligat veritatem? Ordinatur gubernatio reipublicae certo modo, pacta intercidunt, mutatur forma regiminis et\textsuperscript{15} semel et iterum, neque\textsuperscript{16} pacta repetuntur. Quis non putaverit ab illis esse recessum?

\begin{itemize}
  \item[1] quae jam U1
  \item[2] superos F
  \item[3] Pacta Caesari\textsuperscript{um} cum Austrialem in marg. D, G
  \item[4] Narratio tertia in marg. A
  \item[5] clara F
  \item[6] addicarunt E; abdicaverunt MU
  \item[7] provincialium U1, U2, U3; terrigenarum V
  \item[8] XXIIII viri in marg. A
  \item[9] neque promissiones : promissionesve G
  \item[10] habite U3
  \item[11] ii U1
  \item[12] omit. V
  \item[13] comunicare F
  \item[14] si U1
  \item[15] omit. F
  \item[16] nec U1
\end{itemize}
Let us now look at the agreement itself and how it was concluded, since that is what makes our adversaries so arrogant. I shall tell you briefly. When the Emperor took over the government of the Principality of Austria, he promised to appoint 12 men among the magnates of Austria by whose counsel he would rule the duchy. If he did not fulfill this condition, the promises of the Austrians, by which they had sworn obedience, would be void and they would not be bound their pledge or oaths. The Emperor then chose 12 men, who were called governors. But when they had governed for some time, they abdicated the magistracy at their own initiative. Then, with the agreement of the people, the form of the government of the country was changed: now 24 governors were appointed by whose counsel the Emperor would administer Austria. [At that time,) absolutely no mention of the agreement nor of the promises was made. After yet another period, these governors, too, resigned, leaving the country without a government. When Friedrich was informed of it, he began to govern alone, without any [formal] agreement, but with the assent of the people. This is how the matter developed. Now, who does not know that this is true? A specific form of government of the country was established; the agreement became obsolete: the form of government was changed not once, but twice, and at no point did anybody mention the agreement. Who would not consider it to have lapsed?
What happened then? For 11 years Friedrich has governed Austria alone, but not without the advice of the people. All have obeyed him, all have been loyal, nobody opposed it, nobody spoke against it, nobody brought up Albrecht’s testament, nobody claimed to be freed from their promises, nobody mentioned the letter of agreement. So why this upheaval, after such a long period? [A group of people] took up weapons against their lord, but though they considered themselves to be no longer bound by their promise, they were not the majority of the people. Neither were they free according to the custom of Austria, nor were they exempt from the civil laws, nor free of the yoke of the Empire. On the contrary, they owed respect to Friedrich as Duke of Austria, they owed him obedience as guardian of the orphan prince, and they owed him reverence and submission as emperor. These obligations cannot be shown to have been revoked by their letter or by the agreement.

Thus, we have demolished the two basic arguments of our adversaries, which they themselves considered to be the most important.
[46] Modo tertium evertamus\(^1\), in quo domini utilitatem adducunt, et Austriales arma sumentes domini causas adjuvisse contendunt\(^2\). Audite hic Hungari, obseco, atque Bohemi; non hic vobiscum\(^3\) discipitamus, neque de regnis\(^4\) vestris nulla vos judicantes corrumpet affectio. De domino facta est mentio. Dominum\(^5\) suum Ladislaum regem Austriales appellant: recte, pulchre, vere - nemo inficias itib. Verum ego duos esse temporales dominos Australiae assero, alterum imperatorem, alterum Ladislaum, atque hunc non tamquam regem, sed tamquam ducem. Legat historias\(^6\), qui mihi non credit. Nolo vetustiora referre: si quaeramus\(^7\), Ladislao quis Austrie principatum commiserit, ex successione dicit principem esse. Quod si progenitorum\(^8\) progenitoribus, unde sit haec potestas, investigemus, necessarium\(^9\) erit tandem ab imperio fateantur esse ducatum. Non est admodum vetus, quod referam. Tenerunt\(^10\) Caesares hujus provincie dominium\(^11\), et hanc terram ducatus titulo donaverunt. Imperante autem Friderico II.\(^12\), Albertus\(^13\) Austrie dux adversus Hungaros pugnans\(^14\) juxta fluvium Litham\(^15\) a suis occisus, cum non reliquisset haeredem, locum devolutioni ducatus\(^16\) fecit, quem Fridericus, quoad vixit, per vicarios administravit.
2.3. Interests of King Ladislaus

2.3.1. Austrians’ disobedience towards Ladislaus’ superior, the emperor, is not in the best interest of Ladislaus

[46] Let us now demolish their third argument, in which they advance the interests of their lord and claim that in taking up weapons the Austrians helped the case of their lord. Hungarians and Bohemians, I ask you to listen now: here we are not disputing with you, so please do not let passion taint your judgment concerning your own kingdoms.

As for the lord, the Austrians call King Ladislaus their lord, and they do so rightfully, nobly, and truly – that nobody will deny. However, I claim that the Austrians have two temporal lords, one being the emperor, and the other being Ladislaus, and Ladislaus not as a king, but as a duke. Read the chronicles if you do not believe me: I do not talk about ancient matters. If we ask how the Principality of Austria came to Ladislaus, [the chronicles] will tell you that he is prince by right of succession. If we examine from where the forefathers of the forefathers had their power, they must say that the duchy derives from the empire. What I report does not lie so far back. The emperors had the lordship of this region, and it was they who granted the country as a duchy. During the reign of Friedrich II, Duke Albrecht of Austria fought the Hungarians at the river Leitha and was killed by his own. As he had no heirs, the duchy devolved upon the empire, and Friedrich ruled it through vicars for the rest of his lifetime.

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1 I.e. secular as opposed to spiritual/religious
2 Historiae
3 Friedrich II (Hohenstaufen) (1194-1250): Holy Roman Emperor
4 Not an Albrecht, but Duke Friedrich II of Austria
5 Friedrich II of Babenberg (1211-1246): From 1230 Duke of Austria and Styria. Died in the Battle of Leitha, 1246, under uncertain circumstances. With him the Babenberg dynasty expired
6 Battle of Leitha, 1246
[47] Eo mortuo, variis casibus vexata provincia in potestatem Ottokari\(^1\) Bohemorum regis dilapsa est, ac demum virtute Rudolfi\(^2\), Romanorum principis, ad imperium reedit, qui et Viennam\(^3\) obsidione\(^4\) cinctam\(^5\) ad deditionem compulit, et Ottokaro magno proelio victo et provinciam et vitam ademit. Nec diu post in conventu principum apud Augustam Vindelicam\(^6\) Albertum\(^7\) filium\(^8\) huic regioni ducem\(^9\) praefecit. Ab illo continuata successio est usque in\(^10\) Ladislaum\(^11\) nostrum\(^12\). Albertus in feudum\(^13\) ex patre\(^14\) Romanorum rege suscepit Austria.

Ab imperioigitur Austriae principatus est. At princeps et dominus Austriae Ladislaus est, concedo, ea tamen\(^15\) lege, ut sibi et dominum et principem Fridericum noverit, et quam exigit a subditis oboedientiam, eamdem ipse praestet imperatori. Nam etsi utile in eum transfusum est, directum tamen Austriae dominium penes imperium haeret. Caveant igitur, qui se\(^16\) fautores Ladislai\(^17\) praedicant\(^18\), ne dum unisputantconsulere suo domino, cum duos habeant, aut alterumoffendant aut utrumque, quando et duci et imperatori subsunt.

\(^1\) Octokarus in marg. A; Otokarus Bohemorum rex in marg. U3
\(^2\) Rodulfus in marg. A; Rodulpus imperator in marg. D, G; Rudolfus in marg. U3
\(^3\) Viennam in marg. A
\(^4\) obsidionem F
\(^5\) cinctam U1
\(^6\) Augusta in marg. A; Augusta Vindelica in marg. U3
\(^7\) Albertus in marg. A
\(^8\) omit. V
\(^9\) omit. B, E, MU
\(^10\) ad MU
\(^11\) Ladislaus in marg. A
\(^12\) Unde ex quibus Ladislaus in marg. D, G
\(^13\) in feudum : inferendum U1
\(^14\) parte C
\(^15\) tandem F
\(^16\) qui se omit. E, MU
\(^17\) quid add. MU
\(^18\) praedicent MU
When Friedrich died, the province suffered a number of calamities and eventually fell into the hands of the Bohemian King Ottokar, but in the end it reverted to the empire, thanks to Rudolf, Prince of the Romans. For Rudolph laid siege to Vienna and forced it to surrender, and having conquered Ottokar in a great battle, he took both his country and his life. Not long afterwards, in an assembly of princes held in Augsburg, he made his son Albrecht duke of this region. From it came to our Ladislaus through unbroken succession. Albrecht received Austria from his father, the King of the Romans, as a feudal possession. Thus, Austria is a principality under the empire. Ladislaus is the Prince and Lord of Austria – that I acknowledge – but only on condition that he recognizes Friedrich as his own lord and prince, and that he yields the same obedience to the emperor which he demands from his own subjects. For though the lordship of Austria has properly been transferred to Ladislaus, Austria is still a lordship directly dependent on the empire. So, let all who declare themselves to be the partisans of Ladislaus beware not just to support one lord, when they actually have two, and not to offend one or both of them, since they are subject to both the duke and the emperor.

1 Ottokar II (c. 1233 – 1278): King of Bohemia from 1253 until his death
2 Rudolf I (1218 – 1291): Originally a Swabian count. King of the Romans from 1273 until his death. Raised the Habsburg dynasty to a leading position. The first Habsburg to acquire the duchies of Austria and Styria
3 At Vienna, 1276
4 Albrecht I of Habsburg (1255 – 1308): Duke of Austria and Styria from 1282 and King of Germany from 1298 until his assassination
5 i.e. succession by inheritance
6 "utile"
Quod si percunctetur\(^1\) aliquid utri parendum sit, si alter alteri adversetur, nemo, qui perturbato sensu non fuerit, duci primas dabit: recta ratio Caesarem praefert. Durior\(^2\) hic sermo fortasse videtur, at agnita ratione mitior\(^3\) fiet. Mandat Austriae dux omnes, \(51r\) qui ferre arma possunt, in bellum eant. Baro, qui feudum a duce recepit\(^4\), prohibet suos homines ne arma capessant. Quis non ducis mandata praetulerit? At quod duci baro, hoc imperatori dux erit. Indigne superiorem contemnit\(^5\), qui vult ab inferioribus honorari. Quod si quis hoc\(^6\) desitum et aliam inolevisse consuetudinem\(^7\) affirmaverit, respondebo cum Cypriano\(^8\), consuetudinem\(^9\) ratione carentem erroris esse, non juris vetustatem. Non prava\(^10\) consuetudo\(^11\), sed honesta consideratio ducere homines debeat. Indignum, absurdum, sceleratum est, quos tibi\(^12\) commendaverim populos, eos te mihi praeferre, tuique causa adversus me militare, quos meo nomine regis, ac si filius jubente paedagogi manus injiciat patri, aut episcopo mandante ferrum stringat in papam\(^14\) clericus\(^15\).

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\(^1\) percunctetur corr. ex. percunctetur A; percuntetur F; percutentur U1, U2; percontetur U3
\(^2\) dulcior F
\(^3\) minor B, E [NB: mitior MU]
\(^4\) accepit F
\(^5\) contemnnunt U1
\(^6\) omit. A-G, V, MU
\(^7\) De consuetudine in marg. A
\(^8\) Ciprianus in marg. A; Cyprianus in marg. D, G, U3
\(^9\) Consuetudo in marg. C
\(^10\) parva U
\(^11\) consuetudine F
\(^12\) omit. V
\(^13\) sibi B, E
\(^14\) in add. U1
\(^15\) clericus C
If somebody asks: “Who should be obeyed in the case of a conflict between them?”, nobody in his right mind would give priority to the duke: logic points to the emperor. This may seem a severe statement, but if the reason for it is understood, it becomes more acceptable. [Let us take an example:] the Duke of Austria commands all men able to bear weapons to go to war. A baron, who had received [his possessions as] a feud from the duke, forbids his men to do so. Who would not give greater weight to the command of the duke? But as the baron is to the duke, so is the duke to the emperor. It is unworthy to disobey the commands of one’s superior if one wants to be obeyed by his own inferiors. If someone argues that this rule has become obsolete and that another custom has grown up in its place, then I shall reply with Cyprian that a custom is erroneous if it is not based on good reason; it is not erroneous because it is based on an old law.¹ What men should follow is not a senseless custom, but honest reasoning. It would be unworthy, absurd, and criminal if those people whom I have entrusted to you should prefer you to me, and that those whom you rule in my name should fight against me. That would be like a son hitting his father at the command of his teacher, or like a cleric drawing his sword against the pope at the command of his bishop.

¹ Decretum, D.8.8 (col.15): consuetudo sine veritate vetustas erroris est. Cyprianus: Ep. ad Pompejum

1 Petrus in marg. A, G, U3; Petrus ... [illeg.] in marg. D
2 nostris inesse ... qui omit. U1
3 nostri F
4 arrogant B, E, V; arrogat MU
5 conjungitur U1
6 Paulus ad Romanos in marg. A; Paulus in marg. D, G; Paulus apostolus in marg. U3
7 omit. U1
8 omit. V
9 Augustinus in marg. A, D, G, U3
10 maiori V
11 obedientiam V
12 profertur F
13 Menalca D, G
[49] Maybe our words seem not to carry much weight, but then let those who distrust our words heed the Prince of the Apostles, saying: *Be ye subject to your lords: whether it be to the king as excelling, Or to governors as sent by him.*\(^1\) The obedience due to a king is different from the obedience due to a duke. Anyone who obeys his duke against his king is liable in terms of the apostolic precept, for he is guilty of obeying the duke as someone with a mandate against the king and not as someone with a mandate from the king. *There is no power but from God,* writes Paul to the Romans, *and those that are ordained of God.*\(^2\) But human powers must have order: *He that is high hath another higher,* says Ecclesiastes.\(^3\) In his books of *Confessions,* Augustine says that *the greater power must be obeyed rather than the smaller.*\(^4\) And rightly says the peasant, in Maro\(^5\): *You are the greater one, Menalcas: it is right for me to defer to you.*\(^6\) And finally, concerning this matter, *we may quote* these words of the Apostle: *He that resisteth the power resisteth the ordinance of God.*\(^7\)

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1. Peter 2, 13. The text of the Vulgate is different and has a different meaning: *Be ye subject therefore to every human creature for God's sake: whether it be to the king as excelling, Or to governors as sent by him (subiecti estate omni humanae creaturae propter Dominum sive regi quasi praecellenti sive ducibus tamquam ab eo missis)*

2. Romans, 13, 1

3. Ecclesiastes, 5, 7: *excelso alius excelsior est*


5. i.e. Virgil

6. Vergilius: *Eclogae,* 5.4

7. Romans, 13, 2
[50] Quaerit Augustinus, an procuratori¹ provinciae resistere fas sit, et asserit resistendum, si contra proconsulem jubeat, quia non potestas contemnitur, sed major ad oboediendum eligitur. Nec debet minor irasci, si major praelata est. Rursus si aliud proconsul, aliud jubeat imperator, praef erenda imperatoris mandata confirmat. Quod de proconsule, idem censere² de duce oportet. Quem si quis imperatori subditum nescit, jurisjurandi formam inspiciat, quod Romanorum regi sive Caesari universi principes imperii praestare jubentur. Qui se scit³ alii esse praepositum, non moleste ferat alium sibi esse praelatum. Sic societatis humanæ servatur foedera. Sic dulcedine pacis et civitates⁴ et provinciae regnaque potiuntur. Nolo⁵ id nunc introducere, quamvis est et ad propositum et notissimum: imperatorem posse ducatum sibi subjectum aut extinguere, aut in alterum⁶ transferre, aut apud se re tinere, si vel causa deposcit, vel culpa requirit. Id nobis probasse sufficit, quia dominus est Austrialium Fridericus {51v} imperator, quodque mandatum ejus praef erendum⁷ erat Ladislai ne dicam Ulrici, rerum⁸ novatoris, praecepto.

¹ procurati E
² consere E1
³ sit F
⁴ civitatis B, E
⁵ volo U1
⁶ alium F
⁷ referendum F
⁸ ejus ... rerum omit. E, MU
Augustine asks whether it is right to oppose the procurator of a province and concludes that he should be opposed if he commands anything against the proconsul, for that is not disregarding the lawful power, but obeying the highest-ranking superior. The one who is lower-ranking should not be angered if a higher-ranking is preferred. And if the proconsul commands one thing and the emperor another, the command of the emperor must take precedence. What Augustine says about the proconsul must also apply to a duke. If someone does not know that a duke is the subject of the emperor, he should look at the form of the oath that all the princes of the empire are required to swear to the king of the Romans or the emperor. Anyone who knows that he has been set above others should not be offended that another has been set above himself. This is the basis of a well-ordered society. Thus do cities, provinces, and kingdoms obtain sweet peace.

I shall not now bring into the discussion something that is, otherwise, both relevant and well-known, viz. that the emperor can suppress any duchy subject to him, or transfer it to somebody else, or keep it for himself, if either there is some good cause or in the case of some fault. Suffice it that I have shown that Emperor Friedrich is the overlord of the Austrians, and that his command should be given precedence over any given by Ladislaus, not to mention the rebel Ulrich.

1 Decretum, D.23.6. (col. 81), Letter of Pope Leo I to Anastas. Thessal. Quotation used in other letters and orations by Piccolomini
2 “Sic societatis humanae servantur foedera”
At hujus domini causam certum est Austriales nequaquam egisse. Cum dico Austriales, eos intelligo, qui Caesarem impugnaverunt, non eos, qui stabiles apud eum mansere, quamvis multi et nobiles et clari barones fuerint, digni laude et gloria nominis sempiterna. Verum ceteri Austriales, quorum facta, non personas improbo, ex duobus dominis, qui super eos et in eos imperium habent, alterm, et majorem, et cui obnoxiores erant, offenderunt subtrahentes obсидientiam sibi, cunctisque praescriptionibus ejus obaudientes, quodque nullus potest non impium sceleratumque dicere, bellum adversus eum gesserunt. Quod nec imperante Ladislao movere licebat, quanto minus illo tacente? Qui dum pupillus est, semper tacere censetur, nesciens quid sibi antiquius sit. Docendi pueri, non sequendi; corrigendi, non adulandi sunt.
[51] It is certain that the Austrians have not acted in the best interests of their lord. When I say “the Austrians”, I mean those who fought against the emperor, not those many noble and loyal barons, worthy of praise and the eternal glory of their name, who remained loyal to him. But the other Austrians, whose acts I condemn (but not their persons), have offended the greater one of the two lords having legitimate power over them and the one to whom they owe the greater loyalty, for they withdrew their obedience, ignored all his commands, and even made war against him – something that all must admit is impious and criminal. They had no right to do so even if Ladislaus himself ordered it, and how much less when he was silent? A child must always remain silent, since it does not know its own good. Boys should be instructed, not followed; they should corrected, not flattered.

¹ existimaverunt corr. ex estimaverunt C; estimaverunt U1, U2, U3
² haec U1, U2, U3
³ Que sit utilitas Ladislao parata in marg. A
⁴ neque F
⁵ omit. U1; quin add. in marg. U2
⁶ quin add. U1
⁷ ducta F
⁸ pignus V
⁹ videt MU
¹⁰ subiectis V
¹¹ bona neget : neget bona F
¹² deducta res : res deducta V
¹³ bona F
2.3.2. Austrian complaints about the emperor’s treatment of Ladislaus

[52] The Austrians will admit, I believe, that they did not at all defend the cause of Friedrich as their lord, whereas they certainly defended the interests of Ladislaus, their prince and lord, whom they considered to be preferred to the emperor. But this too may be questioned. Let us hear what advantage and benefit they claim to have sought and gained on behalf of Ladislaus: “Our lord,” they say, “languished in captivity at Friedrich’s court and was taught neither letters nor manners. He was given food and drink very sparingly. He had no opportunity to play. Though a tender child, he was brought to Rome at the risk of his life. His treasures and mobile property were plundered, and his castles and tax incomes were robbed. Neither Hungary nor Bohemia was being consulted. We liberated our lord, and now he can see to and manage his own affairs. Now he lacks for nothing. Now he has come to his fellow-men, he has come to light and glory. Already the Hungarians and the Bohemians come to him. Every day is a feast. He lives for himself and his subjects. All are happy. Who will deny that this is both good and advantageous? Thus, we have been working for the cause of our lord, for our own benefit, and for the benefit of our country. The matter has been conducted well, as is evident if nobody speaks up against it."

But as we examine all these claims, we must completely disagree. I shall now say what I think, and I believe that others, who are not led astray by personal feelings, will agree with me.
[53] De\textsuperscript{1,2} captivitate mirum est quod objicitur. Si non fuit illi quavis hora quocumque voluit ire libertas, non tamen captivus dici poterat. Puero non est omnis admittenda\textsuperscript{3} voluntas. Ex alieno arbitrio, non suo sensu ducere vitam pueros oportet.\textsuperscript{4} \textit{Qui parcit virgae, odit filium. Mollis illa\textsuperscript{5} educatio, quam indulgentiam \{52r\} vocant, nervos omnes\textsuperscript{6} mentis et corporis frangit. Dilectissimus apud Caesarem Ladislaus fuit et, ut filium regis decuit, gubernatus. Quod si non mille\textsuperscript{7} adolescentes aut mille\textsuperscript{8} pedissequas ministrantes habuit\textsuperscript{9}, regio tamen apparatu et cultu honesto servatus est, praeceptoribus commissus modestis et prudentibus, educatus pudice, litteras\textsuperscript{10} simul et mores edoctus. Quid contendimus? Optime nutritum puerum habitus ipse pueri faciesque confirmat\textsuperscript{11,12}, in cujus ore venustas, in gestu gravitas, in affatu modestia, et in omni\textsuperscript{13} actu, quantum fert puerilis aetas, discretio singularis elucet. Quibus\textsuperscript{14} nudus extaret, si minus probatos habuisset auctores\textsuperscript{15}.}

\textsuperscript{1} Responsio ad obiecta Austriatum \textit{in marg.} D, G
\textsuperscript{2} per U1
\textsuperscript{3} amittenda U1
\textsuperscript{4} De pueris educandis \textit{in marg.} U3
\textsuperscript{5} omit. B, E, MU
\textsuperscript{6} omnis U1
\textsuperscript{7} nulle V
\textsuperscript{8} nulle V
\textsuperscript{9} Educatio Ladislai regis \textit{in marg.} U3
\textsuperscript{10} omit. F
\textsuperscript{11} confirmant U1, U2, U3
\textsuperscript{12} Qualis rex Ladislaus \textit{in marg.} A
\textsuperscript{13} omne F
\textsuperscript{14} rebus \textit{add.} U1, U2, U3
\textsuperscript{15} auctores V
2.3.3. Piccolomini’s refutation

2.3.3.1. Ladislaus was not treated as a prisoner

[53] Their claims concerning captivity are astonishing. Ladislaus was not free to go wherever or whenever he wanted to, but he could not for that reason be called a prisoner. No child should be given complete freedom, nay, on the contrary, children must live according to another person’s judgment, and not as they themselves wish to. *He that spareth the rod, hateth his son.*¹ That soft upbringing which we call “indulgence” shatters every nerve of mind and body.² The emperor loved Ladislaus greatly and raised him as befits the son of a king. He may not have been surrounded by a thousand young boys or thousand waiting women, but he was raised in royal style and given proper care; he was entrusted to modest and competent preceptors; he was raised chastely, and he was taught both letters and manners. But why do we argue? The excellent upbringing of the boy is evident in his very appearance: in his face there is grace, in his carriage there is dignity, in his speech there is modesty, and in his whole behaviour he shows singular discernment (as far as possible for a child). These qualities he would not have developed with less experienced educators.

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¹ Proverbs, 13, 24
² Quintilianus: *Institutio oratoria*, 1.2.6. Also used by Piccolomini in his *De liberorum educatione* (Kallendorf, p. 139), written in 1450, and dedicated to King Ladislaus, then 10 years old
[54] Quod si neque cibo, neque potu tanto refertus est apud Caesarem, quanto nunc apud comitem repleri dictant, nemo id sapiens vitio dabit. Ventri namque, sicut magno Basilio visum est, non ad voluptatem, sed ad sustentationem porrigere conducit. Nam qui cenas semper atque coquos mente agitant epularumque gratia terras mariaque perscrutantur, miseribili admodum servitate premunt, et gravissimo domino tributa pendunt. Satis est puero sufficientiam ministrasse. Sufficientia vero non libidine voluptatum, sed naturae necessitate diffinienda est. Nimius autem vini usus ac cibariorum copia surgentem in pueris virtutem enecant. Neque jocus liberali et regio puero dignus est, quamvis scurrarum et saltaticum greges ad eum non sunt admissi, aetati namque id tenerae nocivum Caesar existimavit. Bene apud Satyrum quemdam scriptum est:

Nil dictu foedum visuque haec limina tangat intra quae puer est, procul hac, procul ite puellae lenonum et cantus pernoctantis parasiti.
Maxima debetur puero reverentia.
2.3.3.2. Ladislaus was given proper nourishment

[54] When Ladislaus was with the emperor, he was not stuffed with food and drink as much as he is said to be now that he lives with the count.¹ But no wise person would consider that to be a fault. For, as Basil the Great has said,² one must offer the belly sustenance, not pleasure. For those who are always worked up about dinners and cooks and who for the sake of a banquet scour every land and sea, are heavily burdened with miserable slavery and pay tribute to a most severe master.³ It is enough to have given the boy sufficient nourishment. And “sufficient” should not be defined by the joy of pleasure, but by the necessity of nature.⁴ Too much wine and food will kill the growing strength in boys.

Neither were games, as befitting a freeborn and royal child, denied him. He was not, however, allowed to attend performances by troupes of comedians and dancing girls, for the Emperor considered [entertainments of this kind] to be harmful to a boy of tender age. Well it is said by the Satirical Poet:⁵

Let no foul word or sight cross the threshold within which there is a boy.⁶
Away with you, ye bawd damsels!
Away with the songs of the night-revelling parasite!
You owe the greatest reverence to the young.⁷

¹ Ulrich von Cilli
² Basil of Caesarea (ca. 329-379): Greek bishop of Caesarea Mazaca in Cappadocia, Asia Minor (modern-day Turkey). Doctor of the Church. Saint
³ Basil of Caesarea: Ad adolescentes, 9, 1. Also used by Piccolomini in his De liberorum educatione (Kallendorf, p. 155), written in 1450, and dedicated to King Ladislaus, then 10 years old
⁴ Basil of Caesarea: Ad adolescentes, 9, 19
⁵ Juvenalis, Decimus Junius Juvenalis (active in the late 1st and early 2nd century AD). Roman poet. Juvenal was one of Piccolomini’s favourite classical authors
⁶ The text of Juvenal has “pater”, i.e. a father - not a boy!
⁷ Juvenalis: Satirae, 14.44-47: Nil dictu foedum visuque haec limina tangat, intra quae pater est, procul, a procul hac inde puellae lenonum et cantus pernoctantis parasiti. Maxima debetur puero reventia
2.3.3.3. The journey to Rome was not dangerous for Ladislaus but highly advantageous

[55] The Austrians also reproach the emperor that he forced a great, difficult, and dangerous journey on a tender and delicate boy. “He brought,” they say, “our hope, our peace, our quiet, our lord to Italy in wintertime.” Indeed, a beautiful accusation! When the rebellion broke out in Austria, Friedrich had not yet left Styria or decided to bring Ladislaus with him. How could those who barely know the present foresee what would happen in the future? At any rate, Ladislaus’ journey is above criticism. Winter time, which they criticize, is actually the most healthy for people going to Italy. There was absolutely no danger during the entire trip. Ladislaus will never regret this journey because he saw many things that will later be useful to himself and to his subjects. In antiquity, Ulysses was praised because he knew the ways of many men and cities. I believe that Ladislaus will be even more praiseworthy because although still a child he took part in great events and learnt dignified manners. The jar will long keep the fragrance of what it was once steeped in when new.

