

Lower than God but Higher than Man: Papal Infallibility in the Thought of Nicholas of Cusa and Juan de Torquemada

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The Roman Catholic Church's claim of infallibility for the pope has a long and complicated history. This thesis reviews the scholarly literature on the origins of the doctrine. It also details how infallibility formed a crucial part of the thought of two medieval intellectuals: Nicholas of Cusa (1401-1464) and Juan de Torquemada (1388-1468). Both Cusa and Torquemada were distinguished churchmen. However, their careers followed different trajectories. Cusa began as a staunch papal opponent, but his desire for Church unity overrode his loyalty to the pope's opposition. So, he reversed course and became a papal supporter who theorized a notion of infallibility based upon the political theories, like representation, with which he, as a canon lawyer, was familiar. Torquemada started and ended his career as a papal defender. He developed a theory of papal infallibility that was based upon a close reading of theological sources rather than political theories. These two theorists' convergence of thought on papal infallibility represents a surprising deviation from what one might expect from two men of such different backgrounds. However, this study attempts to highlight how the political and ecclesiastical necessities of the day influenced the development of infallibility, a doctrine that is still believed by multitudes of Catholics around the world.

TABLE OF CONTENTS

1.0	INTRODUCTION: THE CONTOURS OF INFALLIBILITY	1
1.1	THE INTERSECTION OF THEOLOGY AND HISTORY: LITERATURE REVIEW4	
2.0	PAPAL INFALLIBILITY IN THE WRITINGS OF NICHOLAS OF CUSA.....	14
2.1.1	Infallibility in <i>De concordantia catholica</i> (1433).....	16
2.1.2	Infallibility and the Hussites	21
2.2	INFALLIBILITY IN NICHOLAS OF CUSA’S PAPALIST WRITINGS ..	26
2.2.1	Infallibility in “Dialogue Against the Amediests” (1441)	28
2.2.2	Infallibility in the Brixen Sermons (1454)	34
2.3	POLITICAL INFALLIBILITY: THE CASE OF NICHOLAS OF CUSA .	39
3.0	INFALLIBILITY IN THE WRITINGS OF JUAN DE TORQUEMADA.....	43
3.1	INFALLIBILITY IN <i>A DISPUTATION ON THE AUTHORITY OF POPE AND COUNCIL</i> (1439).....	48
3.2	INFALLIBILITY IN THE <i>SUMMA DE ECCLESIA</i> (1453).....	56
3.3	JUAN DE TORQUEMADA: DEVELOPER OF DOCTRINE.....	60
4.0	CONCLUSION: THE MEN WHO MOVED INFALLIBILITY FORWARD	62
	BIBLIOGRAPHY.....	66

PREFACE

I am deeply grateful to so many for their support in my undergraduate education that led to the production of this thesis. Most directly I am indebted to my thesis advisor, intellectual role model, and mentor, Janelle Greenberg. She took me under her wing when I was just a nervous first year student, unsure of whether I could write a competent essay. She taught me how to write sophisticated historical analysis by her example. Her supervision of this project has not only made it better but made it possible. I am also grateful to Bruce Venarde, another mentor as I developed as a historian. He showed me the intrigue of the Middle Ages and made sure that I never tired of reading those dusty, old books. My thesis committee, which included Professors Greenberg and Venarde in addition to Kenneth Parker and Elizabeth Archibald, also made several very helpful suggestions for improvement which are reflected in the final version of this essay. I also owe a debt to the University Honors College which supported my efforts through funding and facilitation of opportunities for undergraduate research. Finally, I am grateful to my friends and family who supported me throughout this process and on occasion even indulged me while I discussed the latest 500-year-old book I was reading. Without any of those mentioned here, this work would have been impossible, and so to them I offer my sincerest thanks.

1.0 INTRODUCTION: THE CONTOURS OF INFALLIBILITY

The Middle Ages left the western world poised to enter modernity by innovating in politics, theology, and social arrangement. This period of intellectual ferment produced ideas that would become the building blocks of western thought for centuries. A modern flair defines many of these perspectives, but one in particular appears patently archaic: papal infallibility. Papal infallibility, perhaps one of the boldest theories in any field—theological or otherwise—because of its claim to inerrancy on the part of a human being, is a surprisingly unfamiliar aspect of the medieval legacy. The doctrine transcends disciplinary borders. Papal infallibility is a theological doctrine that relies on historical justifications for its existence. Theologians are frequently reluctant to engage in detailed historical inquiry, and historians have been content to accept the glossed history the theologians have offered. In papal infallibility, though, the historian's critical eye is needed, since this doctrine bears such a complex past. Only a handful of historians have attempted to interpret the convoluted story of papal infallibility's development. The seminal works of Brian Tierney and James Heft on the Franciscan Poverty Controversy of the fourteenth century produced the contemporary scholarly discourse on infallibility's medieval origins.