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1 An example of the rhetorical device of irony
2 It may be noted that in his oration “Quam laetus quamque secundus” [18], held on 9 March 1452 at the arrival of the imperial party in Rome, Piccolomini had said to the pope: Laboriosum periculosumque fuit hoc iter Caesari. (Caesar’s travel here has been difficult and risky) (Sect. 2)
3 Homer: Odyssey, 1.3-4
4 Horatius: Epistolae, 1.2.69-70
Nostri Austriales in plumis puerum, in deliciis, in voluptatibus existimant nutriendum. Credo alterum Sardanapallum voluissent alere, inter mulierculas qui pensa distrueret. At Caesar Hungaris atque Bohemis, fortibus ac pugnacibus viris, educare se regem norat, qui suum principem ad bella deducunt, ut Israel ad Samuelem ait, jurat: Rex erit super nos, et erimus nos quoque sicut omnes gentes, et judicabit rex noster, et egredietur ante nos, et pugnabit bella nostra pro nobis. Quorum ductor, nisi dura pati ab ineunte aetate didicerit, perseverare non poterit. Levissimum est, quod isti putant gravissimum. Spartiate suos pueros publice verberibus admotis ad patientiam exercebant. Vetustiores Itali, ut est apud Virgilium, natos ad flumina primum deducebant, saevoque gelu durabant et undis.

Et Achillem puerum venationibus exercitatum sub Chirone magistro, silvarumque ferocios bestias insecutum tradunt. Quid mirum si Romam petit Ladislaus, non extra mundum, sed centrum mundi? Nobilissimam orbis partem, Christianitatis caput, arcem imperii, terrarum decus, morum et virtutis domicilium vis est. Super qua re si non sunt Austriales Caesari grati, at ipse rex Ladislaus aliquando et Hungari ac Bohemi venturo tempus gratias agent.

1 existimant corr. ex estimant A, C; extimant U1, V; estimant U2, U3
2 Sardanapallus in marg. A, U3
3 Sardanapallus in marg. A, U3
4 voluisse U1
5 pensas F
6 distribuere(n)t: distribuerent corr. ex. distribuerunt C; distribuerunt B, E [distribueret MU]; distribueret corr. ex distribuerent D; distribuerat U1
7 se add. V
8 atque F, V
9 pugnantibus V
10 Israel Samuel in marg. A; Samuel in marg. U3
11 omit. B, C, E, F, MU
12 omit. U1, U2, U3, V
13 nos add. U1, U2, U3
14 egreditur F
15 Spartiate in marg. A; Mos educandorum puerorum apud Spartatas in marg. U3
16 Virgilius in marg. A, U3
17 nudis U1, V
18 Achilles in marg. A, U3
19 excitatum MU
20 Chiro in marg. U3
21 fortiores D, G
22 mundi F
23 orbis partem: partem orbis U1, U2
24 Italia in marg. A
25 et U3
26 virtutis domicilium: domicilium virtutis F
27 Laus urbis Romae in marg. U3
28 futuro G
Our Austrians believe that the boy should be raised in feathers, in amusements and in pleasures. I think that they must have wanted to create another Sardanapalus ¹ who distributed wool to little women. But the emperor knows that he is raising a king for the Hungarians and the Bohemians, strong and warlike men, who take their prince into battles, like the Israilians who said and swore to Samuel: *And we also will be like all nations: and our king shall judge us, and go out before us, and fight our battles for us.* ² Unless their leader has learnt to tolerate hardships from an early age, he will not be able to endure them. But what the Austrians consider to be hard is in actually easy. The Spartans whipped their boys publicly in order to train them to be hardy. And according to Virgil, the old Italians

\[
\text{brought their new-born sons to the rivers} \\
\text{and hardened them with the water's cruel cold.} ³
\]

And we are told that as a child Achilles was trained, under his teacher Chiros, by hunting and pursuing the savage beasts of the forests.

So why should anybody find it strange that Ladislaus went to Rome, a city which is not outside this world, but its center? He was brought to visit the noblest place in the world, the capital of Christianity, the fortress of the empire, the glory of all countries, and the home of morals and virtue. The Austrians may not be grateful to the emperor for this, but in time to come King Ladislaus himself and the Hungarians and the Bohemians will thank him.

¹ Sardanapalus: King of Assyria. In the account of Diodorus (II, 27), Sardanapalus is supposed to have lived in the 7th century BC, and he is portrayed as a decadent figure spending his life in self-indulgence.

² 1. Samuel, 8, 20

³ Vergilius: *Aeneis*, 9.603-604: *natos ad flumina primum deferimus saevoque gelu duramus et undis*
Quod autem expilatam Ladislai haereditatem murmurt adversantes, asportatos thesauros, dilapidatam, impignorata bona, quis non intelligit majestatis crimen incurrere, qui falsum Caesarem criminatur? Apertus est Alberti thesaurus et inventus integer. Nihil inde receptum est, nisi quod incolarum consensu sorori regis Ladislai in Saxoniam nuptae dono est datum. Nil ulterius alienatum, nihil distractum, neque impignoratum est quidquam, nisi necessitate urgente. Quis nescit Alberto vita plurimos, qui sub eo stipendia meruerunt, arma movisse pluraque postea insurrexisse adversus Austriam bella? Quid mirum, si pars pignori data est, ut totum servetur? Quis rem ullam gubernavit publicam, qui aliquando aut vendere aut hypothecare vectigalia non sit coactus? At Fridericus, etiam auri pondo LXX milia his dederit, qui sub Alberto militaverunt, etsi saepius exercitus pro pace ducatus habere coactus est magnosse sumptus facere, non ut avus Ladislai Albertus, Alberti pater, qui Wilhelmum, Leopoldum, Ernestum, imperatoris Friderici patrem, et Fridericum patruos sub tutela gubernans, magnam Stiriae, Carinthiae ac Carniolae partem comitibus Ciliae, et in Suevia quidquid pupillorum fuit diversis et alienis gentibus impignoravit. Sed paucissima et levia principatus bona inscripsit pignori neque aliis quam indigenis inscripsit, atque his potissime, qui contra Caesarem arma sumpserunt.
2.3.3.4. Ladislaus was not robbed of his inheritance

[57] Our adversaries murmur that Ladislaus’ heritage has been robbed, his treasures taken away, and his possessions mortgaged. Everybody understands that those who make such false accusations against the emperor commit a crime against majesty. The treasure of Albrecht has been opened and found to be complete. Afterwards nothing was taken from it, except for the dowry given, with the consent of the people, to King Ladislaus’ sister\(^1\) when she married into Sachsen. No more has been spent, nothing has been taken away, and nothing has been mortgaged except in case of urgent necessity. Who does not know that when Albrecht died, many people who were owed their pay from him, took to weapons and repeatedly made war against Austria? Why would it be strange if some possessions were mortgaged in order to save the whole?\(^2\) Who ever governed a state without being sometimes forced to sell or to pledge tax incomes? Friedrich gave 70,000 pounds of gold to those who had fought under Albrecht, and he often had to raise armies for the sake of peace in the duchy and to incur great expenses on this account. Still he did not do as Albrecht\(^3\), the grandfather of Ladislaus and the father of Albrecht, who as guardian of Friedrich’s own father, Ernest\(^4\), and his uncles, Wilhelm\(^5\) and Leopold\(^6\) and Friedrich\(^7\), mortgaged a large part of Styria, Carinthia, and Carniola to the counts of Cilli, and all the possessions of the orphan princes in Swabia to various and foreign people. The emperor has only mortgaged some few and insignificant possessions of the [Austrian] principality, and not to foreigners, only to Austrians, and particularly to those people who have now taken to arms against him.

\(^{1}\) Anna of Bohemia and Austria (1432-1462): Duchess of Luxembourg in her own right. In 1446, she married Wilhelm of Saxony

\(^{2}\) Koller, p. 63

\(^{3}\) Albrecht IV (Habsburg) (1349-1395): Duke of Austria

\(^{4}\) Ernest (1377-1424): Duke of Styria, Carinthia, and Carniola (collectively Inner Austria) from 1406 until his death

\(^{5}\) Wilhelm of Habsburg (ca. 1370-1406): Duke of Austria, ruler of Styria, Carinthia, and Carniola

\(^{6}\) Leopold IV of Habsburg (1371-1411): Duke of Further Austria

\(^{7}\) Friedrich IV (1382-1439): Duke of Austria, ruler of Further Austria and Tyrol
[58] Quod\(^1\) si justis de\(^2\) causis \(\{53r\}\) inscriptiones factae sunt, cur impugnant? Si perperam, cur\(^3\) receperunt? Sed – ajunt - Stiriensi cuidam magistro camerae non parvum oppidum pignori datum esse. Id scilicet dolent, quia non ipsi receperunt. Justum erat, honestum, sanctum pignus, si cui\(^4\) ex Austria fuisset inscriptum! Non damnun domino datum, sed sibi\(^5\) subtractum queruntur lucrum. Quod si Ladislaus, postquam adoleverit, rem suam diligenter examinaverit, nullum haereditatem suam magis\(^6\) expilasse comperiet quam plerosque ex his, qui modo suam ajunt se causam agitare.

[59] Sed jam de rebus Hungaricis ac\(^7\) Bohemicis\(^8\) aliquid inseramus, quas isti neglectas Caesari culpitant. Inhaerent moribus suis, jure an injuria clamitent\(^9\), nihil pensi habent. Quid aliud Hungarii petiverunt, quid\(^10\) Bohemi, nisi\(^11\) Ladislaum ad se mitti? “Non est missus; male cum regnis actum\(^12\) est.” At cujus consilio negata est missio nisi Austrialium? Quaecumque vel Hungarisi vel Bohemis responsa sunt data, ex Austrialium officina prodierunt. Quidquid in hac parte culpant Austriales, in sese vertant necessarium est. Verum si parvipendisset imperator res Hungaricas ac Bohemicas, parum hodie dominiorum\(^13\) hunc\(^14\) puerum respiceret. Neque pauci, neque impotentes fuerunt, qui\(^15\) regna haec magnoc studio multisque artibus invadere conabantur, quibus Caesar et apud magnates regnorum et apud sedem apostolicam semper opposuit obiices, et nisi solers Friderici cura intervenisset, Ladislaus ipse immaturo\(^16\) et acerbo funere raptus fuisset - tot erant, qui quaebant animam pueri. Summus namque locus nulla non arte petitus\(^17\) inventur.

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\(^1\) qui D, G
\(^2\) omit. F
\(^3\) si F
\(^4\) si cui : sicut F
\(^5\) ubi E
\(^6\) omit. U1
\(^7\) atque MU
\(^8\) Bohemis U1
\(^9\) calamitent U1; clament MU
\(^10\) quod F
\(^11\) regem \textit{add.} U1, U2, U3, V
\(^12\) actus F
\(^13\) dominorum U1
\(^14\) omit. MU
\(^15\) quia F
\(^16\) in maturo A, C, D
\(^17\) peritus V
If the emperor made these pledges legitimately, why do they criticize him? And if they were made illegitimately, why did they accept them? Some claim that a certain chamberlain from Styria was granted a big city in mortgage. What pains them is that they did not get it themselves. If only an Austrian had been given the mortgage, then it would have been legitimate, honest and decent! What they complain about is not the loss to their lord, but the profit they missed. But when Ladislaus grows older and examines his possessions carefully, he will see that many of those who now claim to act in his interest are the ones who most plundered his heritage.

2.3.3.5. Hungarians and Bohemians were not slighted

But let us now say something about their criticism that the Hungarian and Bohemian affairs have been neglected by the emperor. It is their custom to raise trouble, rightly or wrongly, but always thoughtlessly. For what the Hungarians and the Bohemians asked for was that Ladislaus should be sent to them. “He was not sent to them, therefore these kingdoms have been treated badly!” But it was precisely the Austrians themselves who counselled the emperor not to send Ladislaus to them. All the answers given to Hungarians and the Bohemians were crafted in the Austrian workshop. So, all the Austrian reproaches against the emperor in this matter fall back on themselves. And if the emperor had really neglected the affairs of Hungary and Bohemia, these dominions would today have very little concern about the boy. For many powerful men tried, with great energy and many intrigues, to usurp these realms, but the emperor has constantly opposed them in his dealings both with the magnates of the realms and the Apostolic See. And if Friedrich had not handled the matter aptly, Ladislaus would have died an early and bitter death: so many were there who wanted the boy’s life.¹ For the highest place is pursued by every kind of means.² ³

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¹ i.e. to kill him
² Juvenalis: Satirae, 10.110
³ Ladislaus actually died a few years later in Prague, at the age of 18. Many believed that he had been poisoned at the orders of then governor of the realm, Georg Podiebrad, who afterwards became king in his place.

---

\(^{1}\) omitted. U3

\(^{2}\) et B

\(^{3}\) cum sanguineus E

\(^{4}\) inferior F

\(^{5}\) successebit E

\(^{6}\) effuderint A, D, F, G

\(^{7}\) quod MU

\(^{8}\) quod MU

\(^{9}\) incommoditatibus G
2.3.3.6. Ladislaus has not gained greater freedom and honour

[60] Let us pursue this issue further. What is the advantage that the Austrians have gained for their king? “He has now come into freedom and honour”, they say. I really do not understand what they mean by freedom in this case. He is being ruled, he does not rule. He hears, he does not decide. He is being led, he does not lead. And that is good, for this is how things should be at his age. And that is exactly how it was at Friedrich’s court!

What about his honour? Before, Ladislaus was under the government of Friedrich, now he is under the rule of Count Ulrich of Cilli. The count is certainly a great prince, born of high blood, with great physical and mental strength, and a close relative of the boy. The arrangement is excellent, I do not deny it. However, Ulrich will not be angry with me if I prefer the emperor to him, and if I say that it is an even more excellent and honourable arrangement for an orphan king to be governed by of an emperor than by a count.

I shall leave aside how many of Ladislaus’ funds the Austrians have spent, how many of his possessions they have squandered, and how many losses and troubles they have caused with respect to his inheritance.
Ad eos festinat oratio, qui suam et patriae utilitatem in medium deducunt. Hic ego non negaverim alios Austriales ditiores effectos. Quis enim non sua magis quam communia quaerit? In omni populo et quocumque sub axe Catilinam reperies, Catonem atque Fabricium rara civitas dabit. Sed non habet veram utilitatem census per injuriam auctus. Nemo habet, inquit Augustinus, injustum lucrum sine justo damno. Ubi lucrum, ibi et damnum. Lucrum in arca, damnum in conscientia. Tulit vestem, et perdidit fidem, acquisivit pecuniam et perdidit justitiam. Hos ego ad conscientiam remitto,

*quos diri conscia facti mens habet attonitos et surdo verbere caedit.*

*Sapientes nihil utile dicunt, quod non sit idem honestum.* Nec plura de istis.
2.3.3.7. Austrian rebellion did not profit Austria

[61] My oration now hastens on towards those who bring up their own benefit and the benefit of their country. I do not deny that some Austrians have become richer, for everybody is more concerned about his own affairs than the affairs of the community. *In every people, everywhere, you will find a Catiline.*¹ ² It is a rare city that gives us a Cato³ and a Fabricius.⁴ But there is no true profit in wealth acquired unjustly. According to Augustine, *nobody gains an unjust profit without a just blame.* Where there is profit, there is guilt: profit in the chest, guilt in the breast. *He dressed well, but lost faith. He got money, but lost justice.*⁵ I leave that man to his own conscience

\[
\text{whose mind is ever kept in terror by the consciousness of an evil deed which lashes him with unheard blows.}⁶
\]

*The wise men say that nothing is advantageous that it is not also morally good.*⁷

But no more about this.

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¹ Catilina, Lucius Sergius: (108–62 BC): Roman Senator, best known for the second Catilinarian conspiracy, an attempt to overthrow the Roman Republic, and in particular the aristocratic Senate

² Juvenalis: *Satirae*, 14.41-42: *et Catilinam quocumque in populo videas, quocumque sub axe*

³ Cato, Marcus Porcius (Cato the Elder) (234-149 BC): Roman statesman and censor

⁴ Fabricius Luscinus Monocularis, Gajus: Roman consul (278 BC and censor (275 BC). Traditionally known for his austerity and incorruptibility

⁵ Augustinus: *Homiliae in festo ss. innocentium*, 3, 2

⁶ Juvenalis: *Satirae*, 13.193-194

⁷ Cf. Cicero: *De officiis*, 3.3.11
2.3.3.8. Austrian rebellion was shameful

[62] We must now carefully examine whether the rebellion of the Austrians has truly benefited their country, as our adversaries boast. Looking at the matter from all sides, I see no good results of the rebellion, only bad. Long did the emperor stay with the Austrians, in Vienna. Never did he take anybody's house, field, children, wife or money, though, according to Samuel, this was a royal prerogative in Israel.¹ He met with distinguished men, took counsel concerning the country, had compassion for the afflicted, abstained from cruel murder, was slow to anger, kept the peace, supported freedom, and favoured religion. They can accuse the emperor of nothing except, possibly, excessive mildness. For he was really more lenient than a king ought to be.² They never felt him as their lord, but always as their father. His kingly leniency made them wild. Under his rule, the wealth and delights of this city increased, and under his reign were the golden ages men tell of: in such perfect peace he ruled the nations.³ But envy is sick at another man's fortune.⁴ Though there was no reason for changing the government, the common vice of men enflamed⁵ the Austrians. Rulers cannot stay popular for a long time. An old government becomes hateful, and – as is the way of the populace: the man of the future is the favourite.⁶

¹ Kings, 8, 11-17
² On the need for strong princely rule, particularly in the case of Friedrich III, see Piccolomini's oration “Si putarem” [5], sect. 5
³ Vergilius: Aeneis, 8.324-325
⁴ Statius: Thebais, 1.126-127
⁵ “traxit”
⁶ Statius: Thebais, 1.170
At novitate facta bellum exortum est, bellum internum, bellum civile, crudele, horridum.

*Signa, pares aquilas, et pila minantia pilis*

*Fraternas acies, alternaque regna profanis
decertata odiois.*

Filium contra patrem, fratremque fratri insidiantem vidimus, rapinas, incendia, caedes et scelus omne permissum. Quae tanta ex bello potest utilitas emergere, ut non belli superetur incommodis?

*Squalent abductis arva colonis, et curvae rigidum falces vertuntur inensem.*

Violantur virgines, matresfamilias ad stuprum rapiuntur, incestantur moniales, caeduntur liberi in complexu parentum, neque profanis parcitur neque sacrīs. Stultum est, cum pace certa fruaris, bello et armis incertam quaerere. Extremum malorum et anceps remedium est bellum, nec viribus quamvis magnis confidere oportet. *Fortuna belli semper in lubrico loco* est et *dubio*, Martis incertae vices.

---

1 hac V
2 Bellum crudele in marg. A
3 Austrie mala in marg. D, G
4 *omit.* U1
5 tamen MU
6 bellis B, E
7 scalent U1
8 adductis U1, U2
9 in ensem : ensem F
10 imagines G
11 Quid bella pariant in marg. A; Belli incommoda in marg. U3
12 *omit.* G
13 in lubrico ... est : est in lubrico loco E, MU
14 *omit.* V
15 dubie U1, U2, U3, V
16 incerti U1, U2, U3, V
The rebellion led to war, a domestic war, a civil, cruel, and horrible war:

Standards confronted hostile standards,
eagles were matched against each other,
and pilum threatened pilum,\(^1\)

fraternal warfare, and alternate reigns fought for in unnatural hate.\(^2\)

We have seen a son plotting against his father, and a brother against his brother, and robberies, arson, murders: every crime was allowed. What advantage of war is so great that it is not surpassed by its disadvantages?

Our lands, robbed of the tillers, lie waste,
and curved pruning hooks are forged into straight blades.\(^3\)

Virgins are raped, mothers of families are carried off to debauchery, nuns are abused, children are killed in the embrace of their parents, and neither the holy nor secular things are spared.\(^4\)

When you have stable peace, it is really foolish to seek an uncertain peace with war and weapons. War is an extreme and doubtful remedy of evils, and even great strength should be distrusted. The fortune of war is slippery and doubtful, and the vicissitudes of Mars are unsure.\(^5\)

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\(^1\) Lucanus, 1.6-7: infestisque obvia signis signa, pares aquilas et pilam minantia pilis
\(^2\) Statius: Thebais, 1.2
\(^3\) Virgilius: Georgica, 1.507-508
\(^4\) This topos from the classical urbs capta descriptions Piccolomini would reuse – again and again – in his later crusading orations, when describing the Turkish conquest of Constantinople
\(^5\) Seneca: Phoenissae, 625-630: Nunc belli mala propone, dubias Martis incerti vices. Licet omne tectum Graeciae robur trahas, licet arma longe miles ac late explicet, fortuna belli semper ancipiti in loco est
[64] Nec propterea jactandum est, quod ex sententia cesserit. Namque si metiri consilia velint, non suam virtutem, sed Caesari mensuetudinem laudabunt. Sciebant et arma et homines et equos et pecuniam Caesari non deesse; multos et magnos Austriae barones sentire cum eo; Hungaros inutias secum habere; Bohemos praeter dominum de Rosis eam dissensionem detestatos esse; Caesariique benevolos principes et civitates imperii complures, si vocarentur, non deserere et dominum et consanguineum. Sed abhorruit Caesar domesticum bellum, noluit civilem fundere sanguinem, pepercit patruelis agris. Omnis in Austriae ruerat furor. Misertus est communis populi, noluit paucorum culpam in multorum redundare ruinam. Austriales igitur, quamvis magnum aliquid fecisse se dicant, non tamen prudentiae sua possunt ascribere, quod ex moderatione Caesari noscuntur accipere, qui cum posset injurias ulcisci, maluit oblivisci.

[65] Carthaginenses quidem duces suos, qui sine certa ratione pugnaverant, etiam victores, aut securi percutiebant, aut crucibus affigebant, quod vicissent diis immortalibus, quod pugnassent temeritati imputantes. Sed nihil ad nos haec. Mihi, etsi princeps egregius videtur, qui hostem conterit, non minus tamen laudandum apparat, qui vincere posse contentus, vindictam Deo dimittit. Nos horum idcirco meminimus, quia ex omni parte liquet non tantum injuste et inutiliter, sed imprudenter quoque Austriales, qui se magnopere jactitans, res innovasse.

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1 censent U1; cesserit U3; exisserit V
2 nec ... Austrialibus omit. F
3 Mansuetudo Caesaris in marg. A
4 et add. F
5 indutias secum: secum indutias MU; indutias secum corr. ex secum indutias D, G
6 indutias secum ... Bohemos omit. U1
7 impii F
8 desere U1
9 omit. V
10 adscribere MU
11 possit F
12 Carthaginienses MU
13 Carthaginenses in marg. A; Mos Carthaginiensium in marg. U3
14 affigebant aut affigebant A; affigebant B, C, E, U1; affigebant D, G
15 laudandum apparat ... contentus omit. U1
16 committit V
The Austrians should not boast of their success, for if they examined the matter carefully, they would not praise their own strength, but the emperor’s clemency. They knew that the emperor did not lack weapons, men, horses and money; that many and great barons of Austria supported him; that the Hungarians had an armistice with him; that, except the Lord of Rosenberg, the Bohemians disapproved of this conflict; and [finally], that many princes and imperial cities sided with the emperor and would not desert their lord and relative if called upon. But the emperor, abhorring civil war and not desiring to shed the blood of the people, spared the lands of his cousin. Total madness consumed Austria, but the emperor took pity on the common people, not wanting to turn the crime of a few into the ruin of many. So, although the Austrians are boasting of a great feat, they certainly cannot ascribe to their own clever designs what they should know they only got because of the emperor’s moderation: he could have avenged their crimes, but he preferred to forget them.

The Carthaginians either beheaded or crucified those of their generals who went into battle without the certainty of victory, even if they had been victorious, attributing their winning to the the immortal gods, and their fighting to their own temerity. But this is not our concern. Though I consider that it is a great prince who conquers his enemies, I think that the one who is content with being able to conquer and who leaves the vengeance to the Lord is just as praiseworthy. We are reminding you of this because it is quite clear that the Austrians, though they boast of it, rebelled not only unjustly, but also superfluously and imprudently.

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1 Ulrich II. of Rosenberg [Oldřich II. z Rožmberka] (1403-1462): Bohemian noble and politician, onetime governor of Bohemia
2 Valerius Maximus, 2.7.ext. 1: Leniter hoc patres conscripti, si Carthaginiensium senatus in militiae negotiis procurandis violentiam intueri velimus; a quo duces bella pravo consilio gerentes, etiam si prospera fortuna subsecuta esset, cruci tamen suffigebantur, quod bene gesserant deorum immortalium adiutorio, quod male commiserant ipsorum culpae imputante (This action of the Conscript Fathers was mild if we care to look at the violence of the Carthaginian senate in ordering military affairs. By its command generals who mismanaged campaigns were crucified even if fortune had turned in their favour. It attributed their success to the aid of the immortal gods, their mistakes to their own fault)
3 See Romans, 12, 19
[66] Nunc quantum dedecus quantamque\textsuperscript{1} ignominiam ab his Austria susceperit referemus, qui Caesari\textsuperscript{2} obumbrare gloriem ingenti, insolita et inaudita contumacia\textsuperscript{3} praesumpterunt. Idque palam fiet, si prius quantum splendoris et famae suo generi, suae familiae et Austriali terrae Fridericus attulerit, ante oculos omnium posuerimus. Quod neque longis neque taediosis, ut spero, verbis efficiam. Meo judicio neque parum honoris neque parvum\textsuperscript{4} nomen\textsuperscript{5} Austrialibus superioribus gestis suis Fridericus\textsuperscript{7} attribuit, qui duodeviginti natus annos\textsuperscript{8}, adeptus paternam\textsuperscript{9} haereditatem, nullius magisterio subjectus, non, ut assolet, imberbis juvenis, tandem custode relicito\textsuperscript{10} gaudere canibus et equis\textsuperscript{11} et aprici gramine campi, sed Jerusalem petere ac dominicam\textsuperscript{12} visere sepulturam\textsuperscript{13} et terram, ubi steterunt pedes ejus, qui nos a morte redemit, exosculari decrevit. Reversus in patriam subditorum paci consuluit, infantem pupillum, orphanum Ladislaum, Hungarico discrimini subripuit.

\textsuperscript{1} quantam U1, U2, U3
\textsuperscript{2} Caesari V
\textsuperscript{3} contumelia MU
\textsuperscript{4} parum A, B, D, E, F, MU; parvum C, G
\textsuperscript{5} honoris neque parvum omit. V
\textsuperscript{6} nominis MU
\textsuperscript{7} Brevis narratio gestorum Frederici in marg. A; Federici gesta in marg. D; Friderici gesta in marg. G; Annos duodeviginti natus patri successit Fridericus in marg. U3
\textsuperscript{8} Exoratio in marg. A
\textsuperscript{9} patriam MU
\textsuperscript{10} remoto MU [as in Horace]
\textsuperscript{11} et equis omit. B, E, MU
\textsuperscript{12} dominicum MU
\textsuperscript{13} sepulcrum MU
[66] Let us now talk about the great shame and ignominy that have befallen the Austrians who with immense, extraordinary and unheard of contumacy have dared to cast a shadow over the emperor’s glory. This will become quite evident if we start by describing how greatly Friedrich has contributed to the splendour and fame of his house, his family and the land of Austria. It will not be lengthy or tedious. I consider that by his past deeds Friedrich has given great honour and glory to the Austrians. When he reached the age of 18, he came into possession of his paternal inheritance. Though being no longer subject to any master, he did not - as usually happens – like a beardless youth freed at last from his tutor, find joy in horses and hounds and the grass of the sunny Campus,¹ ² but decided to go to Jerusalem to visit the tomb of Our Lord and kiss the earth trodden by the one who saved us from death. Returning to his country, he negotiated a peaceful settlement for his subjects, and saved the orphaned infant, Ladislaus, from danger in Hungary.

¹ i.e. Campus Martius
² Horatius: Ars poetica, 161-162: Imberbis juvenis, tandem custode remoto, gaudet equis canibusque et aprici gramine Campi
Communi voto in imperatorem electus, quamvis duo de Romano pontificatu contenderent, ab utroque (54v) tamen rex Romanorum appellatus est. Apparatu magnifico in superiorem atque inferiorem Alamanniam profectus, Francfordiae cum electoribus convenit. In Aquisgrano summo favore principum civitatumque applausu coronatus Basileam petiit, Burgundiam intravit, Sabaudiam invisit. Repetita domo Gunzenses, qui Austriam Styriamque vexabant bello delevit. Ad unionem inde conversus ecclesiae neutralitatem, qua natio Germanica non sine animarum periculo utebatur, alto consilio substulit, unde secutam unionem nullus ambigit. Nam qui apud Basilienses papatum arripuerat Amedeus, spem Germanicam ubi amisit, mox Nicolao papae quintus manus dedit, ex ejus arbitrio leges pacis amplexus.
He was then elected emperor, unanimously, and although at that time two men were contending for the papacy, they both named him King of the Romans. In magnificent state he went to Upper and Lower Germany and met with the [prince] electors in Frankfurt. In Aachen he was crowned with the full support of princes and cities alike. He then went to Basel, entered Burgundy, and visited Savoy. When he came home, he defeated the people of Günz who had been warring against Austria and Styria. Then, turning to the matter of the unity of Church, he very wisely ended the state of Neutrality of the German nation, so perilous to the souls [of its people]. This is undoubtedly what led to the reunion of the Church, for when Amadeus, who had usurped the papacy in Basel, lost hope of Germany, he soon reconciled himself with Nicolaus V and accepted the conditions of peace offered by him.

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1 2 February 1440
2 As King of Germany. 1442
3 “alto consilio”
4 i.e. German neutrality between the Roman pope, Nicolaus V, and the Council of Basel, with its antipope, Felix V
5 On the role of Piccolomini and particularly of his mentor, the imperial chancellor, Kasper Schlick, in this affair, see Piccolomini’s oration “Si Putarem” [5]
6 i.e. Felix V
7 Piccolomini himself was a member of the council and had been an official at the conciliar conclave which elected the antipope
8 i.e. of the Germans abandoning neutrality and joining his own cause
Later, though Italy was divided between two parties\(^1\) and torn asunder by its internal conflicts, the emperor proceeded in such a manner that none of the parties feared him, and he received great honours from both sides. Indeed, the Italians vied with each other in giving the most magnificent welcome to the new emperor. It is appropriate to dwell on this point so that not only the Austrians, but all Germans may appreciate the great titles that Friedrich acquired on behalf of his people and nation. In Italy all princes, cities and peoples received the emperor with incredible honour and love.\(^2\) Everything was done to embellish all gates, routes and places through which the emperor was to pass. Everywhere a multitude of fathers with their sons and all their family came to greet him. Everywhere masses were celebrated for his wellbeing. Banquet halls\(^3\) were erected on all squares, and people flocked to the temples and massed on the roofs in order to enjoy his much-awaited triumphal entry. Wealthy people competed in pleasing and praising their prince with magnificence and the less wealthy with enthusiasm.\(^4\) During this imperial progress and the coronation in Rome, none of the usual solemn rites was omitted, and many were even added that gave greater splendour to the event. The progress was peaceful and tranquil, and though many different peoples and nations were represented, nobody lost their lives through fights or disease. Everywhere expenses were covered by the local authorities - and generously so.

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\(^1\) Piccolomini probably refers to the Guelphs and the Ghibellines, and to the Milan/Naples alliance against Venice/Florence/the Papal States

\(^2\) Partly thanks to the ambassadorial efforts of Piccolomini himself who had prepared the emperor’s progress in Italy, obtaining safeconducts from the states through which he had to pass

\(^3\) “tricinia”

\(^4\) Cf. the description of Piccolomini’s own papal progress, travelling to and from the Congress in Mantua in 1459, CO, II, IV
Apud Ferrariam totius Lombardiae conventus Caesari cum muneribus occurrit. Princeps illius urbis in reditu dux Mutinae Regique\textsuperscript{1} creatus, quod bene factum, bene locatum omnis Italia dixit. Bononienses, qui neque se sibi credunt, Friderici fidem securi sunt\textsuperscript{2}. Florentia, quae ceteris imperatoribus portas clausit, huic omnia patefecit\textsuperscript{3}, ubi et legati\textsuperscript{4} apostolici, magni et excellentes viri, germanus\textsuperscript{5} papae, Bononiensis et Sancti Angeli cardinales\textsuperscript{6} obviam facti. Apud urbem Senam\textsuperscript{7} ex ultimis Hispaniarum finibus longa et periculosa navigatione adducta\textsuperscript{8} sponsa regia et pulcherrima virgo\textsuperscript{9}, Leonora\textsuperscript{10}, ex vetusta\textsuperscript{11} Portugalliae domo.

\textsuperscript{1} Regique U1
\textsuperscript{2} omit. U1, U2, U3, V
\textsuperscript{3} patefaciens V
\textsuperscript{4} et \textit{add.} V
\textsuperscript{5} Giermanus B
\textsuperscript{6} Cardinales in marg. A
\textsuperscript{7} Sena in marg. A
\textsuperscript{8} advecta MU
\textsuperscript{9} Conveniunt Sene Caesar et Leonora uxor in marg. U3
\textsuperscript{10} Leonora imperatrix in marg. A, U3
\textsuperscript{11} vesta G
In Ferrara, all of Lombardy met the Emperor, bringing gifts. On his way back [to Austria], the emperor made the prince of this city\(^1\) Duke of Modena and Reggio, to the universal applause of all Italy.\(^2\) The Bolognese, who do not even trust themselves, had faith in Friedrich. Florence formerly closed its gates to other emperors, but to him they laid everything open. Here, he was met by the apostolic legates, the Cardinal of Bologna, brother of the pope,\(^3\) and the Cardinal of Sant’Angelo,\(^4\) [two] great and excellent men. To Siena had been brought, after a long and perilous sea voyage from the farthest regions of Spain, the royal bride and beautiful maid, Leonora, of the ancient House of Portugal.\(^5\)

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\(^1\) Borso d’Este (1413 - 1471): illegitimate son of Niccolò III d’Este, Marchese of Ferrara, Duca di Modena e Reggio, to whom he succeeded in 1451. His mother was Stella of the Tolomei family which was related to the Piccolomini family.

\(^2\) Piccolomini himself was highly instrumental in this affair.

\(^3\) Calandrini, Filippo (1403-1476): Cardinal. Half-brother of Pope Nicolaus V. Created cardinal by him in 1448, from 1451 with the title church of San Lorenzo in Lucina. Friend of Piccolomini.

\(^4\) Carvajal, Juan (1399/1400-1469): Appointed Cardinal Deacon of Sant’Angelo in Pescheria by Pope Eugenius IV in 1446. Friend of Piccolomini.

\(^5\) Leonora of Portugal (1434-1467): Empress of the Holy Roman Empire. Portuguese infanta (princess), daughter of King Duarte of Portugal and his wife Leonora of Aragon. She was the consort of Holy Roman Emperor Friedrich III and mother of Emperor Maximilian I.

¹ Roma in marg. A; Ingressus Cesaris in urbem in marg. U3
² obmittam A, B, C, D, E, U2
³ urbem G; extra ordinem : ex ordine U1
⁴ omit. V
⁵ Corona Lombardie in marg. A
⁶ omit. U1
⁷ Nicolaus ... pontifex : pontifex ipse Nicolaus MU
⁸ suscepit MU
⁹ Ormamenta Caroli magni in marg. A; Coronatio Caesaris; Leonorae uxoris in marg. U3
¹⁰ omit. B, E, MU
¹¹ comitatus Caesaris : Caesar MU
¹² nobilissimus V
¹³ splendidissimus V
¹⁴ Ladislai V
¹⁵ patrueli U1
¹⁶ duci MU
¹⁷ ex add. V
¹⁸ assidentibus MU
[70] Outside Rome, at the first milestone, the emperor – as a very special gesture - was met by the College of Cardinals, not to mention a crowd of citizens, nobles, senators, princes and prelates. The next day he made a magnificent entry: the Supreme Pontiff, Nicolaus, awaited him at the Basilica of Saint Peter together with the cardinals and the clergy, and the emperor kissed [the pope’s] holy feet in honour of the Fisherman\(^1\) and in veneration of Christ Our Saviour. The Roman coronation was adjourned to the tenth day. The crown of Lombardy he received two days before, in the Chapel of the Prince of the Apostles – because of an outbreak of the plague in Milan.\(^2\) The High Priest\(^3\) personally blessed the marriage. The imperial coronation took place on the same day as the papal coronation of Nicolaus years before.\(^4\) The emperor and the empress were crowned together. Though the emperor possesses richer and more splendid ornaments, on that day he used the pallium, tunic, sword, apple and crown of Charlemagne,\(^5\) brought to Rome from the treasury in Nürnberg, as if the old ornaments had greater majesty than the new. The party of the emperor was most noble and impressive: on one side his cousin, King Ladislaus, and on the other his brother, Duke Albrecht\(^6\), assisted at the throne of the emperor. There were delegations from all of Italy. A great number of princes and grand nobles were knighthed on the Ponte Sant’Angelo. The festivities continued into the night.

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1. i.e. Saint Peter
2. An emperor was usually crowned with the Iron Crown of Lombardy – in Lombardy - before receiving the imperial crown in Rome. Not wishing to meet with the Duke of Milan, Francesco Sforza, who had usurped the Dukedom of Milan, formally a fief of the empire, Friedrich preferred to receive the crown of Lombardy in Rome – in spite of the protests of the Milanese ambassadors. The plague in Milan was flimsy pretext
3. i.e. the pope
4. In 1447
5. Charlemagne (742/747/748-814): also known as Charles the Great
6. Albrecht VI of Habsburg (1418-1463): Archduke of Inner Austria (i.e. the duchies of Styria, Carinthia and Carniola) from 1424 and of Austria from 1457 to his death
[71] After these festivities, they went to Naples to visit the empress’ uncle, King Alfonso of Aragon and Sicily, 1 ornament and splendour of our age, 2 who received them with indescribable honours: the splendour overcame the eyes, just as the greatness surpassed speech. What more can I say? On the way back [to Austria], the emperor entered Venice in triumph. No other emperor had been seen there before except as a fugitive, or when 3 Friedrich I 4 went to sue for peace from the Sienese 5 pope, Alexander 6 , after the capture of his son. But to our Friedrich and his wife the Venetians showed greater honour than they had shown to anybody else before.

Unless I am mistaken, all these events are immensely important, extraordinary and worthy of singular note and praise. They gave great honour and surpassing glory not only to Friedrich, his family, and the name of Austria, but also to Germany as a whole.

1 Alfonso V the Magnanimous (1396-1458): King of Aragon, Valencia, Majorca, Sardinia and Corsica, Sicily and Count of Barcelona from 1416, and King of Naples (as Alfonso I) from 1442 until his death
2 Vergilius: Eclogae, 4, 11: decus hoc ævī
3 1176/1177
4 Friedrich I Barbarossa (1122-1190): Holy Roman Emperor from 1155 until his death
5 Here speaks the Sienese author
6 Alexander III [Roland of Siena ] (ca. 1100/1105-1181): Pope from 1159 to his death - in competition with various antipopes supported by Emperor Friedrich I
Verum cum ceteri omnes honoraverint Fridericum, in propria venit, et sui eum non receperunt. Austriales enim Fridericum veluti triumphatorem ex Italia redeuntem, illustratorem Alamaniae, ornatorem Austriae, sui generis sublimatorem, maledictis ac malefactis exceperunt, omnemque suae terrae glorian extinguere sunt aggressi. Haeccein patriae utilitas, aut commoditas regionis, ubi gentis honor confunditur, ubi gloria communitatis retunditur? Neque utilitas honoris, neque honor utilitatis expers esse potest.


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1 Laus Frederici in marg. A
2 ac malefactis omit. U1
3 haec sive U1
4 gentis ... ubi omit. G
5 si add. G
6 fortis E
7 Quatuor imperatores ex Austrialibus in marg. D, G; Quatuor ex Austrialibus F
8 in add. E
9 hoc coronationis : coronationis hoc V
10 nos U1; omit. V
11 omit. V
12 et add. V
13 excitatis C; fuscatis V
14 me gentes : gentes me C
15 vos F
16 appellaret G
17 eruptabit C, G, U3; proferet MU
18 neque MU
19 commune U3
20 atque MU
[72] But when everybody else had honoured Friedrich, he came unto his own: and his own received him not.¹ Though Friedrich returned from Italy as a triumphator who had increased the glory of Germany, the honour of Austria and the nobility of his family, the Austrians received him with evil words and evil deeds, endeavouring to destroy all the glory of their country. But what benefit is there for a country and what advantage for a region where the honour of the people is besmirched, and the common glory pales? There can be no benefit without honour, and no honour without benefit.

[73] If Austria could speak,² she would call these men³ ungrateful sons and rebuke them thus: “Why, stupid men, do you persecute your prince, who has kept you in peace at home and in honour abroad? Before this time, four of my sons ruled the Roman Empire, Rudolf⁴, Albrecht⁵, Friedrich⁶ and the second Albrecht⁷. None of them was crowned in Rome, none of them went to Italy. Only this one has brought me and you the honour of an [imperial] coronation. But you seem to consider good deeds as bad, and you keep neither the peace nor the oath to your prince. The glory that has accrued to me, to your princes and to your sons, you throw away. My name that Friedrich had made illustrious in the whole world you have sullied. And you have caused a conflagration – both for me and yourself: I do not know when you will be able to extinguish it. If I had not given birth to you,⁸ all the peoples around us would have admired me and called me blessed, enjoying immense praise and a secure peace.”

Thus Austria would have rebuked her sons if she had been able to speak. But at some future time, Ladislaus will not be less outspoken, and neither will Albrecht⁹ nor Sigismund¹⁰, dukes of Austria, men of singular virtue, be silent, for they share both the honour and shame of Austria with Friedrich, as they also share both fame and infamy.

¹ John, 1, 11. In the gospel these words refer to Christ
² In a number of cases, Piccolomini uses the rhetorical ploy of letting some supreme authority speak on his behalf, like God (Si putarem), or the Church (Audivi), or Austria as here (the rhetorical device of personification, see Collected orations of Pope Pius II, sect. 7.9.1.
³ I.e. the Austrian insurgents
⁴ Rudolf I of Habsburg
⁵ Albrecht I of Habsburg
⁶ Friedrich I of Habsburg
⁷ Albert II of Habsburg
⁸ i.e. the insurgents
⁹ Duke Albrecht, the emperor’s brother
¹⁰ Sigismund of Habsburg (1427-1496): Archduke of Austria, and Duke of Tyrol from 1446 to 1490. Later excommunicated by Piccolomini (as Pope Pius II)

Et quamvis essent gentiles ab initio nascentis ecclesiae Caesares, tamen pro salute imperatorum sine intermissione preces ad Deum fundebant. Quod si mihi non creditur, veritatis astipulatorem Tertullianum adduco. Denique, inquit ille, sine monitore pro omnibus semper imperatoribus Deum precantes sumus. Vitam illis prolixam, imperium securum, domum tutam, exercitus fortes, senatum fidelem, populum probum orbem quietum. Et post addit: Est et alia major necessitas orandi nobis pro imperatoribus et omni statu imperii rebusque Romanis, qui vim maximam universo orbi et imminentem Romani imperii commeatu scimus retardari. Itaque nolumus experiri, et dum precamur differri, Romanae diuturnitatis favemus.
[74] But you who are here today, you princes of Germany, you noble lords, you illustrious race, you exalted people, you I challenge! What can you say, I ask? Do you really think that the Austrians should be praised for endeavoring to spurn and ruin your lord? When the Apostolic See bestowed the empire on you, it set your nation above all others. Beware, I beg you, not to lose this eminent position. You will easily keep the empire if you behave as you did when you acquired it,¹ but if you do the opposite, you lose it. It is your task to ensure that this great majesty is not slighted by your people. The Austrians are part of you. If they shame the emperor, the blame falls back on you. The empire cannot be slighted without dishonour to yourselves. When high authority² is scorned, it ceases to exist. In the short run, imperial rule cannot perish, since it has been sanctioned by the words of Christ, and because it is supported by the prayers of the whole Church: it can, however, be transferred to others.³ It is very much in your own interest to ensure that the imperial office, so highly revered by our forefathers, the holy Christians of old, does not founder before your eyes and while it is in your hands.

[75] Even when the emperors were pagan, in the early period when the Church was born, Christians prayed continuously for their prosperity. If you do not believe me, I call on Tertullian as witness of truth: Without ceasing, he said, for all our emperors we offer prayer. We pray for life prolonged; for security to the empire; for protection to the imperial house; for brave armies, a faithful senate, a virtuous people, the world at rest.⁴ Later he adds: There is also another and a greater necessity for our offering prayer on behalf of the emperors, nay, for the complete stability of the empire, and for Roman interests in general. For we know that a mighty shock impending over the whole Earth — in fact, the very end of all things threatening dreadful woes — is only retarded by the continued existence of the Roman empire. We have no desire, then, to be overtaken by these dire events; and in praying that their coming may be delayed, we are lending our aid to Rome's duration.”⁵

¹ Sallustius: Bellum Catilinae, 1.2.4
² “dignitas”
³ A veiled threat by Piccolomini, however completely unrealistic!
⁴ Tertullianus: Liber apologeticus, 30. Translation quoted after the Christian Classics Ethereal Library
⁵ Ibid., 32
[76] At\textsuperscript{1} Austriales, ut eo redeam ex quo\textsuperscript{2} sum digressus, spreto salvatore\textsuperscript{3}, qui \textit{reddi Caesari, qua Caesaris\textsuperscript{4} essent} praecipit; contempto Petro, qui \textit{regem honorari} mandavit, postergato Paulo, qui \textit{omnem animam sublimioribus esse subjectam potestatibus} voluit, refutato Augustino\textsuperscript{5}, qui \textit{"generale pactum societatis humanae dicit regibus obtemperare; abjectis legibus, quae mundi dominum\textsuperscript{6} imperatorem affirmat;} irrisis canonibus, qui Romanum Caesarem cunctis principibus ac regibus anteponunt, Fridericum imperatorem ex Austria natum spernere atque armis impetere praesumpserunt. Quibus rebus neque suis dominis, ut ostensum est, neque sibi neque patriae consuluerunt, sed contemptum, ignominiam, dedecus et infamiam perpetuam praesenti genti et omni posteritati quaesiverunt. Ac tantum de utilitate domini dictum existat.

\textsuperscript{1} \textit{omit. D, G}  
\textsuperscript{2} \textit{ex quo : unde} \textit{MU}  
\textsuperscript{3} \textit{Salvator, Petrus. Paulus in marg. A; Petrus apostolus. Paulus apostolus in marg. U3}  
\textsuperscript{4} \textit{Caesari F}  
\textsuperscript{5} \textit{Augustinus. Leges. Canones in marg. A; Divus Augustinus in marg. U3}  
\textsuperscript{6} \textit{mundi dominum : dominum mundi F}
But, returning to the point from where I digressed: by daring to scorn Emperor Friedrich, born of Austria, and attacking him with arms, the Austrians have spurned Our Saviour who gave us this command: Render therefore to Caesar the things that are Caesar’s;\(^1\) they have shown contempt of Peter who bade us honour the king;\(^2\) they have ignored Paul who wanted every soul to be subject to higher powers;\(^3\) they have rejected Augustine who said that there is a general pact of human society to obey its king;\(^4\) they have discarded the laws which say that the emperor is the lord of the world; and they have derided the canons which set the Roman Emperor above all princes and kings. In doing so, they have neither benefited their lords, as we have shown, nor themselves nor their country, but have earned contempt, disgrace, shame and perpetual infamy not only for the present generation, but also for posterity. I have now said enough concerning the interests of their lord.

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\(^1\) Marc, 12, 17
\(^2\) 1. Peter, 2, 17
\(^3\) Romans, 13, 1
\(^4\) Decretum, D.8.2 (col. 14). Augustine: Confessiones, 3, 8, 15: *generale quippe pactum est societatis humanae oboedire regibus suis*
[77] Quarto jam loco regis se dignitas\(^1\) offert, qua nostri adversantes contra Caesarem sese muniunt. “Principem nostrum,” inquiant\(^2\), “sub tutela contra jus gentium tenuit imperator, qui non solum dux Austriae, sed Hungariae quoque ac\(^3\) Bohemiae rex habetur. Maxima illum et potentissima haec regna respiciunt. Regem\(^4\), qui coronatus sit, neque sub tutoribus neque sub curatoribus esse decet. Ex Bononia, Padua ceterisque scholis Italiae\(^5\) assunt\(^6\) consilia: injustus Caesar, qui se regis coronati tutorem gessit; justi\(^7\) Austriales, qui tutelam injustam justo bello repulerunt.” At si militat haec ratio, Hungaris ac Bohemis, non Austrialibus victoriam parabit. Austriales sub duce sunt, illi sub rege, et\(^8\) quamvis eadem sit\(^9\) persona ducis et\(^10\) regis, Austriales\(^11\) tamen, nonnisi quia\(^12\) dux est, Ladislai jus respicit\(^13\). Nam etsi\(^14\) arma sumere adversus Polonos aut alios Hungariam\(^15\) vastantes juberentur, dicerent se minime obligatos: non esset igitur huic argumentationi respondendum, quae non juvat eos, contra quos agimus. Refellemus\(^16\) tamen et hanc sagittam, ne sibi blandiantur. Neque mihi Hungarorum nobilitas succensebit, quamvis ejus opinioni resistam. Nam etsi regno potenti\(^17\), et glorioso, et apostolicae sedis devoto et Christianae religionis adamanthino scuto favendum est, veritatem tamen praeferre\(^18\) oportet. Nihil hic\(^19\) de Bohemis dico, quia litis\(^20\) hujus minime consortes existunt.

\(^{1}\) dignitatis V
\(^{2}\) nostrum inquiant : inquiant nostrum G
\(^{3}\) hac V
\(^{4}\) De rege an debeat habere tutorem in marg. A
\(^{5}\) scholis Italiae : Italiae scholis G
\(^{6}\) adeunt MU
\(^{7}\) justitia U1
\(^{8}\) omit. V
\(^{9}\) eadem sit omit. F
\(^{10}\) ac G
\(^{11}\) Austrialis F
\(^{12}\) qua U1, U2, V; quia corr. ex qua U3
\(^{13}\) respiciunt MU
\(^{14}\) si G
\(^{15}\) Regnum Hungarie in marg. A; Laus regni Hungariae in marg. U3
\(^{16}\) revelemus U1; revelemus U2; revelemus corr. ex revelemus U3
\(^{17}\) patenti V
\(^{18}\) proferre F; praeferri G
\(^{19}\) omit. B, E, MU
\(^{20}\) ditis U1
2.4. Dignity of King Ladislaus

[77] Fourthly, there is the matter of the King’s dignity which our adversaries use as a weapon against the emperor. They say that “it was against the law of peoples for the emperor to keep our prince under guardianship, for the prince is not only Duke of Austria, but he is also King of Hungary and Bohemia. These great and powerful kingdoms are his. Someone who has been crowned as king should not be subject to guardians or supervisors. We have statements from Bologna, Padua and other Italian universities to the effect that it is unlawful for the emperor to act as guardian of a crowned king, and lawful for the Austrians to end the unlawful guardianship through a just war.” But if this argument is valid, then it favours the Hungarians and the Bohemians, not the Austrians. For the Austrians are subject to a duke, it is the others who are subject to a king. And though the duke and the king is the same person, it is only the rights of Ladislaus as duke that are relevant for the Austrians. If the Austrians were asked to take up arms against the Poles or other people laying waste to Hungary, they would say that they had no obligation to do that. It is not really necessary to reply to this argument since it does not support the claims of our opponents. But even so, let us also destroy this arrow so that they will not flatter themselves.¹

And the Hungarian nobles will not get angry at me though I argue against them, for even if they must be favoured as a powerful and glorious kingdom, devoted to the Apostolic See and an adamantine shield of the Christian religion², truth must be upheld. I say nothing about the Bohemians, as this conflict does not concern them at all.

¹ I.e. on their cleverness or the rightness of their cause
² I.e. against the Turks
Nescimus quae sint ex Italia consilia sive reponsa prudentum. Non parvipendimus viros doctos, neque scholarum gravibus judiciis derogamus. Viderint, qui recipiunt, et qui dant consilia, ne fallantur aut fallant. Nos Paulum apostolum, vas electionis, doctorem gentium, veritatis magistrum sequimur. Verba ejus haec sunt: 

\[ \text{Quanto tempore haeres parvulus est, nihil differt a servo, cum sit dominus universorum, sed sub tutoribus et actoribus est usque ad praefinitum tempus a patre. Quod de patre dicitur, hoc de lege seu consuetudine intelligitur, si testamentum desit. Non distinguuit apostolus inter regios et alios parvulos, nec nos quidem oportet distinguere. Inveniuntur et juniores nostri saeculi doctores, qui pupillis regibus ac principibus tutores asservunt datos: Bartholus Perusinus, Nicolaus Panormita, Johannes Imolensis et Antonius Butrianus. Et Bartholo quidem, quanto majoris est dignitatis pupillus princeps, tanto digniorem exigere tutorem videtur: neque ab re, nam quanto major est persona pupilli, dignior, excellendor, tanto habenda est diligentior cura. Utile pupillis est habere tutores. Tutori onus est tutela, ideo quibusdam personis excusatio permittitur. Pupilli, ne tutoribus subsint, nulla lege cavetur, sive duces fuerint sive coronati sive non.} \]
We do not know what counsels and responses the Austrians have received from experts in Italy. Certainly, we do not belittle learned men, nor do we disparage the weighty judgments of the universities. But let those who receive and those who give counsel take care not to be deceived or to deceive. We, on our part, follow the Apostle Paul, the vessel of election, the doctor of the peoples, the teacher of truth, who says: *As long as the heir is a child, he differeth nothing from a servant, though he be lord of all, But is under tutors and governors until the time appointed by the father.* What is said about the father also applies to law or custom, if there is no testament. The apostle does not distinguish between child kings and other children, so neither should we. In this age, too, there are doctors who state that orphan kings and princes should be given guardians, i.e. Bartolo of Perugia, Niccolò of Palermo, Giovanni of Imola and Antonio of Budrio. Bartolo even says that the higher the rank of the orphan prince, the higher should be the rank of the guardian. This is quite sensible, for the greater, the higher and the more excellent the person of the orphan, the greater should be the care taken of him. It is advantageous for orphans to have guardians, but guardianship is such a burden on the guardian that some people may be excused from it. No law sanctions that orphans, be they dukes or kings, crowned or uncrowned, should not be subject to a guardian.

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1 Acts, 9, 15  
2 Galatians, 4, 1-2  
3 Bartolo da Sassoferrato (1314-1357): Italian law professor. Taught at the University of Perugia  
4 Niccolò Tedeschi [Panormitano] (1386-1445): Italian law professor, archbishop, and cardinal appointed by the antipope Felix V  
5 Giovanni Nicoletti [da Imola] (d. 1436): Italian law professor  
6 Antonio da Budrio (1338-1408): Italian law professor
[79] Alexandro Macedone, qui non rex\textsuperscript{1} tantum Graecorum, sed orbis imperator fuit, ab hac luce rapto, qui sub eo duces fuere, curam successoris habentes, expectari partum Roxanis decreverunt, quae mense octavo jam exacto matura ex Alexandro erat, et si puer natus esset, hunc dari successorem patri. Tutores autem Leonatum, Perdicam, Cratheran\textsuperscript{3} et Antipatrem\textsuperscript{4} constituerunt. Lycurgus, Spartanarum lator legum, ex quibus Romanae\textsuperscript{5} magna ex parte manant, mortuo fratre suo\textsuperscript{6} Polibite\textsuperscript{7}, Spartanorum rege, Carilli nepotis tutelam suscepit, cui ad aetatem prorecto regnum summa fide restituit. Olympias\textsuperscript{8}, Pyrrhi Epirotae regis filia, amisco marito eodemque fratre Alexandro, tutelam filiorum ex eo susceptrum et regni\textsuperscript{9} curam in se recepit\textsuperscript{10}. Et ut ora omnium conticescant, Augustus Octavianus, ut est apud Suetionum, rectorem solitus erat apponere regum\textsuperscript{11} fillis aetate parvis aut mente captis, donec adolescere aut resipiscerent, ac plurimorum liberos et educavit simul cum suis et instituit.

\textsuperscript{1} omit. U1
\textsuperscript{2} non rex : rex non U3
\textsuperscript{3} Cratheram E; Cratherum U1, U2, U3, MU
\textsuperscript{4} Antipatrum U2, U3
\textsuperscript{5} Romanorum leges ex Lycurgi legibus in marg. D, G; Lycurgus in marg. U3
\textsuperscript{6} sub MU
\textsuperscript{7} Polibet. Carillus in marg. A; Polybetes. Carillus in marg. U3
\textsuperscript{8} Olympias. Pyrrhus in marg. A, U3; Olympias Pyrrhi in marg. D, G
\textsuperscript{9} et regni : regni et F
\textsuperscript{10} suscepit U1, U2, U3
\textsuperscript{11} Sub tutoribus fuere in marg. D
Alexander of Macedon was not only King of the Greeks, but also emperor of the world. When he was taken from this world, his generals, charged with his succession, decided to await Roxane’s delivery, as she was in the eighth month of her pregnancy by Alexander: if a boy was born, he would become the successor of his father. As guardians they appointed Leonatus, Perdiccas, Craterus and Antipater.

Lycurgus gave the laws of Sparta from which the Roman laws largely derive. When his brother Polydectes, King of Sparta, died, he became the guardian of his nephew Charilaus. When Charilaus came of age, Lycurgus, with complete loyalty, handed over the kingdom to him.

Olympias, daughter of King Pyrrhus of Epirus, became the guardian of his sons and took over the government after the death of her husband and brother, Alexander.

And so that all tongues may fall silent: according to Suetonius, Augustus Octavian regularly appointing a guardian for such as were too young to rule or whose minds were affected, until they grew up or recovered; and he brought up the children of many of them and educated them with his own.

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1 Alexander III of Macedon (356-323 BC), commonly known as Alexander the Great
2 Roxana (ca. 340 BC-310 BC): Sogdian princess of Bactria, who married Alexander in 327 BC, after his victory over the Persian King Darius III
3 Alexander IV (323-311 BC): Posthumous son of Alexander the Great. Murdered at the age of 12
4 Generals of Alexander the Great
5 Lycurgus: Legendary lawgiver of Sparta. If he was a historical person, he may have lived in the 8th century BC
6 Polydectes (8th c. BC): King of Sparta from ca. 830 to ca. 800 BC
7 Charilaus [Charillus] (8th c.): King of Sparta. He is generally shown as the successor of his grandfather Polydectes, though Pausanias implies that Charilaus’ father Eunomus preceded Charilaus. Supposedly pupil of Lycurgus
8 See Plutarch: Parallel Lives / Lycurgus, 2-3
9 Olympias (3rd c. BC): Daughter of Pyrrhus I, King of Epirus. She was the wife of her own paternal half-brother Alexander II. After his death she assumed the regency of the kingdom on behalf of their two sons. Thus, she was the guardian of her own sons who were also her nephews
11 Alexander II (3rd c. BC): King of Epirus from 272. Married to his half-sister Olympias
12 Suetonius Tranquillus, Gajus (ca. 69-after 1229: Roman historian
13 Augustus (Gajus Octavius) (63 BC-14 AD): Adoptive son of Julius Caesar. Founder of the Roman Empire, ruling from 27 BC until his death
14 Suetonius: Vitae Caesarum / Augustus, 48
Videmus et nostri temporis regios pupillos in tutela esse proximorum, sive Hispaniae, sive Galliae sive Britanniae mores advertimus. Comes Palatinus, dux Bavariae, princeps elector, dignitate ac potestate par regibus\(^1\), Hodie sub tutela est patrui. Sed admittunt\(^2\) hoc aliqui, si vel de regno tutores [57r] fuerint, vel in regno, nam pupillum extra regnum et ab his, qui non sint regnicolae, nullo pacto gubernari concedunt. Verum, qui sapiunt, omnia tempori, omnia rationi, omnia necessitati coaptant. Norunt omnes, quae fuerint\(^3\) hactenus in Hungaria ac\(^4\) Bohemia novitates\(^5\). Quis aut regnicolis aut in regnis curam pueri committendam suavit? Fuit Austrialium quidem semper adversa sententia. Sed neque juris id\(^6\) praecipit\(^7\) auctoritas, neque\(^8\) consuetudinis observantia tenet.

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\(^1\) legibus F  
\(^2\) amittunt B, F, U1  
\(^3\) querunt V; fuerint MU  
\(^4\) hac F  
\(^5\) novitas E  
\(^6\) juris id : id juris D, G  
\(^7\) precepit U1  
\(^8\) juris add. U2, U3
[80] Also in our own time, we see royal orphans under the guardianship of their relatives, whether we consider the customs of Spain, France or England.

The Count Palatine\(^1\), who is a duke of Bavaria and prince elector, equal to kings in dignity and power, is today under the guardianship of his uncle.\(^2\)

Some concede this on the condition that the guardians are from or in the kingdom itself, for they do not accept an orphan king to be governed from outside the kingdom or by people who are not subjects of the kingdom. However, the wise adapt all matters to the given situation,\(^3\) or to reason, or to necessity. Everybody knows about the turmoils reigning in Hungary and Bohemia until now.\(^4\) Who would have argued for entrusting the care of the boy to subjects of these kingdoms or for him to be kept there? The Austrians, certainly, were always against it, and neither the authority of the law nor the observance of customs would demand it.

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\(^1\) Philip (1448-1508): Elector Palatine of the Rhine, from the house of Wittelsbach, from 1476 to his death

\(^2\) Friedrich I (1425-1476): Count Palatine of the Rhine and Elector Palatine from the House of Wittelsbach from 1451 to his death

\(^3\) “tempus”

\(^4\) At the time of Ladislas’ birth
Pompeius\textsuperscript{1}, Romanus, Ptolomaei\textsuperscript{2}, regis Aegypti, et Scipio\textsuperscript{4}, quamvis Africanus cognomine, tamen Romanus origine\textsuperscript{5}, filiorum Massinissae\textsuperscript{6}, regis Numidiae, tutelam gessit. Et ne vetustioribus immoremur, Otto, marchio Brandeburgensis, Wenceslai, Ottokari regis Bohemiae, filii, cum esset annorum VII, favente Rudolfo, Romanorum rege, tutelam suscepit atque illum extra Bohemiam enutrivit. Quanto magis imperator\textsuperscript{7} patruelis tutor accipiendus est? Et quis est, qui turbato regno educari pupillos in alia regione prohibeat\textsuperscript{8}, quando vel parentes ipsos legimus impuberis filios extra regnum alendos\textsuperscript{9} misisse, ut tutius servarentur? Demetrius\textsuperscript{10}, rex Syrie, cum sibi novercantem fortunam intelleret, duos filios apud Gradium\textsuperscript{11}, hospitem suum Cretensem, cum magnno auri pondere commendavit, ut belli periculis eximereetur. Et Priamus\textsuperscript{12} Ilio obsesso Polydorum in Thraciam mandavit alendum.

\textsuperscript{1} Pompeius. Tholomei in marg. A; Gneus Pompeius. Ptolemeus in marg. U3
\textsuperscript{2} Tholomei A, U2; Ptholomei B, D, E, F, U1; Ptolemaei G; Ptolemei U3
\textsuperscript{3} omitt. U1
\textsuperscript{4} Scipio. Maxmissa in marg. A; Scipio in marg. U3
\textsuperscript{5} omitt. F
\textsuperscript{6} Massimissae A, B, E, U2, U3; Maximissae F; Masimisse U1
\textsuperscript{7} imperatorum E
\textsuperscript{8} prohibeat corr. ex prohibebat; prohibebat E
\textsuperscript{9} regnum alendos : alendos regnum V
\textsuperscript{10} Demetrius rex Syrie. Gradius in marg. A; Demetrius rex Syriae in marg. U3
\textsuperscript{11} Gradum D
\textsuperscript{12} Priamus. Polidorus in marg. A; Priamus, Polydorus in marg. U3
[81] Pompey, a Roman, had the guardianship of Ptolemy, a King of Egypt; and Scipio, of Roman origin though he was called Africanus, had the guardianship of the sons of Massinissa, King of Numidia.

And, so as not to dwell on the ancients alone: Otto, Margrave of Brandenburg, with the blessing of Rudolf, King of the Romans, accepted the guardianship of seven-year-old Wenceslaus, son of King Ottokoar of Bohemia, and brought him up outside Bohemia.

How much more acceptable isn’t the emperor as his cousin’s guardian? And who, seeing kingdoms in turmoil, would forbid that orphan [princes] be raised in another region, when we read that the parents themselves sent their underage sons to be raised outside their own kingdom so that they would be better protected? When King Demetrius of Syria saw his fortunes falter, he entrusted his two sons to his Cretan guest-friend, Gradius, with a great sum of money, in order to free them from the perils of war. And when Troy was beleaguered, Priam sent Polydorus to be raised in Thracia.
What the Austrians say about the crown is ridiculous and does not merit to be refuted. When Ladislaus received the crown, he was not only a child, he was a newborn baby, just baptized. The crown bestowed neither age, nor speech nor discernment on the orphan boy. What foolishness is this? What barbarity? What primitivity? Should the fact of being crowned exempt an orphan king from guardianship? Where do these new rules come from? Whoever shows such rigidity has fallen from the skies as a third Cato. Where does this wisdom come from? Once again a Prometheus has stolen fire from the bosom of Minerva. A new Solon has given new laws.

I would support the claim that a king should not be crowned as a minor, for rulers are called rulers because they actually rule. To call someone a king when he does not govern, but is being governed by others, is inappropriate. And it is madness to claim that a crowned infant does not need guardianship. It is of no importance that we read in the Books of Kings that this or that king began to reign when he was underage, for this does not mean they were not under guardianship. Their years are counted from the death of the father, and he is considered to reign in whose name things are done, though he does not rule in person, as king, but is himself being ruled. This is what happened in the case of Joas who took over the rulership when he was seven years old and who governed well. But he did not rule personally; it was his guardians and governors who ruled.

1 Juvenalis: Satirae, 2.40: tertius e caelo cecidit Cato
2 Prometheus: (Greek myth.) A Titan who sided with Zeus and the ascending Olympian gods in the vast cosmological struggle against Kronos and the other Titans. He later stole the fire from Olympus to help mankind
3 Minerva: (Roman myth.) Goddess of wisdom and sponsor of arts, trade and strategy. Later equated her with the Greek goddess Athena
4 Solon (638-558 BC): Athenian statesman, lawmaker, and poet
5 “reges”
6 Joas [Jehoash]: (fl. ca. 800 BC): (Bibl.) The eighth king of Judah

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1. *omit.* V
2. *Ysaia in marg. A; Esaias in marg. U3*
3. *dabat V*
4. *enim V*
5. *suorum bonorum: bonorum suorum G, U3*
6. *gubernatio F*
7. *factus B, E, MU*
8. *omit. MU*
9. *voluntatem ejus: ejus voluntatem D, G*
10. *omit. V*
11. *sint V; suum MU*
12. *omit. B, E, MU*
13. *conuicium U1; convincimini U2, U3, V*
14. *ferte ... vobiscum: gloriam vobiscum ferte MU*
15. *omit. U1*
Otherwise, we could say with the Scripture: *Woe to thee, O land, when thy king is a child.* ¹ And Isaiah² used this threat: *He will give children to be their prince.*³ When the laws forbid surrendering to children the management of their own property, only a fool would entrust the state to them. Maybe I am dwelling too much on something known to all, but how can one stay silent on this?⁴ When Ladislaus was with the emperor, he showed intelligence and wisdom, and he was considered able to govern kingdoms. Now that he is with the count,⁵ he can do nothing without the assent of the count and the magnates in his company.⁶ “He is a boy,” they say, “he does not know his own best interests. It is the same as with all other [children].” This is really bad! Everybody else grows older, but Ladislaus grows younger all the time. He grew up at the emperor’s court, but now, at the count’s, he is considered to be a baby! But he is both a king and crowned [you said]: then why do you give him supervisors? Your actions show that you are lying. “We do not give him supervisors, but tutors,” they say. So, now it is matter of words, not of facts! [By all means,] be victorious and take your vainglory with you. Enjoy the applause of the common people. We, on our part, will obtain judgment from serious men and from Great God: an orphan, be he ever so great a king, needs guardians.

¹ Ecclesiastes, 10, 16
² Isaiah: (Bibl.) Prophet who lived around the time of 8th-century BC in the Kingdom of Judah
³ Isaiah, 3, 4. NB: The Vulgate has “dabo” (I will give), not “dabit” (He will give)
⁴ I.e. in the face of the preposterous claims of the adversaries
⁵ Count Ulrich of Cilli
⁶ “voluntas”
[84] Atque sic quattuor causas, Austrialibus quae videbantur adversus Caesarem majestatem praebere colorem, et futilis et inanes ac \(^1\) derisione dignas esse liquet \(^2\), quando nec testamento juvare se possunt neque \(^3\) pactionibus \(^4\), neque verum est eos sui domini aut patriae utilitatem promovisse \(^5\), nec domini \(^6\) 7 dignitas adjumentum praestabat \(^8\), ut pupilli regis tutelam evertere possent\(^9\). Iniquam\(^10\) causam igitur\(^11\) promovebant. Iniqui erant, injusti, indigni favore, digni odio. Bene igitur, qui male agunt, summi sacerdotis baculo cohibentur.
Thus, the four claims that seemed to substantiate the Austrian complaints against His Imperial Majesty are manifestly void, ridiculous and without any merit: they can neither be based on the testament nor on the agreement. Moreover, it is not true that they have acted for the good of their lord and their country. And, finally, the dignity of the lord does not justify overturning the guardianship. Thus, they have championed an evil cause, and they themselves were evil, unjust, unworthy of favour\(^1\), but worthy of contempt. And thus it is right that these evildoers are restrained by the staff of the High Priest.\(^2\)

\(^1\) “optimus”
\(^2\) I.e. by the papal monitorium against the Austrian insurgents against the emperor

¹ Quatuor sunt Austriae principes in marg. A
² sunt U1
³ situs U1
⁴ quis nescit ... mandatum omit. F
⁵ Augustinus in marg. A, D, G; Divus Augustinus in marg. U3
⁶ injussu principis omit. D, G
⁷ inchoato A; inchoato corr. ex inchoato C; inchoata B, D, E, F, G, MU; incohata U3
But even if the emperor had been completely unjust towards the Austrians, as our adversaries are babbling, they could not legitimately go to war. They went to war without cognizance, without authority, without a prince. Who declared the war? Who lent his authority? There are four princes of Austria. One they fought against. None of the other three issued a decree in support of it. This affair is a bad example, full of danger and leading to unrest. The people took up arms against their lord, the people resisted their prince. But if is permissible to act through rebellion, what prince will be safe? What state can subsist? Who does not know that a war is unjust if it has not been sanctioned by princely authority? There is a well-known statement of Augustine against the Manicheans: The natural order which seeks the peace of mankind, ordains that the monarch should have the power of undertaking war if he thinks it. So, those who take arms without a mandate from their superior and without a command from their prince do not merit the rewards of war, but the punishment of robbers and murderers. And let nobody bring forward Ulrich or any other leader of a faction as acting in the name of a prince having the authority to declare war. For, as Leo writes: For even if it does not offend in terms of morals and behaviour, a princely power that has been taken over by rebellion, as in the present case, or because of ambition, is a bad example because of its beginning, and rarely do things end well that begin badly.

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1 Emperor Friedrich III, King Ladislaus, Duke Albrecht VI of Austria, and Duke Sigismund of Tirol
2 Augustinus: Contra Faustum, 22, 75. Translation quoted after the Christian Classics Ethereal Library
3 Ulrich Eyczing
4 Decretum, C.1.1.25 (col. 369). Leo ad Mauros episcopos

1 omit. V
2 igitur add. F
3 omit. G
4 Austriae principes : principes Austriae G
5 omit. F
6 appone G
7 et quae : quae et F
8 consulere F
9 coram papa Caesar : Caesar coram papa G
10 principibus add. F
11 suasionibus F
12 fecissent D
13 non MU
14 quod MU
15 justam F
16 dictum MU
[86] If the Austrians reply that “we were oppressed unjustly. Our prince was a boy held in captivity. The other Austrian princes would not help us. Could we not then vindicate the rights of our lord by arms since we could not secure them by words? Should a state perish because its prince is absent or neglectful?” Their own words speak against them. The other princes would not help them because they saw that their cause was unjust. And why could the Austrians not, before taking arms, submit their complaint to the Supreme Pontiff and ask for justice, or why did they not ask the other German princes to hear their just cause and give sound advice to the emperor? The emperor would either have accepted a judicial procedure before the pope, or he would have listened to the arguments of the other princes. Had he done none of these, he would have given the Austrians a [legitimate] excuse before God and men. But these people did not fear betraying their lords: without loyalty, without piety, without shame, without respect for the law¹ they took up arms, not on the authority of [a legitimate superior], but on their own reckless initiative, and they forcibly removed their prince² from his own prince’s guardianship.³

I believe I have now sufficiently demonstrated that the Austrians have neither justly refuted nor properly rejected the admonition sent to them by the Roman Pontiff, because they opposed those who were acting well.

¹ An example of the classical rhetorical device of *accumulatio*
² I.e. Ladislaus
³ I.e. the emperor

3. Papal monitorium is lawful

[87] Like a ship that is brought away from ragged cliffs and a stormy sea, my oration will now tranquilly and safely move towards its third part. If I remember correctly and have heard it rightly, our adversaries accuse the pope of having issued a strict, hard and severe monitorium against them without having heard or summoned them. Oh, what iniquity, what insolence, what arrogance! Inferiors despoiled their superior, subjects their prince, servants their lord, sons their father. Without hearing, without summons, without judge, without legal procedure, without judicial investigation, without reason, without cause and without restraint they invaded the principality with weapons in hand, conquered fortresses, collected taxes, appointed magistrates, judged capital cases, occupied the court, repelled the ordinary judges. And still they dare to say: “We have not been heard.” Where is the law of Christ, the law of the gospel that says: What you would not that men should do to you, do not do to them. If they have ears, this is what the master commands. In Luke, the Lords say: For with the same measure that you shall mete withal, it shall be measured to you again. Did they reject their prince without a hearing? Then they shall themselves be condemned without a hearing. Did they sin without reason? Then they shall be punished with reason. They who judge their innocent prince shall suffer they pope’s sentence. The disciple is not above his master. Let them forgive: and they shall be forgiven. Let them not condemn, and they shall not be condemned. They shall be judged with the same judgement with which they judge others. And they shall not impose upon others a law that they do not observe themselves. No one who breaks the law is worthy of being helped by it. So, let them stop saying: “We have not been heard.” For it is quite just that those who do not give a hearing should not have one themselves.

[88] But actually we do not admit their claims of having been denied a hearing. For they sent many envoys to Rome who related all their reasons for moving against the emperor, explained the abovementioned issues, and said many other things to the Supreme Pontiff. But the pope judged that their motives, as explained, were not sufficient and that the Austrians had acted without reasonable cause. Had he seen that they acted with good reason, he would not only not have restrained their endeavours, he would even have assisted them. For nothing unjust comes from that see.

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1 An example of the classical rhetorical device of exclamatio
2 An example of the classical rhetorical device of accumulatio
3 Matthew, 7, 12; Luke, 6, 31
4 Luke, 6, 38
5 Luke, 6, 40
6 Luke, 6, 37
7 Luke, 6, 37
8 Legal axiom, also used in the oration “Si putarem”
9 “leviter”
[89] Sciunt\(^1\) insuper Austriales oratores suos Romam misisse\(^2\) atque auditos in consistorio\(^3\) dixisse universa, quae voluerunt. Sed ajunt exivisse monitornium de curia priusquam oratores applicuissent. Fatemur, non decet negare, quod verum est. Nondum tamen insinuatum fuerat neque publicatum. Austriibus nihil nocebat, quod in occulto latebat. Quod si oratores sufficientes adduxissent causas ac probabilis factum Austriale\(^4\) ostendissent, non sivisset\(^5\) Romanus pontifex executioni monitornium demandari, revocasset, extinxisset aut, quod moris esse consuevit, in\(^6\) vim citationis resolvisset. At oratores nihil aliud exposuerunt quam priores nuntii, nisi quia causam non pertinere ad examen apostolicum videbantur astruere, et scandala quaedam comminabantur, si monitornio locus daretur.

[90] Pontifex autem\(^7\) Nicolaus, ut est egregio atque alto pater ingenio bonisque omnibus disciplinis ornatus, cui scripta quaevis antiquiora ac nova explorata, comperta meditataque sunt, scite atque subtiliter ratiocinatus\(^8\), et causam sui esse tribunalis ostendit et Gregorii\(^9\) magni verba subjicit, qui super Ezechielem\(^10\) scribens: \textit{Utilius, inquit, scandalum nasci permittitur, quam veritas relinquatur}. Obtulitque de Friderico imperatore judicium, si vellent Austriales juris inhaerere tramitibus. Quod cum legati declinassent, monitornium, quod\(^11\) causa cognita et ad calcem intellecta decreverat, \{59r\} publicari permisit, si modo legitime publicatum est, quod nunc non agimus.

\(^1\) sciunt  G  
\(^2\) misisse corr. ex misse A, C; ivisse U1, U2, U3  
\(^3\) consistorio  E, MU  
\(^4\) Austriales G; omit. M  
\(^5\) sinisset U1, V; jussisset MU  
\(^6\) omit. MU  
\(^7\) omit. G  
\(^8\) est add. G  
\(^9\) Gregorius in marg. A; Gregorius utilius scandalum in marg. D; Gregorius utilius scandalum etc. in marg. G; Divus Gregorius in marg. U3  
\(^10\) Ezechiel in marg. A  
\(^11\) quo  F
Moreover, the Austrians know very well that they sent orators to Rome and that they were heard at a consistory where they said all they wanted. But they say that the monitorium had already been issued by the Curia before the orators arrived. This we admit, one should not deny the truth. However, the monitorium had not yet been formally communicated or published. So, as it was still confidential, it did not hurt the Austrians. If the orators had shown sufficient cause and proven the legitimacy of the Austrian actions, the Roman Pontiff would not have allowed the execution of the monitorium, but would have recalled it, annulled it or, following usual practice, decided to issue a legal summons. But these orators said no more than the previous envoys excepting claims that the matter fell outside papal jurisdiction and threats of a scandal if the monitorium came into effect.

But Pope Nicolaus, a father of great and excellent intellect and endowed with all the good disciplines, having searched, investigated and pondered a number of old and new writings, and after mature and thorough reflection, proved that this matter pertained to his tribunal and added the words of Gregory the Great who wrote, in his commentary on Ezekiel: *It is better to allow scandal than to desert truth.*¹ The pope offered to adjudicate in the matter of Emperor Friedrich, if the Austrians wanted to pursue the matter legally. When the legates declined this, the pope allowed the monitorium to published, since by then the case had been investigated and was thoroughly understood. Whether it was published lawfully is not up for discussion here.

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¹ Gregorius I: *Homiliae in Ezechielem*, 7, 4-5. MPL, LXXVI, col. 841
At audio nescio quid murmuris, sic meis auribus sonus perstrepit. Adversarios hoc modo dicturos sentio: “Nemo ante verum et justum judicium condemnandus est\(^1\)\(^2\). Nam Deus omnipotens, cujus oculis manifesta sunt omnia, ut nos a praecipitandae sententiae prolatione compesceret, auditis Sodomitarum\(^3\)\(^4\) sceleribus: *Descendam*, inquit, *et videbo utrum*\(^6\) *clamorem, qui venit ad me*, opere compleverint: *an non est, ita ut sciam*. Verum haec\(^8\) auctoritas, si recte intelligitur, consona est monitorio, non adversa. Non vult sententiam Deus ferre, nisi haerentes fixosque malo Sodomitas intelligat. Idem quoque Nicolaus papa negat se damnaturum Austriales, nisi propositi tenaces agnoscat. Ideo quasi descendens\(^9\) visurus pertinaciam, ceu Deus angelum ad Sodomitas, sic monitorium ad Austriales mittit. Suadet usurpata relinquat, et intra XL dies spoliata Caesaris damna resarciant\(^10\): nisi fecerint, sententiam comminatur. Sororium\(^11\) atque omnino simile huic aliud scriptura praebet exemplum. Cum peccasset Ninivitarum\(^12\) civitas, ac malitiae clamor ascendisset ad dominum, Jonam\(^13\) misit prophetam, qui diceret: Adhuc XL dies et Ninive subvertetur\(^14\), nisi poenitentiam ageret\(^15\).

\(^1\) *omit.* C
\(^2\) Neminem condemnandum ante verum iudicium *in marg.* U3
\(^3\) Sodomit... *passim* A, C, F, MU; Sogdomit... *passim* B; Sodomit... *aut* Sogdomit... *passim* D; Sodom... *aut* Sogdomit... *passim* G
\(^4\) Sodomite *in marg.* A
\(^5\) Angelus ad Sodomitas *in marg.* D, G
\(^6\) verum V
\(^7\) *ad me* *omit.* V
\(^8\) *hac* F
\(^9\) *descendens* E
\(^10\) *resarciatur* E
\(^11\) sororum U1
\(^12\) Ninive. *Jonas in marg.* A
\(^13\) Jonas ad Ninivitas *in marg.* D, G; Ninivite. *Jonas propheta in marg.* U3
\(^14\) convertetur G; subverteretur U1
\(^15\) nisi poenitentiam ageret *omit.* V
[91] But I hear people grumbling! Their buzz has reached my ears, and I perceive that our adversaries will be saying something like this: "Nobody should be condemned prior to a true and just judgment. For when omnipotent and all-seeing God heard of the crimes of the Sodomites, he said – in order to restrain us from making hasty judgments: I will go down and see whether they have done according to the cry that is come to me; or whether it be not so, that I may know. But if this authoritative statement is understood correctly, it actually agrees with the monitorium and does not contradict it. For God does not want to pass judgment unless he sees that the Sodomites persist in clinging to evil. In the same way, Pope Nicolaus refuses to condemn the Austrians unless he sees that they stubbornly maintain their present course. Therefore, as if descending to see for himself if they persist, he sends a monitorium to the Austrians just as God sent an angel to the Sodomites. He insists that within 40 days the Austrians must give up what they had unrightfully appropriated over and restore what they had taken from the emperor. Unless they do so, he threatens them with a judgment. Scripture provides another related and completely similar example: when the city of the Ninivites had sinned and clamours of their evil had reached the Lord, he sent the Prophet Jonah to tell them that Nineveh would be destroyed in 40 days unless they did penance.

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1 Cf. the biblical story of Sodom and Gomorra, cf. Genesis 18-19
2 Genesis 18, 21
3 "auctoritas"
4 Cf. the biblical story of the prophet Jonah and Ninive, cf. book of Jonah
[92] The monitorium says the same: In 40 days the Austrians named directly will be destroyed, that is they will be struck with the sword of excommunication, in case they prefer to imitate the obstinacy of the Sodomites rather than the conversion\(^1\) of the Ninivites. Whether the excommunication will become effective depends on whether the people concerned have been informed of the monitorium, but this issue is not for now. I shall add a couple of other things for the sake of our adversaries, who would rather appear to be learned than actually to be learned. Jurists know that in the case of a notorious permanent fact there is no need for an ordinary legal procedure nor for a formal accusation or summons. For the Apostle Paul excluded a Corinthian from the community of brethren and without hesitation gave him over - though he was absent and had not been heard - to \textit{bodily destruction} because he had publicly taken his stepmother for a wife.\(^2\) Why did Paul not summon the man? Why did he not hear witnesses? \textit{Because}, says Ambrose, \textit{the crime could in no way be covered up}.\(^3\) Who will accuse the pope when he imitates the holy apostle: his merits may be smaller than Paul’s, but his authority is just as great as Paul’s.\(^4\) Just as Paul did not grant time for amends to the Corinthian, thus Nicolaus did not grant it to the Austrians. Notorious was the crime of the Corinthian, and notorious was the transgression of the Austrians. What Paul could rightfully do, Nicolaus could do too: the notorious transgression did not require legal summons or legal brawl.

\(^{1}\) “\textit{correctio}”
\(^{2}\) 1. Corinthians, 5, 1-5
\(^{3}\) Decretum, C.2.17 (col. 445)
\(^{4}\) As the pope is the vicar of Christ himself. Traditional formula supporting the claim of papal supremacy
[93] Notorium autem facti ajunt doctores esse, cujus evidentia probabiliter negari non potest. Negari (59v) autem simpliciter omnia possunt, nam plerique Dei majestatem et inferos et animas immortales negant, ut Epicuri:

\[
\text{in fortuna qui casibus omnia ponunt,} \\
\text{et nullo credunt mundum rectore moveri,} \\
\text{natura volvente vices et lucis et anni.}
\]

At cum factum negari probabiliter nequit, id volunt esse notorium. Est igitur et in casu nostro notorium, at super notorio facto monitorium est emissum. Quo enim pacto negari potest facti narratio, quam monitorium continet? Libet hoc ipsum prosequi.


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1 Notorium in marg. C; Notorium cuius evidentia etc. in marg. D; Notorium quid in marg. G; Quid sit monitorium in marg. U3
2 Epicurei MU
3 omit. A, C, E, F; suprascr. D
4 omit. G
5 notorio add. F
6 doctissimi et sacerrimi : sacerrimi doctissimique MU
7 principium A
8 ac MU
9 mandato V
10 Romam F
11 administrationes E; administratione MU
12 continuaret E
The doctors say that a notorious fact is one whose evidence cannot be plausibly denied. Of course, everything may simply be denied. (For example many, like the Epicureans,\(^1\)\(^2\) deny the majesty of God, [the existence of] hell, and the immortality of souls:

*they hold that all things are subject to the chances of Fortune, and believe that the world has no governor to move it, but that Nature rolls along the changes of day and year.*\(^3\)

But the doctors maintain that when a fact cannot plausibly be denied, then it is notorious. Thus in the present case there is a notorious fact, and a monitorium has been issued concerning this notorious fact. For how can the statement of the facts contained in the monitorium be denied? Let us look closer into this matter.

Hear, I ask you, magnanimous and excellent princes and learned and holy fathers: I shall put the evidence before your eyes. In the monitorium it is stated that Ladislaus is the orphan son of Albrecht. Let the Austrians deny that if they can. It is stated that it is the old custom of the House of Austria to entrust the guardianship of orphan princes to a senior and closely related prince in the family. Let the Austrians deny that if they can. It is stated that Emperor Friedrich is the head of the House of Austria and the prince who is the closest relative of Ladislaus. Let the Austrians deny that if they can. It is stated that Friedrich has exercised guardianship over Ladislaus and governed the Duchy of Austria for more than eleven years. Let the Austrians deny that if they can. It is stated that when Friedrich was preparing to go Rome to be crowned as emperor, he was for all practical purposes in actual possession of the administration of Austria.\(^4\) Let the Austrians deny that if they can. It is stated that while the emperor was travelling to Rome, some Austrians rebelled, deprived him of the administration of the duchy, took up weapons, conquered fortresses, exacted taxes and seized the government building, the place of assembly, and the law courts. Let the Austrians deny that if they can.

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\(^1\) Epicureanism: A system of philosophy based upon the teachings of the ancient Greek philosopher Epicurus, founded around 307 BC. Epicurus was an atomic materialist, following in the steps of Democritus. His materialism led him to a general attack on superstition and divine intervention. Epicurus believed that what he called "pleasure" is the greatest good, but the way to attain such pleasure is to live modestly and to gain knowledge

\(^2\) “Epicuri”

\(^3\) Juvenalis: *Satirae*, 13.86-88

\(^4\) As Ladislaus’ guardian
[95] Hisce in rebus fundatum est monitorium. Si falsa sunt haec, si negari, si ulla celari tergiversatione\textsuperscript{1} possunt, damnamus et nos etiam monitorium. At si legati fassi\textsuperscript{2} sunt haec\textsuperscript{3}, si vicini omnia norunt, si manet adhuc spolium, si evidens est omnibus, quod narratur, si sunt aperta, manifesta, liquida, notoria, quae monitorium continet, quis papam arguere potest, si concedit imperatori, quod obscuro cuivis homini negari non potest\textsuperscript{4}? Saepe cancellaria privatis personis similia mandata concedit, saepe civitates, saepe provinciae, saepe regna minoribus de causis novimus interdicta. Quis apostolicae sedis praesidium quaeret\textsuperscript{5}, quis erit usquam tutus, si propter scandalum evitandum justitia denegetur imperatori? Sixtus\textsuperscript{6}, ut in decretis habetur, ad\textsuperscript{7} episcopos Hispaniae persimile monitorium direxit. Mandat enim res ablatas, ut quibusdam aliis episcopis restituant\textsuperscript{8}; et adjiciens comminationem\textsuperscript{9} ait: \textit{Si non vultis et vos et principes vestri a collegio nostro\textsuperscript{10} et membris ecclesiae separari.} Non ergo insolitum papae\textsuperscript{11} {60r} monitorium, non injustum, non durum, sed usitatum, sed aequum, sed mitissimum; nec\textsuperscript{12} ferit quemquam\textsuperscript{13} nisi qui post XL dies, spreta censura apostolica, sua negligentia, sua culpa se jugulat. Sic ergo tria, quae ab initio adversus adversarios ostendere promisimus, impeta sunt, trisque\textsuperscript{14} ipsorum\textsuperscript{15} objectiones evertimus\textsuperscript{16}, quas apostolico monitorio imputabant:

\textsuperscript{1} celari tergiversatione : tergiversatione celari MU  
\textsuperscript{2} falsi U1  
\textsuperscript{3} omit. U1  
\textsuperscript{4} si concedit ... potest omit. B, E, MU  
\textsuperscript{5} queretur E, MU  
\textsuperscript{6} Sixtus in marg. A; Sixtus Hispanis episcopis in marg. D; Xystus Hispanis episcopis in marg. G; Sixtus pontifex maximus in marg. U3  
\textsuperscript{7} ab A  
\textsuperscript{8} restituatur U1  
\textsuperscript{9} comminationem corr. ex communicationem A, C; comminationem F; communicationem C  
\textsuperscript{10} vestro U1  
\textsuperscript{11} omit. F  
\textsuperscript{12} nec corr. ex non A, C; non D, G, U1, U2, U3, V  
\textsuperscript{13} quendam F  
\textsuperscript{14} tris F; tresque MU  
\textsuperscript{15} eorum U  
\textsuperscript{16} enarramus F
[95] The monitorium is based on these facts. If they are false, if they can be denied, if they can be somehow circumvented, then we too reject the monitorium. But if the [Austrian] legates have admitted them, if the neighbours know them all, if there still remains any spoils,\(^1\) if what is told is evident to all, and if the facts mentioned in the monitorium are public, manifest, clear and notorious, then who can criticise the pope for granting the emperor something that cannot be denied even to lowly and undistinguished persons? Chanceries often issue similar orders to private persons, and we know that often prohibitions have been\(^2\) sent to cities, provinces and kingdoms even in small matters. Who will seek the protection of the Apostolic See, who will ever be safe if justice is denied the emperor in order to avoid scandal? In the Decrees\(^3\) it is stated that Sixtus\(^4\) sent a very similar monitorium to some Spanish bishops commanding them to restore certain properties to some other bishops. He adds the threat: ... *if you do not wish that you and your princes be separated from communion with us and the members of the Church.*\(^5\) Therefore, the papal monitorium is neither unusual, nor unjust, nor hard, but lenient, normal, reasonable and mild. It only strikes those who by disregarding the apostolic censures after forty days incur destruction through their own negligence and fault.

As promised in the beginning, we have now completed our argumentation against the adversaries concerning the three issues, and we have defeated their three objections against the apostolic monitorium:

\(^{1}\) I.e. robbed properties which have not been restored to the Emperor

\(^{2}\) Or: have been placed under interdict

\(^{3}\) The Decretum Gratiani

\(^{4}\) Sixtus II (d. 258): Pope from 257 to his death

[96] Nam cum crederent illud de rebus apostolicae sedi minime pertinentibus emissum\(^1\) agere\(^2\), ostendimus\(^3\) litem, quam Caesar adversus Austriales habet, Romani tribunalis examini non solum ex plenitudine\(^4\) potestatis, sed ex communi etiam jure pertinuisse. Cum dicerent\(^5\) monitorium adversus res justas et utiles emanasse, iniquis et inutilibus obviare\(^6\) illud conatibus voluisse monstravimus\(^7\). Cum praedicarent monitorium contra inauditos emissum non obligare, et auditos\(^8\) Austriales fuisse docuimus, etsi audientia defuisset\(^9\), censuras nihilominus in rebus notoriis habuisse vigorem. Ac tantum ad objecta compellationesque probrosas atque adversantium\(^{10}\) latratus respondisse sufficiat.

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\(^1\) emissum add. in marg. A; emissum add. in marg. C; omit. B, D, E, F, G, U1, U2, U3, V, MU  
\(^2\) agere add. in marg. A; omit. C  
\(^3\) ostendimus corr. ex ostendamus A, C; ostendamus B, E, F, MU  
\(^4\) ex plenitudine : explitudine E  
\(^5\) diceretur V  
\(^6\) obviaret U1  
\(^7\) monstrabimus E, MU  
\(^8\) emissum ... auditos omit. F  
\(^9\) fuisset F  
\(^{10}\) adversantium E
They have claimed that the monitorium, which had been issued, concerned matters that in no way pertained to the Apostolic See, but we have shown that the emperor’s conflict with the Austrians actually does pertain to the Roman tribunal not only by virtue of [the pope’s] plenitude of power, but also by virtue of common law. They claimed that the monitorium was issued against a cause, which was just and legitimate, but we have shown that it is intended to obviate the Austrians’ evil and illegitimate endeavours. They claimed that a monitorium issued against persons who had not been heard was not binding, but we have shown that the Austrians have indeed been heard, and that - even if they had not been - censures in matters of public notoriety are valid.

We need say no more against the objections and shameful ravings against the monitorium and the bawling of our adversaries.
[97] In praesentiarum vero, quoniam injuste Austriales Romanum pontificem criminati sunt, haud aegre ferre debebunt, si nos eos juste accusabimus, ostendentes illos, qui Romanum imperium enormi laesium vulnere, sedem quoque apostolicam\(^1\) percutere voluisse, ut qui totius monarchiae gloriam majestatemque persequamur, quorum gesta, etsi bono consilio coepta fuissent, tamen, quia Romanus pontifex prohibebat, aut cessare illos aut subsistere decuit. *Licet enim*, ut Gregorii\(^2\) sententia est, *numquam fieri malum debeat, bonum tamen aliquando, quod agitur, per oboedientiam intermittitur*. Et Carolus\(^3\) imperator *In memoriam*, inquit, *beat Petri apostoli honoremus sanctam Romanam ecclesiam et apostolicam sedem, ut quae nobis mater est sacerdotalis\(^4\) dignitatis, esse debeat ecclesiasticae magistra rationis. *Quare servanda\(^5\) est cum omni mansuetudine humilitas, et licet vix ferendum ab illa sede sancta imponatur jugum, tamen feramus et pia devotione toleremus\(^6\).*

[98] At nostri Austriales erecta cervice, cristato capite, rebellibus humeris, “Quid nobis et papae?” dicunt\(^7\). “Celebret\(^8\) ipse missas, nos arma tractabimus. Nihil ad eum de nobis. Si quid praecipit\(^9\), appellamus.” Proh sceleratas atque horrendas voces! Quid pejus aut Valdensi\(^10\) haereticus aut Saracenus infidelis exclamat\(^11\)? Dent veniam Austriales, oro: non ipsos sed facta dictaque insectamur, et consulentibus magis\(^12\) quam facientibus irascendum putamus. “Appellavimus a monitorio,” dicunt. Quo consilio, qua ratione, quo vultu\(^15\), qua audacia illudere apostolicae sedi, irridere majestatem illam, Christi contemnere tribunal volunt\(^16\)? Non {60v} Austrialium hanc mentem, sed consultorum fuisse conjector, quamvis et isti passionibus jactati, quae voluerunt, facile crediderunt.

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\(^1\) Romanam V  
\(^2\) Gregorius in marg. A, D, G; Divus Gregorius in marg. U3  
\(^3\) Carolus imperator in marg. A; Carolus In memoriam in marg. D, G; Carolus Caesar eiusque sententia de pietate in ecclesiam in marg. U3  
\(^4\) *omit. F*  
\(^5\) *observanda F*  
\(^6\) *Vide auctoritatem hanc bene in marg. A*  
\(^7\) *dicitur F*  
\(^8\) *celebre F*  
\(^9\) *praecipit U1*  
\(^10\) Valdenses in marg. A; Heretici Valdenses in marg. U3  
\(^11\) *exclamat E, G, MU*  
\(^12\) *omit. U1, U2, U3*  
\(^13\) *omit. U1*  
\(^14\) *ipsis add. U1*  
\(^15\) *quo vultu omit. B, E, MU*  
\(^16\) *voluntur F*
Now, since the Austrians have accused the Roman Pontiff unjustly, they should not take offense if we accuse them justly, showing that those who have greatly wounded the Roman Empire also intended to strike at the Apostolic See, as they attack the glory and majesty of all monarchy. Though they may have started out with good intentions, they should have stopped or interrupted their activities when the Roman Pontiff forbade them. For as Gregory\(^1\) says: *Evil should never be done, but sometimes something good that is being done should be put off out of obedience.*\(^2\) And the Emperor Charles\(^3\): *In memory of the blessed Apostle Peter, let us honour the Holy Roman Church and the Apostolic See. As she is our mother by virtue of her priestly dignity, she should also be our teacher by virtue of her ecclesiastical office. Therefore, we should be subservient to her with all meekness, and even when a barely tolerable yoke is put upon us by that Holy See, we should carry it and bear it with pious devotion.*\(^4\)

But our Austrians, with stiff necks, raised crests and rebellious shoulders, say: “What does the pope have to do with us? Let him celebrate his masses, while we handle our weapons. He has no say over us. If he issues any commands, we appeal.” Oh, what criminal and horrible words! The Waldensian heretic\(^5\) or the Saracen infidel could not say anything worse. May the Austrians forgive us, for we do not pursue them personally, but their words and actions, and we think that our anger should be directed more against those who advised, than against those who acted. “We have appealed against the monitorium,” they say. With what intent, with what reason, with what sentiment,\(^6\) and with what temerity do they wish to ridicule the Apostolic See, scorn its majesty and mock Christ’s tribunal? I believe that this is not the intention of the Austrians, but of their advisors, though the Austrians themselves, moved by passionate feelings, easily believed what the advisors wanted them to.

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\(^1\) Gregorius I
\(^2\) Decretum, C.11.3.99. (col. 671). Gregorius I *in libro*, lib. 35, c. 12
\(^3\) Charlemagne. The document quoted is a late forgery
\(^4\) Decretum, D.19.3. (col. 60)
\(^5\) The Waldensians: a Christian movement which started in Lyon and spread to the Cottian Alps in the late 1170s. Preached poverty. Later declared heretic by the Church
\(^6\) “vultu”
[99] Ad quos confutandos necesse mihi est illud attingere\textsuperscript{1}, quod de appellatione\textsuperscript{3} dicturum quarto loco promisi. Ad\textsuperscript{4} quam rem jam benignas\textsuperscript{5}, precor, aures\textsuperscript{6} adhibete\textsuperscript{7}. Appellationis remedium ob communem utilitatem inventum est\textsuperscript{8}, ut qui perperam opprimuntur, refugium habeant. Appellationem autem partem\textsuperscript{9} esse justitiae nemo dubitat\textsuperscript{10}, cum vero justitia sit habitus animi, qui communi utilitate servata\textsuperscript{11} suam cuique tribuit dignitatem. Non est appellatio recipienda, quae communi\textsuperscript{12} bono adversa est. Eam ob causam tria potissimum considerare oportet appellantem\textsuperscript{13}: ut sit immodice\textsuperscript{14} atque injuste\textsuperscript{15} gravatus; ut de minori judice\textsuperscript{16} superiorem appellet; atque ut eum appellet, qui commodum possit adiri. Horum si unum defuerit, nihil est, quod appellanti tribuat vires. Exinde cavendum est, ne quid appellatione pendente is innovet, qui appellavit\textsuperscript{17}.

[100] At nihil horum Austriales observarunt\textsuperscript{18}. Nihil est ergo, quod appellationi\textsuperscript{19} vis\textsuperscript{20} insit, quando nec gravamen senserunt, nec superiorem appellaverunt, nec judicem, qui posset adiri, nec novitates omiserunt\textsuperscript{21}. Ob quam rem monstris simile videri\textsuperscript{22} potest in civitate splendida et scholam habente quempiam inveniri, qui talem appellationem tueri praesumat. Non est Australium haec praesumptio. Ex aliorum officina haec\textsuperscript{23} prodeunt\textsuperscript{24}. Litterati sunt, qui has appellationis sagittas emittunt, quorum caecitatem sive\textsuperscript{25} malignitatem hoc in loco retundemus, quando nulla est civitas malorum hominum omnino vacua, ac rarum est\textsuperscript{26} sine Juda collegium. Omnis exercitus suum Sinonem habet. Excutiamus igitur hujus appellationis vires.

\textsuperscript{1} attingere \textit{add. in marg. A, C}
\textsuperscript{2} membrum attingere : attingere membrum \textit{F, U1, U2, U3, V}
\textsuperscript{3} De appellatione \textit{in marg. A}
\textsuperscript{4} Ad Australium appellationem \textit{in marg. D, G}
\textsuperscript{5} jam benignas : benignas jam \textit{G}
\textsuperscript{6} precor aures : aures precor \textit{MU}
\textsuperscript{7} adhibere \textit{V}
\textsuperscript{8} Quare inventa sit provocatio \textit{in marg. U3}
\textsuperscript{9} omit. \textit{U1}
\textsuperscript{10} Quid sit provocatio vel appellatio \textit{in marg. U3}
\textsuperscript{11} servatam \textit{MU}
\textsuperscript{12} utilitate servata \textit{add. U1}
\textsuperscript{13} Quomodo sit appellandum et cur \textit{in marg. U3}
\textsuperscript{14} in modice \textit{A, C, F}
\textsuperscript{15} atque injuste : et juste \textit{F}
\textsuperscript{16} judicem \textit{F}
\textsuperscript{17} Pendente appellatione nichil innovari deberetur \textit{in marg. U3}
\textsuperscript{18} observaverunt \textit{F, MU}
\textsuperscript{19} appellationis \textit{B, E, M}
\textsuperscript{20} jus \textit{F, MU}
\textsuperscript{21} obmiserunt \textit{U1, U2, U3, V}
\textsuperscript{22} simile videri : videri simile \textit{V}
\textsuperscript{23} tela \textit{add. U1, U2, U3, V}
\textsuperscript{24} O \textit{add. U1}
\textsuperscript{25} seu \textit{F}
\textsuperscript{26} omit. \textit{C}
4. Austrian appeal against the monitorium is invalid

[99] To completely refute the claims of these people, I must now begin the fourth part [of my oration], where – as promised – I shall speek about the appeal. I ask you to hear me kindly.

The remedy of appeal was invented for the public good so that those who are wrongly oppressed may have a refuge. Nobody doubts that the appeal is an integral part of justice, since justice is a habit of mind which gives every man his desert while preserving the common advantage. ¹ Therefore, an appeal that goes against the common good should be rejected. The appellant should especially consider three conditions: firstly, that he must have been unreasonably or unjustly oppressed; secondly, that he must appeal from a lower judge to a higher judge; and thirdly, that he must appeal to someone who would be easy to reach. If just one of these conditions is not fulfilled, the appeal is not valid. Moreover, the appellant should ensure that he does not himself change [the status quo] while the appeal is pending.

[100] But the Austrians have respected none of these conditions. Therefore, the appeal has no validity since they were not being oppressed, they did not appeal to a higher court, they did not appeal to an accessible judge, and they did not maintain the status quo. It is shocking that there should be somebody in this splendid city² - one which even has a university³ - who would presume to support such an appeal. This is not an effrontery fabricated by the Austrians. The appeal has been crafted in another workshop. It is educated people who launch these arrows of appeal, but here we shall quell their blind obstinacy and malice. Indeed, no city is completely free of evil men,⁴ and rarely do you find a group without its Judas. Every army has its Sinon.⁵

But let us now examine the validity of this appeal.

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¹ Cicero: De inventione, 2.53.160: Iustitia est habitus animi communi utilitate conservata suam cuique tribuens dignitatem
² I.e. Vienna
³ “schola”
⁵ I.e. a traitor. Sinon was a Greek soldier who pretended to have deserted the Greek army. As a Trojan captive, he treacherously persuaded the Trojans to bring a wooden horse, filled with Greek soldiers inside, into the city, Vergilius: Aeneis, 2.67 ff.
[101] Quid de primo membro putabimus? Oppressin sunt Austriales ex monitorio? Si memoria\(1\) tenemus, quae prius dicta sunt, nullum gravamen, nulla oppressio intervenit, quia injuste agentes juste prohibebantur, et officium erat Romani pontificis prohibere. Nam qui non vetat peccare, cum possit, jube. Ante sententiam quicumque appellat, rejiendus est, nisi rationabilem causam habuerit, quae si probata esset, legitima reputari deberet. Sic in generali concilio decrevit Alexander. At Austriales - ut prae missum\(2\) est\(3\) - super notorio movebantur\(4\) excessu. Quis potest affirmare gravatum, qui salubre jussus\(5\) est acceptare mandatum? Quod si raptorem alienae rei ac fornicatorem manifestum\(6\) vetant canones appellare, si publico in excessu adversus clericos facto contra delinquentes ad excommunicationem denuntiationis\(7\) proceditur, si minores judices appellationes hujusmodi non admittunt: quanto magis\(8\) apud maiores et apud \(61r\) principes\(9\) appellationis subterfugio carebunt, qui et\(10\) raptore et invasores manifesti noscuntur. Omnia mala exempla\(11\) ex bonis originem habent. Appellationem, quae fuit ad refellend\(12\) introduct\(13\) vexationes, ad injurias isti fovendas trahunt.

\(1\) memoria add. in marg. [later hand] A, C; memoria F; omit. B, D, E, G, U1, U2, U3, V, MU
\(2\) pessimum U1
\(3\) erat V
\(4\) monebantur U1, U2, U3, V
\(5\) visus G
\(6\) manifeste G
\(7\) excommunicationem denuntiationis : excommunicationis denuntiationem MU
\(8\) et add. MU
\(9\) maiores ... principes : principes et apud maiores MU
\(10\) omit. U1
\(11\) mala exempla : exempla mala C
\(12\) repellendas V
\(13\) introductas U1, U2
4.1. Austrians were not molested by the monitorium

[101] What should we think about the first argument? Were the Austrians molested by the monitorium? If we remember what was said before, there was no harm and no oppression whatsoever, since it was people acting unjustly who were forbidden to do so, and it was the responsibility of the Roman Pontiff to forbid it. One who does not forbid wrongdoing, when he has the power, commands it.\(^1\) And whoever makes an appeal before the judgement must be dismissed, unless he has a reasonable cause, which – if proven – must be considered legitimate. This Alexander decided in a general council.\(^2\) But as we have seen, the Austrians were admonished because of a notorious [misdemeanour]. Who can claim that someone is being molested when he is ordered to accept a command that is to his own advantage? If the canons prevent a manifest robber and a manifest fornicator from making an appeal, if in public transgressions against clerics the delinquents are excommunicated directly, if inferior courts do not allow appeals of this kind, then how much more should people known as notorious robbers and intruders be denied the stratagem of appealing to superior courts and princes? All bad examples have their origin in something good. Appeals were introduced to save people from being molested, but the Austrians use them to cause injuries.

\(^1\) Seneca: *Troades*, 291
\(^2\) Quotation not identified
Sed transeamus ad judicem, qui appellatur. Majorem hunc esse oportet, ut diximus, eo a quo est appellatum. Nam majoribus quidem regendi et jubendi potestas, minoribus obsequendi necessitas est. Inferior sedes superiorem non obligat. Appellanti non minus aut par tribunal adeundum est. In parem pari non est imperium. Placuit, inquit Julius papa, ut a quibuscumque ecclesiasticis judicibus ad alios judices ecclesiasticos, ubi est major auctoritas, provocatum fuerit, audientia non denegetur. Quod si minorem aut aequalem quis judicem appellaverit, videtur auctoritate Julii repellendus, cujus auctoritati et ratio quadrat. Nisi enim major, qui appellatur, fuerit, nec exequi sententiam poterit, nec plus sapere videbitur illo, a quo appellatur. In casu autem nostro ab eo judice appellatum est, qui nullum habet in terris superiorem. Nulla est igitur appellatio. Nec leges audiunt nec canones appelantes a principe. In ecclesia vero habere principatum Romanum praesulem nemo doctae mentis ignorat. Non est igitur fas a Romano pontifice appellare.

4.2. Austrians could not appeal to a higher judge

[102] But let us pass on to the judge to whom an appeal is made. As we have said he must be superior to the one from whom the appeal is made. For superiors must have the power to rule and command, and inferiors the obligation\(^1\) to obey. An inferior instance does not bind a superior one, and an appellant must not appeal to a lower or equal court. Equals do not have power over each other. Pope Julius said: *When an appeal is made from any ecclesiastical court to another ecclesiastical court of higher authority, a hearing must not be denied.*\(^2\) So, when someone makes an appeal to a lower or equal court, it must – on Julius’ authority - be dismissed. And reason agrees with this authoritative statement for if the judge to whom an appeal is made is not a superior one, then he will neither be able to execute the judgment nor be more knowledgeable than the one from whom the appeal is made. But in our case the appeal was made from the judge who has no superior on Earth. Therefore, the appeal is invalid. Neither laws nor canons allow appeals from a prince.\(^3\) And all educated men know that in the Church the Roman Bishop is the prince. Therefore, it is not right to make an appeal from the Roman Pontiff.

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\(^1\) “necessitas”

\(^2\) Decretum, C.2.6.9. (col. 468)

\(^3\) i.d. from a prince to any another judge
Quod autem princeps ecclesiae Romanus praesul\(^1\) existat, compluribus auctoritatis licet. \emph{Quamvis omnes}, inquit Pelagius\(^2\), \emph{per orbum ecclesiae institutae\(^3\) unus Christi thalamus sint}\(^4\), tamen sancta Romana ecclesia catholica et apostolica nullis synodis constitutis ceteris ecclesiis praelata est\(^5\), sed evangelica domini voce et saluatoris nostri principatum obtinuit, \emph{‘Tu es,\textquoteright} inquiens\(^6\) dominus, Petrus, \emph{et super hanc petram aedificabo ecclesiam meam.}\(^7\) Et Anacletus\(^7\) de\(^8\) Petro dicit: \emph{Hic ergo ligandi atque solvendi potestatem primus accipit a Domino, primusque ad fidem populum virtute suae praedicationis adduxit. Ceteri vero apostoli cum eodem pari consortio honorem\(^9\) susceperunt\(^10\), ipsumque principem eorum esse voluerunt. Sed voluerunt quippe, quod salvator ipse\(^{11}\) voluerat, sicut et Anacletus\(^{12}\) ipse testatur alibi dicens: \emph{Prima sedes est caelesti beneficio Romana ecclesia, quam, ut memoratum est, beatissimus Petrus et Paulus suo martyrio consecraverunt}\(^{13}\). Et iterum: \emph{Haec apostolica ergo sedes caput et cardo, ut praefatum est, a domino et non ab alio constituta est; et sicut cardine hostium regitur, sic hujus sanctae apostolicae sedis auctoritate omnes ecclesiae\(^{14}\), domino disponente, reguntur.}

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\(^{1}\) De principatu papae \emph{in marg.} A

\(^{2}\) Pelagius \emph{in marg.} A; Pelagius Romana ecclesia \emph{in marg.} D, G; Sententia Pelagii de excellentia Romanae sedis \emph{in marg.} U3

\(^{3}\) constitutae B, E, MU

\(^{4}\) sunt U3; sit V

\(^{5}\) De Romane ecclesie principatu in marg. D; De principatu Romane ecclesie \emph{in marg.} G

\(^{6}\) inquit MU

\(^{7}\) Anacletus \emph{in marg.} A, U3

\(^{8}\) sancto \emph{add.} U3

\(^{9}\) et potestatem \emph{add.} U1, U2, U3, V

\(^{10}\) acceperunt U3

\(^{11}\) salvator ipse : ipse salvator G

\(^{12}\) Anacletus \emph{in marg.} A, D, G

\(^{13}\) consecrarunt B, U3

\(^{14}\) Subiectas esse Romane ecclesie omnes per orbum ecclesiæ \emph{in marg.} U3
That it is the Roman Bishop who is the prince of the Church may be seen from several authoritative statements. Pelagius¹ says: Though all the churches established on earth together form the one chamber of Christ, the Catholic and Apostolic Church of Rome has not been set above all the other churches merely by some synodal decision; no, it has obtained its primacy by the word of Our and Lord and Saviour in the gospel when he said: Thou art Peter; and upon this rock I will build my church.² ³

And Anacletus said about Peter: He was the first one who received the power to bind and to loose from the Lord, and the first one who by his preaching brought people to the faith. The other apostles were honoured equally together with him, but they wanted him to be their prince.⁴

But, indeed, they only wanted what the Saviour himself had wanted, as Anacletus testifies in another place, saying: By the grant of Heaven, the Primary See is the Roman Church that, as it is remembered, was consecrated by the blessed Peter and Paul through their martyrdom.⁵ And again: Therefore, as said before, the Apostolic See has been set up as the head and the hinge by Our Lord himself, and by nobody else. And like the gate is governed by the hinge, thus all the churches are governed by the authority of this Holy and Apostolic See, under the rule of Our Lord.⁶

¹ Rather: Gelasius
² Matthew, 16, 18
³ Decretum, D.21.3. (col. 70). Papa Gelasius omnibus orthodoxis
⁴ Decretum, D. 21.2. (col. 69-70)
⁵ Decretum, D.22.2. (col. 74). Anacletus ad omnes episcopos. From the Decretals of Pseudo-Isidore
⁶ Decretum, D.22.2. (col. 74). Anacletus ad omnes episcopos. From the Decretals of Pseudo-Isidore
Et ne multa inculcemus, Christiani nomen amittit, qui caput ecclesiae militantis Romanum praesulem non recognoscit. Si ergo princeps est in ecclesia catholica Romanus pontifex nec superiorem habet, nec parem, nam ecclesia militans instar triumphantis ordine hierarchico neque biceps neque multiceps esse potest. Unus in caelo Deus, unus in terra vicarius, caput ecclesiae, populi princeps, Christiani ductor exercitus, Romanus praesul, in cujus auditorio non habet appellatio vocem. Potuissent fortasse supplicantes ad papam Austriales recurrere, appellantes minime. Non est hic plebeius aliquis magistratus aut pedaneus judex est, sed comite major, duce superior, rege celsior, imperatore sublimior. Et audent appellare? Quis horum non mireetur audaciam, non confundat arrogantiam, non damnet ac vituperet temeritatem? Si quis ab Austriae ducem appellare praesumeret, ne dicam ab rege Bohemiae vel Hungariae, mox appellationis poenam in carcere cogeretur accipere. Majorem in Austria ducem, quam papam in ecclesia putant. Frustra igitur conditae leges, in cassum promulgati canones. Leges non imperatoris dumtaxat, sed praefecti praetorio sententiam appellazionis subducunt. Isti jussionem apostolicam provocationi subjiciunt. Sacri canones primae sedis judicium cunctis mortalibus anteponunt; isti submittunt, atque illi superiorem constituunt, quem constat omnibus esse superiorem.
[104] But let us not belabour this issue: anyone who does not recognise the Bishop of Rome as head of the Church Militant loses the name of Christian. So, if the prince in the Catholic Church is the Roman Pontiff, he has no superior or equal. For just like the Church Triumphant, the Church Militant is ordered hierarchically, and it cannot have two or more heads. In Heaven there is but one God, and on earth there is but one Vicar, the head of the Church, the prince of the people, the leader of the Christian army, the Bishop of Rome, in whose court the word “appeal” may not be heard. The Austrians might have had recourse to the pope as supplicants, but not as appellants. For he is not some magistrate of the people or a commonplace judge; no, he is greater than a count, superior to a duke, higher than a king, and more exalted than an emperor. And the Austrians dare to appeal? Who will not be astonished at their audacity and dismayed by their arrogance? Who will not condemn and reproach their effrontery? If anybody dared to appeal from the Duke of Austria, not to mention the King of Bohemia or Hungary, he would have to suffer punishment for the appeal in prison.¹ The Austrians think that a duke in Austria is greater than the pope in the Church. Thus, the laws have been passed in vain, the canons have been promulgated to no purpose: not only do they appeal the laws of the emperor and the judgment of the local magistrate,² but they also appeal the apostolic commands. The holy canons place the judgment of the First See above all men, the Austrians put it below them, and they make someone else superior to him who is clearly superior to all others.

¹ The manuscripts have: “apostolos in carcere ... accipere”, i.e. “to receive the apostles in prison”, which gives no meaning. In his edition of ms. E, Muratori has emended “apostolos” to “appelationis poenam”, which has been retained in the main Latin text, though it is clearly a conjecture.
² “praefecti praetorio”
But let us hear whom they consider to be superior to the pope - if they can say something that is worthy of this assembly, and if they have something they hope may strengthen their case. “In Konstanz it was declared and in Basel it was confirmed that in the case where the pope falls into heresy, or fosters a schism, or scandalizes Universal Church, the general council has greater authority than the pope, is superior to him, and should judge him.” Let this stand for now since it is not the moment to enter this sea of disputation or to tackle these conundrums. The question is doubtful, and it has been argued in both directions by wise men. But however it may be, it is clear that only in this one case is a certain and undoubted pope subject to a council: if somebody occupying the papacy falls into heresy, he immediately ceases to be pope and becomes less than any Christian. And if he is a schismatic he cannot be called a pope, for either he suffers the same affliction or his right to the papacy is in doubt.

1 “apostolatu”
2 “eodem morbo laborat”, i.e. as a heretical pope
Certus autem atque indubitatus pontifex, ut Constantiense decretum innuit, numquam deferri concilio potest, nisi universalem ecclesiam scandalizaverit, quod tunc fieri videretur, cum multi ex diversis mundi partibus conquererentur. Idque posset accidere, si papa vel sacerdotibus uxores restitueret, vel judicium sanguinis committeret, aut novum ritum non placentem communitati fideli introceret. Nihil autem horum nunc agitur. Non est igitur concilium papa majus, neque appellationi est locus, nec moveri debemus, quia diebus nostris etiam in minoribus causis et ad Constantiense et ad Basiliense concilium vidimus appellari. Nam quae fiunt extra ordinem, intempestive, temere, tumultuarie, neque jus pariunt neque vim consuetudinis afferunt. Inter episcopos ceterosque patres conscriptos vidimus in Basilea coquos et stabularios orbis negotia judicantes. Quis horum dicta vel facta judicaverit legis habere vigorem?
As implied in the decree of Konstanz, a certain and undoubted pope may never be deposed by a council unless he has scandalized the universal Church, something which would be seen when many complained about him from various parts of the world. This could happen if the pope gave wives back to the priests, committed a blood crime, or introduced a new rite that displeased the community of the faithful. But nothing of this sort is happening now. So, in the present case a council is not above the pope, and there is no [legitimate] cause for an appeal to it. We should not be concerned by the fact that in our time we have seen appeals being made even in minor matters, both to the Council of Konstanz and the Council of Basel. For what is done irregularly, inappropriately, temerariously and rebelliously, neither makes anything lawful nor has the force of custom. Among the bishops and other conscript fathers in Basel we saw cooks and stable-hands judging the affairs of the world: who would believe the words or acts of such people to have the force of law?

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1 or “summoned before”
2 I.e abolished the priestly celibacy
3 Like a murder
[107] Fuerunt et priscis temporibus generalia concilia, nec minus magna, nec minus authentica\(^1\) quam nostra\(^2\), nec tamen appellationes ab apostolica sede recipiebant. Hinc verba Gelasii manant *ipsi\(^3\) sunt canones*, inquientis\(^4\), *qui appellationes totius ecclesiae ad hujus sanctae sedis examen voluerunt deferri*. Ab ipsa vero numquam prorsus appellari debere sanxerunt; ac per hoc illam de tota ecclesia judicare; ipsam autem ad nullius commeare judicium; nec de ejus numquam\(^5\) praecipserunt judicio judicari, sententiamque ejus constituerunt non\(^6\) oportere dissolvi, cujus potius sequenda decreta mandaverunt\(^7\). Et rursus omnibus episcopis: *Cuncta per mundum novit ecclesia*, scribit idem\(^8\) Gelasius, *quod sacrosancta Romana ecclesia\(^9\) fas de omnibus habeat judicare, neque cuiquam\(^10\) de ejus liceat judicare judicio*. Siquidem ad illam de qualibet\(^11\) mundi parte appellandum est; ab illa\(^12\) autem nemo est appellare permissus. Atque ista cursim de majoritate judicis appellati\(^13\) libasse satis habeamus.

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\(^{1}\) *auctentica* B, E  
\(^{2}\) *vestra* U1, U2, U3  
\(^{3}\) *Gelasius in marg. A; Gelasius a sede Romana non appellatur in marg. D, G*  
\(^{4}\) *inquiens* C, D  
\(^{5}\) *umquam* U1, U2, U3  
\(^{6}\) *omit. G*  
\(^{7}\) *non oportere ... mandaverunt omit. F*  
\(^{8}\) *Gelasius in marg. A; Idem in marg. D, G; Gelasius de Romanae sedis dignitate in marg. U3*  
\(^{9}\) *scribit idem ... Romana ecclesia omit. F*  
\(^{10}\) *cuipiam* G  
\(^{11}\) *quolibet* F  
\(^{12}\) *illo* U1  
\(^{13}\) *appellari* F
[107] In former times, too, there were general councils - neither less important nor less authentic than ours:¹ they did not receive appeals [of the judgments of] the Apostolic See. Therefore, the words of Gelasius still apply: ⁴

*These are the canons which state that appeals from the whole Church should be deferred to the scrutiny of the Holy See. They also completely forbid appeals [of the judgments of] that See. So, therefore, the whole Church may be judged by the Holy See, but the Holy See itself may not be judged by anybody else. The canons forbade that anybody should ever judge the judgments of the Holy See and disregard its decrees; on the contrary, they required everybody to follow them.* ² And, again, the same Gelasius writes to all bishops: *The whole Church in all the world knows that the Holy Roman Church has the right to judge in all matters, and that nobody else has the right to judge its judgments. So, the whole world may make appeals to the Roman Church, but nobody is allowed to make appeals from it.*³

This brief statement suffices concerning the superior status of the judge from whom the [Austrian] appeal was made.

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¹ I.e. the Council of Konstanz 1414-1418 and the Council of Basel, 1431-1437
² Decretum, C.9.3.16 (col. 611). Gelasius ad Faustum legatum
³ Decretum, C.9.3.17 (col. 611). Gelasius omnibus episcopis
[108] Nunc formam\(^1\) inspicere convenit appellationis, ut intelligamus an judex appellatus adiri commode possit. Tria sunt appellationis capita. In primo dicit\(^2\) non informatum papam et informandum appellant\(^3\). In secundo vel indictum\(^4\) concilium vel indicendum. In\(^5\) terto\(^6\) universalem ecclesiam appellationis judicem provocant. Discutiamus haec. Non informatum\(^7\) papam asserunt: at\(^8\) monitorium docet informatum atque instructum esse. Aut ergo nescire papam, quae facti sunt, arbitrantur, et ipsa monitorii narratione vincuntur, in quo manifestus et notorius\(^9\) explicatur\(^10\) excessus\(^11\). Aut putant, quid juris sit, ignorare pontificem, et stulta ducentur opinione. Nam etsi omnes Romani praesules doctissimo cardinalium senatu circumsepti universi juris exuberantem notitiam habeant, pectus tamen Nicolai\(^12\) praeter ignorantiam nihil ignorat, quo neque doctorem umquam neque acutiorum illa\(^13\) in sede quempiam sedisse crediderim.

\(^{1}\) Forma appellationis in marg. A
\(^{2}\) del. A, C; omit. B, D, E, F, G
\(^{3}\) et informandum appellant omit. G
\(^{4}\) indictum V
\(^{5}\) omit. U1, U2, U3
\(^{6}\) vero add. V
\(^{7}\) infortunatum U1
\(^{8}\) et V
\(^{9}\) manifestus et notorius : manifestus et notarius corr. ex et manifestus notarius A; et manifestus notarius B; manifestus et notorius C; et manifestus notorius D, G, E; et notarius manifestus F; et manifestus et notorius MU
\(^{10}\) explicator E
\(^{11}\) excessus E
\(^{12}\) Laus Nicolai pape in marg. A; Laus Nicolai V. pontifices maximi in marg. U3
\(^{13}\) illam V
4.3. Judge appealed to was not easily accessible

[108] Now we must examine the form of the appeal in order to determine if the judge to whom the appeal was made is easily accessible.

The appeal falls into three parts. In the first, they declare that the pope was not informed and they appeal to a pope to be informed. In the second, they appeal to a council which has been indicted or which will be indicted. And in the third, they appeal to the Universal Church. Let us discuss this now.

4.3.1. Appeal to a better informed pope

They claim that the pope was not informed. However, the monitorium shows that the pope was both informed and in possession of the facts of the matter. So, either they think that the pope is ignorant of the facts and are shown to be in error by the account in the monitorium itself, where their manifest and notorious misdeeds are set forth. Or else they stupidly think that the pope is ignorant of the law. All Roman bishops, surrounded by the most learned senate of cardinals, have an abundant knowledge of all law, but Nicolaus himself is ignorant of nothing but ignorance: I believe that the Apostolic See has never been occupied by anybody more learned nor more intelligent than he.
Sed advertamus scitam ac pensiculatam appellationem. Romanum pontificem volunt\(^1\) duorum judicum gestare personam: ejus a quo appellatur, et illius ad quem appellatur\(^2\)\(^3\). O bone Deus, quanti est sapere! Recte competentiam\(^4\) modificati\(^5\) sunt, subtile ingenium! Numquam ego hos audio, quin doctior fiam\(^6\)? Nihil antiquius est\(^7\) quam bonis ac\(^8\) discretis\(^9\) convivere\(^10\) viris! Verum timeo, si sic pergimus, ne alias quoque personas conglutinemus, ac non solum appellantem, sed eum quoque, adversus quem appellatur conjungamus, ac papam judicem, reum actoremque faciamus, atque, si libet, testem. Miror si non pallet aut\(^11\) non erubescit appellationis inventor\(^12\), corruptor juris, falsus interpres canonum, qui\(^13\) monstra invisa atque\(^14\) inaudita introducere nitur. Appellationem\(^15\) aliquando quis\(^16\) ab eodem ad eundem judicem legislator admisit? [cont]

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\(^1\) vo U1 [sic!]; voluit U2, U3
\(^2\) appellabitur U3
\(^3\) et illius ... appellatur omit. F
\(^4\) competentia MU
\(^5\) malefici F
\(^6\) Eironikos [Greek letters] in marg. U3
\(^7\) antiquius est : est antiquius MU
\(^8\) et U3
\(^9\) disertis U1, U2, U3, V
\(^10\) vivere U1, U2
\(^11\) si add. F
\(^12\) si non ... inventor omit. U1
\(^13\) quin U1
\(^14\) ac U3
\(^15\) Non appellatur ab eodem ad eundem in marg. D, G
\(^16\) aliquando quis : quis aliquando MU
[109] But let us consider further their learned and thoughtful appeal [to a better informed pope]! They want the Roman Pontiff to combine two judges in one person: the judge from whom the appeal is made, and the judge to whom the appeal is made. Oh, good God, to be so clever! Rightly did they make this distinction: what subtle intelligence! I never hear these people without learning something new! Nothing is more profitable than being with good and wise men.\footnote{Piccolomini drips irony!} However, if we continue in this way, I do fear that we shall glue even more persons on to the pope, so that we not only conjoin the appellant\footnote{i.e. the Austrians} and him against whom they make the appeal,\footnote{i.e. the emperor} but also make the pope both judge, accused, advocate\footnote{"agentem"} and witness!\footnote{Decretum, C.4.4. (col. 541)} I am surprised that he who crafted this appeal does not grow pale or blush, that destroyer of law, that false interpreter of the canons, who endeavours to introduce monstrosities never before seen or heard. What lawgiver ever allowed an appeal to be made from a judge to the same judge? [cont.]
Non Solon\(^1\), non Lycurgus, non ipsi decem viri in Graeciam missi, non haec\(^2\) responsa prudentum\(^3\), non edicta praetorum, non plebiscita, non senatusconsulta, non principum placita, jus\(^4\) non hominum quorumcumque\(^5\) vel barbarorum mores admittunt. In civitate\(^6\) fortasse Platonis, quae nusquam reperta est, hoc juris venati sunt adversantes. Ab Aristotelis Politia procul hanc dementiam esse non ambigo. Si quis alius hoc affirmare justum praesumpserit\(^7\), leges atque canones hunc\(^8\) seminatorem\(^9\) delirum, mentis\(^10\) inopem stultumque judicant, ac ex coetu doctorum dejectunt\(^11\), musis invisum et litteris. Ineptum est igitur primum appellationis caput\(^12\), quia vitae regimen confundit\(^13\), ac rem novam inauditam monstruosam introducit, ac\(^14\) omni lege ac consuetudine reprobam.

\(^{1}\) Solon. Ligurgus *in marg.* A; Solon. Licurgus *in marg.* U3
\(^{2}\) hoc V
\(^{3}\) prudentium U1
\(^{4}\) *omit.* U1, U3, V, MU
\(^{5}\) quorumque V
\(^{6}\) cite B
\(^{7}\) hunc *add.* U1, U2, U3, V
\(^{8}\) nunc F; *omit.* U1, U2, U3, V
\(^{9}\) somniatorem U1, U2, U3, V
\(^{10}\) delirium mentis : deliramentis V
\(^{11}\) eiiciunt U1
\(^{12}\) appellationis caput : caput appellationis U1, U2, U3
\(^{13}\) confudit V
\(^{14}\) ab V
Neither Solon, nor Lycurgus, nor the ten men sent to Greece, nor the *responsa* of the prudent men, nor the edicts of the praetors, nor the plebiscites, nor the decrees of the senate, nor the decisions of princes, nor the laws of men, nor the customs of the barbarian peoples allow for such a practice. Maybe our adversaries have chased up such a law in the city of Plato¹ which has never been found.² I do not doubt, however, that this madness is far from Aristotle’s *Politics*.³ If anybody else should dare to claim that this [innovation] is just, the laws and the canons will judge the instigator to be delirious, feeble-minded and foolish, and they will eject him from the college of the learned, as hateful both to muses and to letters. So, the first part of the appeal is nonsense because it goes against the facts of life and introduces a new and unheard of monstrosity, rejected by every law and custom.

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¹ Plato (428/427 or 424/423 BC-348/347 BC): Greek philosopher. Student of Socrates
² A slur on the ideal state as conceived by Plato, in his *The Republic*
³ Aristotle (384-322 BC): Greek philosopher
4.3.2. Appeal to a council

[110] But they add a second part in which they appeal to the council that has been indicted or will be indicted. This is a slippery, uncertain and unstable ground from which we shall easily cast down our adversaries. We have shown above that only in one case can an appeal be made from an undoubted pope, but that this is not the present case. Therefore, the appeal is void. But let us concede something to our adversaries; let us be kind; let us make friends of the mammon of iniquity;¹ let us say that something is true that we know to be false: let us say that it is lawful to appeal the acts of the Roman Pontiff to a council. So what? Shall we then leave the victory to the enemy? Certainly not. But what will we answer? Please listen, all of you. They appeal to the council that has been or will be indicted. The first term is false, the second is ridiculous. Until now nobody has heard that a council has been indicted and in fact it has not been indicted. “But,” they say, “it has been promised to the King of France that a council would be celebrated in his kingdom in the year after the Jubilee,²” and since that year has passed they think that a council has been indicted. Here they draw furrows in the thin dust;³ here they will harvest oats without kernels, and they will gather no wheat. In such an important matter, it is a very superficial person who is moved not by fact, but by opinion, and who follows rumours and silly fables. We are now in the second year after the Jubilee⁴ and, God willing, we shall soon be entering the third, and we have not yet heard that a council has been indicted.⁵ Who does not understand that their ignorance is affected and false?

¹ Luke, 16, 9
² The Jubilee was in 1450 and the year after would have been 1451
³ Juvenalis: Satirae, 7.49: *litus sterili versamus aratro*
⁴ 1452
⁵ Piccolomini knew very well that the council promised to the King of France had not and would not be indicted: the pope had assented to a council in France on the condition that the other princes would agree. And as an imperial diplomat, Piccolomini had himself been instrumental in formulating an imperial policy not to accept a council to be held in France, and in reality not to have the council at all, cf. sect. 111
“Then he does not keep his word to the king,”¹ our adversaries reply. That is pure calumny, for the promise of a council to the king was not given unconditionally, but on the condition that the other kings and princes would agree. But these mostly rejected [the idea]. The kings of Aragon, England, and Portugal do not want a council to be held in France. I myself, at the command of the emperor, in a public consistory in Rome at the end of the Jubilee Year, advised against holding such a council – and with good reason!² Our adversaries know this, and therefore they proposed an alternative by appealing to a council already indicted or to be indicted in the future. They are blatherings fools, not learned men: trusting in the snares of syllogisms and dialectical tricks, they invent empty glories. But rushing forward they will be dashed against the rock of truth, and they will not enjoy the fruits of their endeavours. For someone who allows an appeal to a council, adresses either a council in session or a council to be held in the near future. But a council that has not yet been indicted is neither in session or is to be held, and it cannot be called a council, neither as a matter of fact nor as a matter of hope. Who is so stupid or perverse or shameful that he would appeal to a judge who has neither been born nor is going to be?

¹ The King of France
² Cf. the oration “Fateor” [15] (Early Version), sect. 23. It is interesting that here Piccolomini refers to a passage on the council in the oration “Fateor” that was removed in the Final Version of the oration (from 1462) when he had become pope himself
The lawgivers decided on a one-year period for making an appeal, and in certain cases two years. But our own wise men here\(^1\) [implicitly] stipulate a period of ten years, for they claim that in Konstanz it was decreed that councils should be celebrated every ten years.\(^2\) What a beautiful and useful thing, fostering peace and concord! Someone has robbed me of my house and lands, and I summon him to the court. My adversary is ordered to return what he has taken by force. He then appeals to a council, postponing the matter for ten years! How will that trial end? And who will wait for ten years? *Time glides by imperceptibly and cheats us in its flight.*\(^3\) Heavy expenses, the shortness of life, and a thousand kinds of death will grant the case to the appellant. But why do I worry about ten years? I fear that it will take twenty years, no, hundred years before another council is celebrated – to be indicted according to the needs of the time as the Roman Pontiff sees fit.\(^4\) I do believe that our adversaries wanted to imitate the Areopagites\(^5\): when a dubious and most difficult case was sent to them from Asia\(^6\) and they did not see any way to solve it and pass a judgment, *they sent both the accuser and the accused away and bade them return in a hundred years.*\(^7\)

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\(^1\) Irony!

\(^2\) What was actually true, cf. the decree *Frequens* of the Council of Konstanz

\(^3\) Ovidius: *Metamorphoses*, 10.519-520

\(^4\) Flagrant contradiction of the decree *Frequens* of the Council of Konstanz

\(^5\) Members of the Areopagos, the earliest aristocratic council of Athens (named after the meetingplace)

\(^6\) Asia Minor

\(^7\) Valerius Maximus, 8.1, amb. 2

1 omit. MU
2 noctis MU
3 affluxit F
4 omit. V
5 omit. U1, U2, U3
6 et alius: alius et F
7 domini nostri desiderium: desiderium domini nostri G
8 affringeret U1
[113] I am unmoved by their claim that “the Council of Basel was dissolved a long time ago: the time for another council approaches, and it should not be held after the ten-year period has lapsed.” If they observe the Roman Curia, the ten-year period has actually elapsed a long time ago, and it is folly to wait for a term that has already expired. And if they want to have councils every ten years, they are stupid to follow the Savoyards\(^1\) for those people prolong them for twenty\(^2\) years. God gave the mortals days for labour and nights for rest, and though they occur at different times, after a year no more night-time has flowed than daytime. Who will not divide the time of the Church too, so that some time is given to conciliar labours and some time to rest (without a council)? The burdens\(^3\) must be reasonable, and all must be arranged according to the circumstances and the times, something which is clearly entrusted to the judgment of the Roman Pontiff. But if only a council was now in session or would be held soon, as Our Lord\(^4\) desires. Then that Holy Synod would pursue nobody more than those dreamers. It would punish those inventors of calumnies and deceitful appeals; it would break that impious mind-set and the arm of perversity; it would impose silence on those criminal voices; it would confound these evil manipulations; and it would demonstrate that you cannot go against the sacred canons with impunity.

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\(^1\) I.e. the remnants of the Council of Basel, consisting of adherents of the antipope Felix V, former Duke of Savoy

\(^2\) The rump council of Basel was prolonged by the French and the Savoyards, incl. the Savoyard antipope, Felix V, until 1449, i.e. 18 years after the beginning of the council proper

\(^3\) I.e. in connection with holding a council

\(^4\) I.e. the pope

¹ appellatioe A, C; appellazione U1, U2, V
² explosa corr. ex expulsa A, C
³ omit. V
⁴ manebis U1; monebit V
⁵ et add. A, C
⁶ biciti D, F
⁷ somniaverint V
⁸ inconsulti V
⁹ Universalis ecclesia in marg. A; Quid sit universalis ecclesia in marg. U3
¹⁰ appellant ecclesiam : ecclesiam appellant V
¹¹ vocant ecclesiam : ecclesiam vocant V
¹² omit. F
¹³ uno in : in uno V
¹⁴ omit. F
¹⁵ Coeperunt haberici conventus plurimorum in marg. D, G
¹⁶ afferunt MU
4.3.3. Appeal to Universal Church

[114] As you hear, the appeal to a council has now been torn apart, and neither will their appeal to the Universal Church be left standing. I do not know if our sophists\(^1\) have *soused their lips in the Nag’s Spring\(^2\) or dreamed on the two-topped Parnassus,\(^3\) for being usually engaged in debating on asinine and fortuitous matters, they have suddenly come forth as specialists in law. Let us hear their words, let us examine the meaning. They appeal to Universal Church. What is it that they call the Church? I presume that they are not using this word in the sense of the walls and roofs of the temples,\(^4\) as it is used in common language, but that they are talking about an assembly of the faithful. This term comprises [everybody], great and small, men and women, clerics and laymen. In the beginning, such an assembly could sometimes meet in one place, for [at that time] the number of faithful was small. But when the Faith grew, and *their sound hath gone forth into all the earth: and their words unto the ends of the whole world*,\(^5\) then all the faithful could never again meet in one place. Instead they began to have meetings of a limited number of people, which – since the most important people were present – they considered to represent or constitute the Universal Church. The decrees of those assembled were considered as decisions of the Universal Church. But this kind of assembly, if lawfully convoked, is nothing else than a general council.

\(^1\) I.e. the counsellors of the Austrians
\(^2\) The fountain Hippocrene, struck out by the hoof of Pegasus, on mount Helicon
\(^3\) Persius: *Satirae*, Prol. 1-2: *Nec fonte labra prolui caballinonec in bicipiti somniassae Parnasememini*. Adapted by Piccolomini
\(^4\) i.e. the physical church buildings
\(^5\) Romans 10, 18
Aut ergo nostri adversantes ecclesiam pro concilio nominant, et ad secundum appellationis membrum repedant, leves, futiles et importuni locutores, alternativam inter eadem locantes negotia, quae solet diversa conjungere, aut re vera ecclesiam ipsam per orbem dispersam, fide tamen unitam atque connexam intelligunt, et nihil puerilis, nihil est quod videri possit amentius. Nam quomodo haec appellationis causam examinabit, quae nec adiri potest, nec audire, vel audiri? O bene consulta consilia! Perdius atque pernox inter libros versatus est callidae hujus appellationis inventor, praestabilis homo sapientiae! Pensiculatius tamen, ut arbitror, et circumspectius ad extremum judicium appellasset. Ceu nonnullus egisse accepimus, qui capitalem sententiam passi adventum magni judicis vel truncati expectant.
If our adversaries appeal to the Church in the sense of a council, they actually revert to the second part of the appeal, giving – foolishly, inanely and inappropriately - an alternative that is not really different. Or if they really mean the Church itself, spread over the whole Earth, but united in Faith, then nothing can be more childish or insane. For how can the Church, [taken in this sense], examine an appeal when it cannot be approached [concretely], nor hear the cause nor be heard itself? Oh, what clever counsels! The inventor of this sly appeal, that respectable man of wisdom, must have perused his books day and night! But he would have been even more deep-thinking and circumspect, I think, if he had appealed to the Last Judgment, like many have done who, having suffered capital punishment, are now expecting the coming of the great judge, even though they are beheaded.
[116] Forsitan et ipsum Deum, stellato qui sest solio et mundi frena gubernat, appellantis judicem constituuisse praestabat, nam papa nullus hunc dubitat esse majorem. Potuisset hic evestigio virum aliquem mittere, qui suo ex imperio causam discussisset, ceu Danieleml puerum contra senes excitavit, Susannahm fals0 damnantes. At isti magis armis quam Deo fientes ecclesiam appellant, quae neque simul potest convenire, neque judicem deputare, qui litem diffiniat. Atque sic ex omni parte manci deficiunt, quando et sine causa, non gravati, neque oppressi appellant et ab eo appellant, a quo nulli fas est appellare, et ad eum appellant, qui vel ipse est, a quo appellatur, vel nusquam est, vel si est, adiri non potest, et appellationem dubiam, incertam, obscuram ineptamque faciunt.


1 stellato qui : qui stellato D
2 Daniel. Susanna in marg. A, U3
3 exitavit E
4 criminantes C, U3; crimen damnantes U1
5 definiat MU
6 et ab eo ... appellant omit. B, E, MU
7 vel add. U1
8 complices U1
9 appellationes V
10 percutabor MU
11 permittunt MU
12 qui F
13 prohibeant U1
14 sedem apostolicam : apostolicam sedem F
15 Que cause ad sedem apostolicam in marg. D, G
16 mortales B, E; mortalia MU
17 omit. B, E, MU
18 ducent in proelia : in proelia ducent G
19 erant V
20 aliquanto E
[116] Maybe it would have been better to appeal to God himself as judge, sitting on his starry throne$^1$ and holding the reins of the world, for nobody doubts that God is greater than the pope. Maybe He would have sent, straight away, a man with powers to settle the matter, as he raised the boy Daniel against the old men who accused Susannah falsely.$^2$ But these people,$^3$ who trust in weapons more than in God, appeal to the Church that can neither assemble in one place nor appoint a judge to settle the dispute. Thus, there are problems on all sides, as – without cause and without having been burdened or molested at all – they appeal from him from whom it is unlawful to appeal, to him who is the same one from whom the appeal is made, or to a judge who is never there, or who cannot - if he is there - be approached. Therefore, their appeal is dubious, uncertain and foolish.

[117] Here, I presume, many will grumble against me for denying that the apostolic decisions are subject to appeal. “If this is true,” they say, “then many people might be oppressed unjustly.” If I ask the reason, they reply that “the Roman Pontiff is a man and as such he can both be deceived and make mistakes.” But this - I say - applies to all princes. And I claim that just as we bear the burden of our secular$^4$ lord and do not strike out against the torrent$^5$ nor are allowed to appeal from him, in the same way we should act with regard to our spiritual lord. [Consider] how many princes forbid their subjects to appeal from them, and how many cities forbid their citizens to do the same! And why do they forbid their subjects and citizens to appeal to others? “So that court cases will not go on forever,” they say. But this reason applies even more to the Apostolic See because of the importance of the cases submitted to it, whether they concern bishoprics, princedoms, kingdoms or empires: if such conflicts are not settled quickly, they cause wars and lead mortal peoples into battles.$^6$ Sometimes kings make errors to the detriment of their subjects, but there is no resistance, because a greater harm is to be feared and smaller evils are preferred to greater evils. Then why shouldn’t an error committed by the pope be tolerated, too? Indeed, the Holy See is advised so prudently that we do not need to fear errors from the throne of His Roman Highness since they are, in fact, extremely rare.

$^1$ From the antiphon Maria virgo assumpta est, from the Office of the Holy Virgin
$^2$ Daniel, 13
$^3$ i.e. the Austrians
$^4$ “temporalis”: secular or temporal
$^5$ Juvenalis: Satirae, 4.89-90: numquam direxit brachia contra torrentem
$^6$ Presumably a quote; not identified
[118] Regale solium, quia successioni cedit, nonnumquam indocti atque dementes occupant. In apostolica sede, qui praestantor est ex omni populo, qui doctor, qui sanctior, qui in omni virtute eminentior, in quo nihil sapientiae, nihil scientiae, nihil industriae desit, sacri senatus discussione collocandus eligitur. Quod si desunt aliquando acquisita per meritum, sufficiunt quae a [64v] loci praecessore2 testantur. Nimimum igitur sancti patres spiritu veritatis impulsi ab hujus sanctae sedis appellari judicio3 vetuerunt, in qua princeps sedet et caput omnium ecclesiarum. Hinc illud Innocentii4: Nemo judicabit primam sedem justitiam temperare desiderantem. Neque enim ab Augusto, neque ab omni clero, neque a regibus, neque a populo judex judicabitur5. In gestis autem Bonifacii6 martyris scriptum est et inter decreta relatum: “Nulli fas esse primam sedem7 reprehendere8, etiam si catervatim9 Romanus praesul innumerables populos secum traheret10 in gehennam, quia cunctos ipse judicaturus a nemine11 judicandus est12, nisi reprehensus fuerit a fide devius.


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1 Qui papa eligi debet in marg. A; De electione Romani pontifices in marg. U3
2 a loci praecessore : loci meritum MU
3 appellari judicio : juditio appellari G
4 Innocentius in marg. D, G, U3
5 vindicabitur V
6 Bonifatius in marg. D; Bonifatius martyr in marg. G, U3
7 omit. B, E, M
8 sedem add. MU
9 catervam U1
10 trahere B, E
11 nomine V
12 judicandus est omit. V
13 instat quispiam ... malum omit. V
14 litigabant B, E, MU
15 omit. MU
16 ergo MU
17 omit. B, E, MU
18 existimas cor. ex. estimas A, C; estimas B, E
19 em.; interroga codd.
20 de ipsis U1
21 adversario quae U1
Since a royal throne passes on through inheritance, it will sometimes be occupied by unlearned or even insane persons. To occupy the Apostolic See the Holy Senate, after careful deliberation, elects the person who is the most eminent of all, the most learned, the most holy, the most virtuous, lacking nothing in wisdom, knowledge and dedication. If there is sometimes a shortfall of merits [in that person], the attested merits of his predecessor will suffice. Therefore, the holy fathers, driven by the Spirit of Truth, absolutely forbade appealing the judgment of the Holy See which is occupied by the prince and head of all the churches. Thus this statement of Innocent: Nobody may judge the Prime See, wishing to influence the course of justice. For that judge may be judged neither by the emperor, nor by the whole clergy, nor by kings, nor by the people. And in the Gesta of the martyr Bonifatius it is written – as stated in the decrees: It is not right to criticize the First See, for even if the Roman Bishop should draw crowds of people with him to Hell, he must not be judged by anybody, since it is he who is the judge of all – excepting the case where he must be considered as erring from the faith.

Somebody objects: “But he is man. Therefore he will sometimes treat somebody unjustly.” Who will deny that this is an evil? And if it is an evil, why not remedy the evil through an appeal?” I answer: in order not to create a greater evil. Take this example: Two persons fight against each in the court of a prince. I ask you: do you think that these two persons are friends? You answer: “No, for if they were friends, they would stop the court case.” So, are they enemies? You do not deny it. What do you think the prince feels about the two? Nothing bad, you are sure. So I ask again: do you think that the prince’s judgment will likely go against one of the litigants, and that they are both seeking a judgement against the other?” Unless you are a fool, you will answer: “The one is doubtful, the other is certain, for the only desire of a litigant is to vanquish his adversary.” But whoever appeals the sentence of the prince subjects the winner to his adversary, the loser, who will not even spare his life if he is able to take it.

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1 Like Charles VI of France
2 i.e. the college of cardinals
3 Decretum, C.9.3.13 (col. 610). Innocentius Papa
4 Decretum, D.40.6. (col. 146)
5 “indigne”
6 “colitiganti”: co-litigant
[120] Qui vero appellationem aufert, arbitrio principis subditos addicit, quem veluti\(^1\) patrem sperare benignum et suis affectum juribus\(^2\) debent. Quod si cui jus\(^3\) et a quavis sententia et a quovis judice provocare licebit, quid aliud erit quam indulgere omnibus, ut aliena invadant\(^4\), rapiant\(^5\), spolient, qui potentiores sunt omnia tollant, qui minus habent\(^6\) virium serviant, jaceat justitia, judicium dormiat, sileant leges inter arma, et ad id tempus revertamur, in quo mortales fuerunt, antequam reges crearentur seu jura conscriberentur, quando\(^7\) brutorum more viribus homines, non ratione certabant? At\(^8\) hoc non expedit reipublicae, neque communem servat utilitatem\(^9\). Non est igitur justum, neque\(^10\) appellatio justitiae pars dici potest, quae communi bono adversantur\(^11\), qualis est ab Austrialibus interposita, qui sancrosanctam apostolicam sedem summumque orbis senatum, in quo mundi lumina\(^12\) resident, minoris auctoritatis existimant quam Vienensem consulatum, quem licet boni viri, tamen indocti atque ignobles regunt, quando ab illo probant, ab hoc negant appellationis\(^13\) esse remedium.

\(^{1}\) velut G
\(^{2}\) viribus B, U1, U2
\(^{3}\) vis B, U1, U2, U3
\(^{4}\) invadunt V
\(^{5}\) rapient B, E
\(^{6}\) omit. U1
\(^{7}\) qui G
\(^{8}\) ad F
\(^{9}\) at hoc non ... utilitatem omit. V
\(^{10}\) nec F
\(^{11}\) adversatur corr. ex adversantur C; adversatur G, U1, U2, U3, MU
\(^{12}\) mundi lumina : lumina mundi G
\(^{13}\) eius add. F
Removing the right of appeal subordinates the subjects of the prince to his judgment alone. In him they must put their hopes as in a benevolent father who will wish to uphold their rights. If everybody has the right to appeal from any sentence and from any judge, it will be the same as giving everybody permission to attack, rob, and plunder other people’s property. The powerful will lord it over all, and the weak will be slaves. Justice will be trodden underfoot, the courts will sleep, the laws will be silent among arms\(^1\), and we shall return to the time of mortals before kings were created and the laws written down, when men fought with strength like brute animals, and not with reason. This is not good for society, and it does not preserve the common good. An appeal that goes against the common good is an unjust appeal, like the one made by the Austrians: they think that the Holy Apostolic See and the highest senate on earth, where the luminaries of the world reside, have less authority than the magistrate of Vienna, governed by unlearned and base commoners though they may otherwise be good, who approve one man’s remedy of appeal and deny another’s.

\(^1\) Roman saying, quoted by Cicero in his *Pro Milone*, 4, 10
Ceterum jubentibus imperatorum legibus ac sanctorum patrum decretis appellatione pendente (65r) nihil esse innovandum, atque hoc appellanti potissimum incumbat. Videndum est, an Austriales a novitatibus abstinuerint, et an legi paruerint, qui legis auxilium quaerunt. Notorium est, quod dicam, non tamquam suspenderit, sed tamquam substulerit appellatio monitorium. At non velut prohibiti, sed velut jussi bellum gerere, sic Austriales se habuerunt. Nam exhibitore monitorii comprehenso et affecto contumeliis, in carcerem conjecto, mox arma sumperunt indicentesque bellum Caesarem, ut eorum verbis utamur, diffidaverunt, atque ad inferendum damnum priores egressi sunt, nolentes addere moram sceleri aut metiri, quod auderent. O caeca nocentum consilia! O semper audax, semper timidum scelus! Si nihil obligat Austriales monitorium, cur festinant includere bajulum? Si appellationi confidunt, cur novitates inducunt?

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1 constat add. MU
2 incumbit U1, U2, U3, MU
3 Appellatio pendente quid sit innovatum in marg. A
4 portitorem U1; portitore U2, V
5 Monitorii baiulum in marg. D, G
6 exhibitore add. U1; exhibitore add. in marg. U2
7 Carceratio nuntii in marg. A
8 nolentem F
9 timidum U1; timidum corr. ex timidum U2; timidum corr. ex timidum U3
10 festinat U1
4.4. Austrians modified the conditions of the matter after the appeal

Moreover, according to the laws of the emperors and the decrees of the holy fathers the conditions of the matter under appeal may not be modified while the appeal is pending, and this especially applies to the appellant. It should be ascertained whether or not the Austrians refrained from such modifications, and whether those who sought assistance from the law obeyed it themselves. The matter I am speaking of is notorious: the Austrians have behaved as if the appeal not only suspended the monitorium, but annulled it, and they went to war as if they had been bidden to, not as if they had forbidden to. For they seized the man who announced the monitorium, treated him brutally and cast him in prison. And immediately afterwards they took up arms, declared war and – in their own words - unswore¹ their oath to the emperor, and were the first to march off to cause damage, not wanting to delay their crimes or to consider their recklessness. Oh, the blind counsels of the guilty! And how rash and cowardly is always wickedness.² If the monitorium in no way oblige the Austrians, then why do they hasten to shut up the messenger? If they trust in the appeal, then why do they modify the conditions?

¹ "diffidaverunt"
² Statius: Thebais, 2, 489

Sed absunt a vero sensu sacrisque codicibus et canonibus abutuntur. Asina enim non suo consilio, sed Dei jussu et angelica suggestione sessoris imperio resistit, significans Deo magis quam praelatis esse parentem. At cum nostri Austriales adversus apostolicam monitionem nullam divinitus acceperint jussionem, non latet eos contumaciter resistentes poenam mereri. Nec Pauli se possunt exemplo tueri, cum ille in re fidei Petrum arguerit, quia non ambulat ad veritatem evangelii. Nihil enim tale nunc agitur, nec Austrialis quisquam est comparandus apostolo, cui revelata sunt secretae caelestia, qui ascendit ad tertium caelum, et vidit arcana Dei, quae non licet homini loqui, magister gentium, praedicator veritatis in universo mundo, par Petro in honore et in passione socius.
4.5. Conclusion

[122] But their defiance goes even further, and in order to make excuses in sins\(^1\) they search for examples in Holy Scripture, examples that they do not understand.

“When Balaam pressed the ass too hardly,” they say, “it resisted and started, miraculously, to speak,\(^2\) thus showing that peoples may rightly reject the unreasonable commands of prelates.

And Paul the Apostle said that he had resisted Peter to his face.\(^3\)

And a Roman Pontiff once stated that he would bear it with equanimity if somebody resisted a command of his in case it could not be obeyed without causing a scandal. And he also said: Either diligently obey our command, or inform us by letter about your reasonable cause for not obeying it.\(^4\) By such examples our adversaries wish [to prove] that they have not erred in resisting the monitorium of the Supreme Pontiff.

[123] But they are far from the true meaning\(^5\) and they misuse the holy books and canons.

For the ass did not resist the command of its rider of its own will, but on God’s command and at the prompting of an angel. Thus it was shown that God should be obeyed more than prelates. But since the Austrians have received no divine command against the apostolic monitorium, it is clear that they resisted it contumaciously and deserve punishment.

Nor can they hide behind the example of Paul, for he gainsaid Peter in a matter of faith, because Peter walked not uprightly unto the truth of the gospel.\(^6\) Such is not the case here, and no Austrian may be compared to the Apostle to whom the secrets of Heaven were revealed, who ascended to the third heaven,\(^7\) and heard secrets of God which it is not granted to man to utter,\(^8\) the teacher of the peoples, the preacher of the truth in the whole world, equal to Peter in honour and his companion in suffering.\(^9\)

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\(^1\) Psalms, 140, 4

\(^2\) Numbers, 22, 21-33

\(^3\) Galatians 2, 11

\(^4\) Alexander III in c. Si quando de rescriptis: Sicut vir providus et prudens et discretus, qualitatem negotii pro quo tibi scribitur diligenter considerans, aut mandatum nostrum reverenter adimpleas, aut per litteras tuas quare adimplere non possis sufficientem et rationabilem causam praetendas

\(^5\) i.e. of the quoted texts

\(^6\) Galatians, 2, 14: quod non recte ambularent ad veritatem evangelii

\(^7\) 2. Corinthians 12, 2

\(^8\) 2. Corinthians, 12,4: audivit arcana verba quae non licet homini loqui

\(^9\) Decretum, 2.7.37: Beati Petrus et Paulus eminent inter uniuseros apostolos, et peculiari quadam prerogatia precellunt; uerum inter ipsos quis cui preponatur incertum est. Puto enim illos equales esse meritis, qui equales sunt passione
[124] Quod vero de Romanis pontificibus addunt, id, qui sapiunt, caute, sollicite, ac religiose suscipiunt, nec locum habere affirmant, ubi mandatum ex certa scientia atque causa cognita processit, ceu verba ipsorum pontificum manifestant. Nam cum patienter substrinere se dicit, si factum non {65v} fuerit, quod prava ¹ sibi insinuatio suggestisset, indicat se, cum praeciparet, non plene cognovisse ² negotium. At monitorium nostrum, ut ante docuimus, discussis ac cognitis plenissime rebus emanavit. Alioquin corrumpitur atque dissolvitur officum omne superiorum, si quis ad id, quod facere jussus est, non obsequio debito, sed consilio non desiderato ³ respondeat, et plus sapere velit, quam sit ncesses ⁴. Quamquam longe ⁵ diversus est casus noster, in quo Austriales non solum non ⁶ implevere mandatum, sed contemptserunt et abjecerunt ⁷ et - quod erat omnino contrarium - expleverunt, ac si religio sit, quod Romana sedes imperat, ejus oppositum observare. Adversus quos Hadrianus Papa in hunc modum scribere invenitur: Generali decreto constituimus, ut execrandum anathema fiat et velut praevericator fidei catholicae semper apud Deum reus existat, quicumque regum seu episcoporum vel potentum deinceps Romanorum pontificum decretorum censuram in quoquam crediderit vel permiserit violandam.

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¹ parva U1
² cognovisset U1
³ deliberato E, MU
⁴ sit ncesses : ncesses sit U1
⁵ omit. E
⁶ solum non corr. ex solum A, C
⁷ abjecer "U1; obicierunt V
[124] As for their claims concerning the Roman pontiffs, any wise person would treat them with caution, concern and circumspection, maintaining that it is not relevant to cases where a command is issued on the basis of certain knowledge and after examination of the matter, as the words of the popes themselves show. For when [the abovementioned pope] says that he would accept that a command was not obeyed if it was based on faulty information, he thereby indicated that he did not have full knowledge of the matter when he issued the command. But as we have shown before, our monitorium was issued after the matter had been fully discussed and examined. All offices of superiors are overturned and dissolved if anybody who is ordered to do something may respond not with due obedience, but with unacceptable counsel, and may claim to know more than is needful.

At any rate, our case is far different: not only did the Austrians disobey the command, but they spurned and rejected it, and did the exact opposite – as if loyal respect could be to do the opposite of what the Apostolic See commands. Against such people Pope Hadrian wrote: 

*By a general decree we have resolved that any king, bishop or potentate who refers a censure decreed by a Roman Pontiff to somebody else or allows it to be disregarded will be anathema and always guilty before God of having abused the Catholic faith.*

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1 Decretum, C.25.1.11 (col. 1009)
Quas ob causas intelligere jam omnes, qui adsunt praesentes, arbitror injustas atque iniquas esse illorum querelas, qui consulentes Austrialibus et illorum facta probantes sanctissimi domini nostri Nicolai monitiones\textsuperscript{1} accusant. Qui cum sint ipsi\textsuperscript{2} culpabiles et magna digni correctione, apostolicae sanctae sedis\textsuperscript{3, 4} decreta calumniatur, violatores legum, contemtores canonum, corruptores evangelii, et omnis honestae consuetudinis perversores, quos ab ecclesia repellendos, nisi resipiscant et humili confessione peccata deplorent, nullus jurisprudent ignorat. Nam qui luporum feritatem praecedit, qui canum rabiem imitantur, quibus est venenum letale serpentum, et omnis cruenta saevitia bestiarum, nullo pacto sunt in ecclesia retinendi, sed exclusi absidiique debent, ne columbas, ne oves Christi saeva et venenata contagione praedentur. \textit{Eant, eant igitur hujusmodi pestes\textsuperscript{5} hominum, et relinquant collegium Christianum haeretici perversores, quando conjungi et cohaerere non potest amaritudo cum dulcedine, caligo cum lumine, pluvia\textsuperscript{6} cum serenitate, pugna cum pace, cum fecunditate sterilitas, cum fontibus siccitas, cum tranquillitate tempestas, ut Cypriani\textsuperscript{7}, facundissimi viri et gloriosi martyris, est sententia.}

\textsuperscript{1} monitio G
\textsuperscript{2} quasi B, E, MU
\textsuperscript{3} omit. U1
\textsuperscript{4} sanctae sedis : sedis sanctae C, MU
\textsuperscript{5} potest U1
\textsuperscript{6} pluma A
\textsuperscript{7} Cypriani \textit{in marg.} A; Cypriani \textit{in marg.} D; Cypriani sententia \textit{in marg.} U3
For these reasons I believe that all who are present here today understand that the complaints against the admonitions of Our Most Holy Lord Nicolaus made by those who counsel the Austrians and applaud their actions are unjust and evil. Though they themselves are culpable and merit serious correction, they disparage the decrees of the Holy Apostolic See. They violate the laws, they despise the canons, they corrupt the Gospel and they pervert all decent custom. Every jurist knows that unless they repent and regret their sins in humble confession, they should be cast out of the Church. For those who show the ferocity of wolves, who imitate the rabidity of dogs, who carry the lethal poison of snakes, and show the bloody savageness of wild animals, should in no way be allowed in the Church. Nay, they should be excluded and cast out, so that the doves and sheep of Christ should not fall victim to their bloody and poisonous contagion. As that well-spoken man and glorious martyr Cyprian states: Let them depart, let them depart those plague-ridden men, and let all evil heretics leave the Christian community, since bitterness cannot be joined and associated with sweetness, darkness with light, rain with clearness, war with peace, barrenness with fertility, drought with springs, storm with tranquility.

1 Cyprianus: De unitate ecclesiae, 9: What does the fierceness of wolves do in the Christian breast? What the savageness of dogs, and the deadly venom of serpents, and the sanguinary cruelty of wild beasts? We are to be congratulated when such as these are separated from the Church, lest they should lay waste the doves and sheep of Christ with their cruel and envenomed contagion

2 Cyprianus: De unitate ecclesiae, 9
[126] Ac tantum adversus maledicta et malefacta\textsuperscript{1} nostrorum adversariorum locutum esse\textsuperscript{2} sufficiat. Ceterum, cum monitorium apostolicum perspicuis ac manifestissimis rationibus sit defensum, quod super rebus ad Romanam sedem pertinentibus adversus delinquentes et notorios malefactores etiam auditos emanavit, cum appellationem interjectam nullo jure subsistere posse monstraverimus\textsuperscript{3}, cum multis {66r} in rebus Austriales peccavisse sit doctum\textsuperscript{4}, exposcit tempus, ut quod ultimo loco de Romani pontificis domini nostri sanctissimi\textsuperscript{5}, Nicolai\textbf{,} desiderio et intento promisimus, in medium\textsuperscript{6} afferamus\textsuperscript{7}. Quod gravissimo et ornatissimo conventu\textsuperscript{8} vestro\textsuperscript{9} benignas aures adhibente\textsuperscript{10}\textsuperscript{11} succincte ac\textsuperscript{12} brevissime\textsuperscript{13} faciam. Quamvis offensus horrendis maledictis\textsuperscript{14} compellationibusque probr\textsuperscript{os}is jactatus sit dominus noster clementissimus, non tamen ultionem expetit, cujus memoria praeter injurias, quidquid accepit, tenacissime servat. Sed illius vestigia sequens, cujus vices in terris agit\textsuperscript{15}, peccator\textsuperscript{is} conversionem, non mortem appetit.

[127] Duo\textsuperscript{16} sunt, ad quae\textsuperscript{17} vestrarum congregationem hortatur intendere. Alterum est, ut componendae paci\textsuperscript{18} operam detis, alterum, ut Austriales commoneatis\textsuperscript{19} apostolicam sedem more majorum suorum veluti matrem et magistram\textsuperscript{20} veritatis ut condigna\textsuperscript{21}\textsuperscript{22} reverentia prosequantur, humilitatem pro superbia, devotionem pro blasphemia, oboedientiam\textsuperscript{23} pro contumacia reprehendentes\textsuperscript{24}.\\

\textsuperscript{1} et malefacta \textit{omit.} U1\\
\textsuperscript{2} locutum esse : potuisse V\\
\textsuperscript{3} monstravimus F, V\\
\textsuperscript{4} dictum MU\\
\textsuperscript{5} domini nostri sanctissimi : sanctissimi domini nostri G\\
\textsuperscript{6} in medium omit. V\\
\textsuperscript{7} Hec ad pontificem in marg. D, G\\
\textsuperscript{8} conventui MU\\
\textsuperscript{9} nostro V\\
\textsuperscript{10} adhibete palam MU\\
\textsuperscript{11} aures adhibente : adhibente aures U1, U2, U3\\
\textsuperscript{12} et U1, U2, U3\\
\textsuperscript{13} breviter F\\
\textsuperscript{14} horrendis maledictis : maledictis horrendis U3\\
\textsuperscript{15} Bonus papa \textit{in marg.} A\\
\textsuperscript{16} Pontifex Nicolaus Austriales hortatur \textit{in marg.} D; Pontifex ad Austriales \textit{in marg.} G\\
\textsuperscript{17} ad quae : quae ad E, MU\\
\textsuperscript{18} pacis F\\
\textsuperscript{19} ut \textit{add.} MU\\
\textsuperscript{20} et magistram : magistramque U1\\
\textsuperscript{21} ut condigna : cum digna E, V, MU\\
\textsuperscript{22} condignam U1\\
\textsuperscript{23} oboedientia A, F\\
\textsuperscript{24} reprehendentes U1; respondentes V
5. Pope’s intentions are benevolent and peaceful

[126] We have now said enough about the evil words and deeds of our adversaries. With clear and manifest reasons we have defended the apostolic monitorium: it concerned issues pertaining to the Apostolic See, and it was issued against criminal and notorious malefactors whose case had moreover been heard. We have shown that their appeal has no validity, and we have explained how the Austrians have sinned in many ways. Now time demands that we end our oration by disclosing - as promised in the beginning - the desires and aims of the Roman Pontiff, Our Most Holy Lord Nicolaus V. May this exalted and excellent assembly lend ears to what I shall say, succinctly and briefly. Though Our Most Clement Lord is offended by the appalling statements of the Austrians and shocked by their shameful appeals, he does not seek revenge, for he vividly remembers all except offenses. But following in the footsteps of the One, whose Vicar on Earth he is, he desires the conversion of the sinner, not his death.¹

[127] He therefore invites your assembly to focus on two things. The first is to endeavour to make peace, the second is to admonish the Austrians to follow, in the way of their forefathers and with due reverence, the Apostolic See as their mother and teacher of truth, and to exchange arrogance with humility, blasphemy with devotion and obstinacy with obedience.

¹ Ezekiel, 33, 11
[128] Intellexit pietas apostolica inclytum regem Ladislaum, quamvis adhuc impuberem et
annis tenerum, imperatoriae majestatis tutelam exississe atque in aliorum veluti regnaturum venisse manus. Res adhuc turbidas esse ac non simulantes modo, sed odia videri aperta inter Caesaream serenitatem et eos, quorum consilio rex Ladislaus regitur, idque molestum est atque acerbum domino nostro, qui ex odiis bella, ex bellis infinitas oriri calamitates noscit. Cupit ergo vestrum esse studium vestramque curam, ut omnem discorditatem cause atque rrectori, quod vel in terris vel in caelis fiat acceptius, qui nec locum habitat nisi pacatum, dicente propheta: *Et factus est in pace locus ejus.*
5.1. Restoration of peace

His Apostolic Piety has been informed that the illustrious King Ladislaus, though still a child of tender years, has left the guardianship of His Imperial Majesty and come into the hands of other people in order to take up his rule. Matters are still turbulent: we see not just conflicts, but even open enmity between His Imperial Serenity and those by whose counsel King Ladislaus is governed. This is a dreadful and bitter burden on Our Lord, who knows that wars arise from enmity and infinite calamities from wars. He therefore desires you to work with all your might to remove all matter for conflict and restore peace. For nothing in Heaven and Earth is more pleasing to the mover and ruler of the world machine\(^1\) who can only live in a peaceful place. As says the prophet: *And his place is in peace.*\(^2\)

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\(^1\) Note the concept of the world as a machine, *machina mundi*, and God as the mover of the machine

\(^2\) Psalms, 75, 3: *et erit in Salem tabernaculum eius*. The Latin text is different from the Vulgate
Maxime autem diligentiam eo ferri atque intendi vestram hortatur, ut res, quas in hac conventione suscepistis agendas, ita ordiri conemini atque contexere, quod imperator regi et rex imperatori indissolubili caritatis vinculo reconcilietur, ut inde paterna dilectio et hinc filialis affectio ferveat, tantumque invicem se observent, ut proximitatis et sanguinis jura amoris et benevolentiae superentur officii. Quae res, si vestro conatu peraguntur, ut sperandum est, uberes Christianae reipublicae fructus parabunt, cum nihil magis Christianitati conducat, quam regnum illud Hungariae, quod pro muro contra Turcos fideles habent, et imperium, quod est regnorum caput et columna, mutuis sese obsequiis ac beneficiis superare contendant. Quo in negotio, si quid est, quod sedes apostolica aut opis aut operis impartiri posset, id promptum paratumque offert, cui prophetica semper in oculis est praeceptio: Declina a malo et fac bonum, inquire pacem, et persequare eam.

Cui non sufficit pacem quaequandis, nisi inventam fugientemque omni studio persequatur, sciens, quia magister et dominus salvator Christus, cum in terris ageret, nullum majus quam serendae plantandaeque pacis studium habuit. Quo nascente, quo praedicante ac secundum carnem moriente semper annuntiatam novimus pacem, cujus nomine nihil dulcius, cujus re nihil jucundius aut salubrius inter mortales inveniri potest. Quae licet nonnumquam difficulter obtineatur, obtenta tamen carius et diligentius possidetur. Complurima de bono pacis afferre possem, sed omnia norunt prudentissimae atque oculatissimae dignitates vestrae, quae in dies res parvas concordia cresce, dilabi magnas discordia cernunt. Quibus autem modis componi lites omnes et refrigerari ferventes animi possint, scientibus supervacuus est labor exponere, nec suis est docere Minervam.
But most of all he invites you to work diligently to fulfill the goal you have undertaken in this assembly, that is to reconcile the emperor with the king and the king with the emperor with an unbreakable chain of love, so that henceforth there may be paternal love on one side and filial affection on the other, and that they will be so devoted to each other that the rights of family and blood may be surpassed by obligations of love and benevolence. If you succeed in this, as we hope, there will be abundant fruits for the Christian community. Indeed, nothing is better for Christianity than that the Kingdom of Hungary, bulwark of the faithful against the Turks, and the empire, head and pillar of all kingdoms, should strive to surpass each other in mutual regard and benevolence. If the Apostolic See can contribute to this cause with resources or labours, it is ready and prepared to do so. For it is always looking to that precept of the prophet: *Turn away from evil and do good: seek after peace and pursue it.*

For the Apostolic See will not just seek peace, nay, it will pursue it with all its might - fleeting and transitory as it is. For it knows that when Christ, our teacher and Lord Saviour, lived on earth, his greatest concern was to sow and plant peace. We know that as he was born, as he was preaching, and as he died according to the flesh, he was always talking about peace. Truly, among men nothing can be found sweeter than the word “peace”, and nothing is more joyful and salutary than peace itself. It may often be difficult to obtain, but when it has been found, nothing should be held more dearly and diligently. I could say much more about the benefit of peace, but as Your Honours are both wise and clear-sighted, you know it very well and are quite aware that *harmony makes small states great, while the mightiest are undone by discord.* It is useless to tell those, who already know, how to solve conflicts and to cool burning tempers: *Minerva should not be lectured by swine.*

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1 Psalms, 33, 15: *recede a malo et fac bonum quaere pacem et persequere eam.* The Latin text is different from the Vulgate.

2 Sallustius: *Bellum Iugurthinum, 10.6: Nam concordia parvae res crescent, discordia maxumae dilabuntur*

3 Cicero: *Academica, 1.5.18: Nam etsi non sus Minervam, ut aiunt, tamen inepte quisquis Minervam docet*
Transeo ad secundum sanctissimi domini nostri optatum, quod praelatos praecipue virosque doctrina pollentes inspicit, quales esse quamplures in hoc auditorio non est dubium. Vos igitur, vos - inquam - juris ac sacrarum litterarum interpretes vosque mundi lumina, vos qui lucernas ardentes in domo domini, quae est ecclesia, vos ad innocentiam simplices et cum simplicitate prudentes, vos apostolica magnitudo requisitos oratosque facit, ut sollicito corde Austriales commoneatis, ne jussiones apostolicas respicientes, ecclesiae claves irrideant. Quoniam si Christiani censi verba evangeli volunt, si sapientiam Dei, patris sequi filium volunt, evangeli necessario credent, quod Petrum ecclesiae pastorem constitutum voce salvatoris edocet, et animas ligandi atque solvendi pontificium acceppisse. Quod autem de Petro, idem de successoribus ejus sentient, si regni aeterni et haereditatis Christi optaverint esse participes. Quia non ad unam solum personam vicariatum suum extendit dominus, sed gradatim per vices electionis usque ad finem mundi propagavit dicens: *Ego vobiscum sum* usque ad consummationem saeculi. Hinc Hieronymus ad Damasum papam scribens: *Cum successore pescatoris*, inquit, et *cum discipulo Christi loquor*. Ego nullum primum nisi Christum sequens, beatitudini tuae, idest cathedrae Petri communione consortor. Super illam petram aedificatam ecclesiam scio. *Quicumque extra hanc domum agnum comederit, profanus est. Si quis in Noae arca non fuerit, peribit regnante diluvio.*

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1 Secundum pontificis optatum *in marg.* D, G
2 auditorium F
3 *omit.* U1
4 *ardentes tenetis : tenetis ardentes* U3
5 *nos* U1
6 *Australis* F
7 *omit.* F
8 respicientes F
9 qui F
10 Christiani U1
11 pontificum F; pontificem V
12 suis F
13 regem F
14 *omit.* U3
15 in V
16 *usque ad finem ... vobiscum sum* *omit.* U1
17 Hieronymus ad Damasum *in marg.* A, D, G; Hieronymus *in marg.* U3
18 *pastoris* U1, U2; *piscatoris corr. ex pastoris* U3
19 *premium* V
20 *communi* MU; *communione* U3
21 Noae arca : *arca Noe* U3
5.2. Obedience to the Holy See

[131] I now pass on to the second wish of Our Most Holy Lord which especially concerns the prelates and men of great learning of whom many are certainly present in this assembly. You - I say - you interpreters of law and of Holy Scriptures, you the lights of the world, you who are holding burning lamps\(^1\) in the house of the Lord, that is the Church, you who are of simple innocence and prudent simplicity, you His Apostolic Highness asks and requires to solicitously admonish the Austrians not to spurn the apostolic commands nor to mock the keys of the Church. If they desire to be called Christians and wish to follow the wisdom of God and the Son of the Father, they must believe [the words of] the Gospel saying that the Saviour personally appointed Peter the pastor of the Church and that he gave him the pontifical charge of binding and freeing souls. And they must believe the same about Peter’s successors if they want to share the Eternal Kingdom and the heritage of Christ. For the Lord gave his vicariate not to one person alone, but extended it, through successive election, to the end of the world, saying: *I am with you all days, even to the consummation of the world.*\(^2\) Therefore Jerome could write to Pope Damasus: *My words are spoken to the successor of the fisherman, to the disciple of Christ. As I follow no leader save Christ, so I communicate with none but your blessedness that is with the chair of Peter. For this I know, is the rock on which the church is built. This is the house where alone the paschal lamb can be rightly eaten. This is the ark of Noah, and he who is not found in it shall perish when the flood prevails.*\(^3\)

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\(^1\) Luke, 12, 35: *Sint lumbi vestri praecincti, et lucernae ardentes in manibus vestris*
\(^2\) Matthew, 28, 20
Quod si hoc\textsuperscript{1} Austriales suopte\textsuperscript{2} ingenio non capiunt, instruite illos in \textit{caritate non ficta} atque commonitos facite, ne his auscultent, qui resistendum apostolicae sedi consulunt, et alios rebellantes in argumentum adducunt dicentes: “Erimus nos sicut et ceteri, qui Romani pontificis auctoritatem ignorant.” Quibus vocibus nihil esse aut sceleratus aut periculosius potest. Quod si neque rationibus neque sacrorum canonum vinci auctoritatus possunt, exemplorum saltem copia moveantur\textsuperscript{3}. Omnes enim, qui\textsuperscript{4} ab initio nascentis ecclesiae, in hanc\textsuperscript{5} usque \{67r\} diem apostolicae sublimitatis impugnare conati sunt eminentiam, in ruinam cum Lucifero dati clades maximas inciderunt\textsuperscript{6}. Omnes enim, qui Romani pontificis auctoritatem ignorant. In oriente, sicut Jeronimus\textsuperscript{7} ait, \textit{Lucifer ille, qui ceciderat, super sidera posuit thronum suum, ubi obruta fulcis frumenta in lolium avenasque degenerant}. Aegyptus\textsuperscript{8} et Libya, dum Christum, qui Romae praedicatur, audire contemnit, pseudoprophegam Mahumetum\textsuperscript{9} admittit et sequitur ad infernum. Graecia\textsuperscript{10}, dum superbit ac Romanae majestatis primatum negare praeomit, servire Turcis cogitur et hostibus Christiani nomenis tributa\textsuperscript{11} pendere.

\textsuperscript{1} hoc corr. ex hec A; haec B, C, E, MU; omit. U1
\textsuperscript{2} suapte V
\textsuperscript{3} moneantur corr. ex moveantur U3; moneantur V
\textsuperscript{4} omit. U1
\textsuperscript{5} hunc U3
\textsuperscript{6} clades maximas inciderunt : in maximas inciderunt ruinas clades G
\textsuperscript{7} Hieronimus in marg. A
\textsuperscript{8} Egyptus in marg. D; Ägyptus. Libya in marg. G, U3
\textsuperscript{9} Maumethus in marg. A; Maumethes in marg. U3
\textsuperscript{10} Thurci. Grecia in marg. A; Graecia in marg. U3
\textsuperscript{11} tributum MU
If the Austrians do not understand this on their own, then show it to them with *unfeigned love*. Admonish them not to listen to those who counsel them to resist the Apostolic See, and who lead others to rebellion, saying, “Let us do as other people who do not recognise the authority of the Roman Pontiff.” Nothing can be more wrong or more dangerous than such words. But if the Austrians can be persuaded neither with good reasons nor by the authorities from the sacred canons, at least let them be moved by many precedents. For all those who since the birth of the Church and unto this day have tried to attack the eminence of the Apostolic Highness have been given over to ruin together with Lucifer and have suffered great calamities. *In the East,* says Jerome, *Lucifer who fell from Heaven has once more set his throne above the stars ... where the seed corn is choked in the furrows and nothing grows but darnel or oats.* Egypt and Libya refuse to hear Christ, who is proclaimed in Rome, and now they follow the false prophet Muhammad to Hell. And Greece which arrogantly and temerarily presumed to deny the primacy of the Roman majesty is forced to serve the Turks and pay tribute to the enemies of the Christian name.

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1 Adaptation of 1. Timothy, 1, 5
2 Jeronimus: *Epistola ad Damasum* (15), 1. MPL, XXII, col. 355
What should I say about the Kingdom of Bosnia, despised and hated by all peoples? And what has Bohemia gained from the temerity of a group of people who, while persecuting the Roman Church, did great damage to themselves and destroyed not only the wealth of a flourishing realm, but also the temples of the saints and the houses and noble palaces of their lords? They do not wish to obey the commands of their archbishop and of other prelates. Instead they have to carry the yoke of those wicked apostates, Prokop Rasci and some Englishman called Peter, and to tolerate as their leaders people whom formerly they would not have accepted as stable boys or servants in bars. Let them beware of this and let them tremble, those who persecute the Roman Pontiff and the Sacred College, about whom Jerome says: You alone keep the heritage from the fathers inviolate. And again: Ye are the light of the world, ye are the salt of the earth, ye are vessels of gold and silver. And again, about the pope: He that gathers not with you scatters. Do not let them flatter themselves saying: “If we leave the Roman Church, it will suffer: many will leave it, and few will follow it.” The loss of sheep indeed pains the Church, but when they are incurable, it will itself cast the sick sheep out of the flock so that the sick do not infect the whole flock. As Cyprian says: Let none think that the good can depart from the Church. The wind does not carry away the wheat, nor does the hurricane uproot the tree that is based on a solid root. The light straws are tossed about by the tempest, the feeble trees are overthrown by the onset of the whirlwind.

1 Prokop: (ca. 1380-1434): prominent Hussite general of the Hussite Wars. His name has also been given as Prokop Holý or Prokopius Rasus - Latin translation (“the Shaven,” in allusion to his having received the tonsure in early life)
2 Peter Payne (ca. 1380-1455): English theologian. Educated in Oxford where he joined the Lollards. Travelled to Bohemia and was received by the University of Prague in 1417. Became one of the leaders of the Hussites, joining the sect of the “Orphans”. One of the Hussite legates to the Council of Basel, known for his intransigence
3 Jeronimus: Epistola ad Damasum (15), 1. MPL, XXII, col. 355
4 Jeronimus: Epistola ad Damasum (15), 1. MPL, XXII, col. 355
5 Jeronimus: Epistola ad Damasum (15), 2. MPL, XXII, col. 356
6 Cypriánus: De unitate Ecclesiae, 9

¹ discedere F
² igne U3
³ tamen minus : minus tamen G
⁵ ut Augustini ... ardebunt omit. E, MU
⁶ sunt U
⁷ omit. F
⁸ omit. V
⁹ Contra recedentes ab ecclesia in marg. U3
¹⁰ hac F
¹¹ vel add. F
¹² recedamus E, MU
Those who would abandon the apostolic fundament should know that they are fragile plants and mere chaff that shall be burned swiftly by greedy fire. And though they have followers, they shall still burn, as Augustine says: They shall burn, together with many.\(^1\) But the Roman Bishop will say, with the Apostle John: They went out from us but they were not of us.\(^2\) And Paul, the teacher of the peoples, says: For there must be also heresies: that they also, who are approved, may be made manifest among you.\(^3\) Thus the faithful are approved, thus the perfidious are detected; thus even here, before the Day of Judgment, the souls of the righteous and of the unrighteous are already divided.\(^4\) But the Church remains, undiminished in splendour, pure and brilliant. Shone over with the light of the Lord, it sheds forth her rays over the whole world, yet it is one light which is everywhere diffused, nor is the unity of the body destroyed by divisions.\(^5\) Who are those who say: We shall leave the Church? Separate a ray of the sun from its body of light, its unity does not allow a division of light.\(^6\) But those who leave the Church lose the spirit of vivification, and they are immediately dead to God and his angels. Break a branch from a tree — when broken, it will not be able to bud; cut off the stream from its fountain, and that which is cut off dries up.\(^7\) So let the Austrians choose whether they want to be saved with the Roman Church, or perish with its persecutors.

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1. Decretum, C.2.1.18 (col. 447)
2. 1. John, 2, 19: \textit{ex nobis prodierunt sed non erant ex nobis}
4. Cyprianus: \textit{De Unitate ecclesiae}, 10
5. Cyprianus: \textit{De unitate ecclesiae}, 5
6. Cyprianus: \textit{De unitate ecclesiae}, 5: As there are many rays of the sun, but one light; and many branches of a tree, but one strength based in its tenacious root; and since from one spring flow many streams, although the multiplicity seems diffused in the liberality of an overflowing abundance, yet the unity is still preserved in the source. Separate a ray of the sun from its body of light, its unity does not allow a division of light
7. Cyprianus: \textit{De unitate ecclesiae}, 5
Elegi a\textit{bjectus esse in domo Domini}, canit David\textsuperscript{12}, \textit{magis quam habitare in tabernaculis peccatorum}. En solidam et inconcussam fidem! En virum juxta cor domini repertum, mendicare inter bonos quam inter malos abundare mavult\textsuperscript{3}\textsuperscript{3}\textsuperscript{3}! Quid Austriales agant, quibus cum veritate manentibus felicitas, cum falsitate recedentibus\textsuperscript{4} miseria repromittitur? O exuberantem divinae misericordiae largitatem! O infinitam superni regis benignitatem, quae sectoribus suis non futura solum in caelis, sed in terris quoque praesentia et\textsuperscript{5} amplissima bona pollicetur, dicente apud Matthaeum domino: \textit{Beati mites quoniam ipsi possidebunt terram}. Et virum, qui non abiit in consilio impiorum, et in via peccatorum non stetit, beatum esse, et omnia, quaecumque agat, prosperitatem habitura regius propheta confirmat. Et apud Malachiam \textit{Probate me, inquit\textsuperscript{6} dominus, si non aperuero vobis cataractas\textsuperscript{7}} caeli et effundam vobis benedictionem \textit{usque ad abundantiam}; et increpabo pro vobis devorantem, et non corrumpent fructum terrae vestae, nec\textsuperscript{8} erit sterilis vinea in agro, et beatos vos dicent omnes gentes.

\footnotesize
\begin{itemize}
  \item \textit{omit.} U1
  \item David \textit{in marg.} A; David propheta \textit{in marg.} U3
  \item malunt U1
  \item recedentes U1
  \item \textit{omit.} F
  \item me inquit : inquit me U3
  \item cataractas A, C, U2, U3; catheractas B, F, U1; catharactas M
  \item non U3
\end{itemize}
I have chosen to be an abject in the house of my God, sings David, rather than to dwell in the tabernacles of sinners. Oh, what solid and unshakeable faith! Oh, what man after the heart of the Lord who would rather beg among good men than live in abundance among evil men! What will the Austrians do who are promised happiness if they stay with truth, and misery if they leave with falseness? Oh, abundant generosity of divine mercy! Oh, infinite benevolence of the King of Heaven who promises his followers not only future benefits in Heaven, but also present and large benefits on Earth. As the Lord says in Matthew: Blessed are the meek: for they shall possess the land. And the royal prophet confirms that blessed is the man who hath not walked in the counsel of the ungodly, and all that he does will bring prosperity. And in Malachias: Try me in this, saith the Lord: if I open not unto you the flood-gates of heaven, and pour you out a blessing even to abundance. And I will rebuke for your sakes the devourer, and he shall not spoil the fruit of your land: neither shall the vine in the field be barren, saith the Lord of hosts. And all nations shall call you blessed.

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1 Psalms, 83, 11
2 Cf. Piccolomini’s oration (really a treatise on Christian life) “Non est apud me” [6] of 1446 in which the main message is that the Christian may be happy not only in Heaven, but also on Earth
3 Matthew, 5, 4
4 Psalms, 1, 1-3
5 Malachias, 3, 10-12
Vos ergo, patres, fide ferventes, qui scripturarum integram habetis notitiam, et incorruptos sapientiae haustus ebibistis, scientes quia Deo animam, mundo famam, proximo curam, patriae honorem, imperio reverentiam, Romanae sedi fidelitatem debetis\(^1\), omni officio vel uno hoc opere\(^2\) satisfacietis\(^3\), si ex desiderio summi pontificis domini nostri sanctissimi\(^4\) Nicolai quinti, quod jus, quod ratio, quod veritas praecipit Austrialibus praedican\(^{\text{tes}}\), sic nobilitatem et plebem instruxeritis, ut pertinacia dimissa salutis suae cupid\(\text{i}\) ac solliciti sacrosanctae Romanae sedis non ultionem\(^5\) timere, sed sperare veniam mereantur. Laus Deo\(^6\).

\(^1\) habetis F
\(^2\) opere hoc F
\(^3\) satisfaciente V
\(^4\) omit. B, E, MU
\(^5\) sedis non ultionem corr. ex sedis A, C
\(^6\) Laus deo omit. B, C, E, G, U3, MU; Finis V
6. Conclusion

[136] You, oh Fathers, who burn for the Faith, who know all of Scripture, and who have drunk from the pure [fountain of] wisdom: you know that you owe the soul to God, glory to the world, care to your neighbour, honour to your fatherland, reverence to the empire, and loyalty to the Roman See. You shall fulfill all your obligations as one, if – according to the wish of the Supreme Pontiff, our Most Holy Lord Nicolaus V - you tell the Austrians what is required by justice, reason and truth, and teach the nobility and the people to care intently about their salvation and to stop being defiant, so that they may hope for the forgiveness, and not the retribution of the Holy Roman See. Praise be to God.