Despite its complicated past, infallibility can be considered a doctrine that developed over time. Innovation in doctrine and fundamental change were anathema to the theologians and canon lawyers of the Middle Ages. Even though innovation was an integral part of infallibility's history, especially at the beginning, over the course of multiple centuries the essence of the doctrine of

infallibility remained unchanged. So, the meta-narrative of infallibility is one of continuity. Premises and justifications for the doctrine change over time, but the most significant elements, like its practical implications for the life of the Church, persist unaltered even in the hands of men with radically different purposes.

One of the most striking elements of the development of infallibility in the Middle Ages is its political weaponization. A recurring theme in the development of this doctrine is its use in intra-Church political struggles. The fingerprints of rogue Franciscan theologians were still fresh on the doctrine of infallibility in 1350, but by the end of the conciliar period, it was a favored argument of papalists. During the conciliar period, the doctrine of papal infallibility shifted from the anti-papal camp—Franciscans who were trying to limit the power of Pope John XXII—to the mostly pro-papal camp, composed theologians and canon lawyers disputing matters of authority and jurisdiction with the conciliarists.¹ Nicholas of Cusa, probably the most eminent philosopher of the fifteenth century, began his career following the lead of the Franciscans in using infallibility against the pope by ascribing a more important role to Church councils. Cusa later reversed course on papal infallibility not because of revelation but because his political allegiances compelled him to do so. This paper argues that while Nicholas of Cusa presents a uniquely visible case of political maneuvering around the concept of infallibility, the idea was commonly used for similar purposes throughout the conciliar period, just as it had been during the Franciscan Poverty Controversy. I will also argue that the conciliarists redefined the terms of the debate over infallibility. The

¹ For the purposes of this paper, I define the conciliar period as the time from the convocation of the Council of Constance to latter part of the fifteenth century. It was during this stretch of time that the conciliar theory carried the most weight. However, as will be seen later in this essay, the theory had lost a great deal of its support by the time of the Council of Ferrara-Florence (1438-1445). Even though conciliarists lost support, their ideas continued to be influential, even among papalists like Juan de Torquemada.

conciliarists' arguments became so well-known that even the papalists were constrained by the ideological terms set out by the conciliarists.

In my consideration of the ideas of Nicholas of Cusa, I place them in dialogue with those of Juan de Torquemada, his lesser-known contemporary. Torquemada followed a different path from Cusa, his enemy turned ally. Torquemada represented and defended the papacy throughout his career. This stands in stark contrast to the early conciliar preferences of Cusa. Cusa eventually joined the ranks of the papalists, but he is best known for his conciliar writings. Yet, Juan de Torquemada and Nicholas of Cusa, even before his change of allegiance, arrived at the same ideological conclusion: the pope must be infallible. Despite the distinct rationales these two theorists employ, both concluded that papal infallibility was the best way to maintain the catholicity of the Church. Both men lived through the Great Schism, a time of unprecedented division within the Western Church, and so had reason to fear the consequences of a fragmented Church. In their writings, a strong conception of papal primacy emerges that would characterize the period following the Great Schism until the upheaval of the Protestant Reformation. The ideological underpinning that these two thinkers provided for the growth of the papal monarchy proved significant as the center of the institutional Church shifted from the local bishops to the bishop in Rome. This paper will focus on the two theorists' conceptions of infallibility.

1.1 THE INTERSECTION OF THEOLOGY AND HISTORY: LITERATURE

REVIEW

“This tradition which comes from the Apostles develop[s] in the Church with the help of the Holy Spirit.”² This key line from *Dei verbum* underlines the theme of doctrinal development that the Second Vatican Council emphasized so heavily. Doctrinal development necessitates an understanding of history for modern theologians. Because the Church’s understanding of doctrines is always evolving, theologians must know from where the Church has come in order to comprehend its future trajectory. The seminal writing on doctrinal development is John Henry Newman’s *An Essay on the Development of Christian Doctrine*.³ He emphasized the essential continuity of Christian teaching over the centuries while acknowledging that the Church’s understanding of doctrine does change over time. This rich and detailed historical perspective is lacking from the discussion on papal infallibility. As Brian Tierney notes in the opening chapter to his still influential 1972 book, *Origins of Papal Infallibility 1150-1350*, the historical problems of modern theologians of infallibility have been wide-ranging and numerous.⁴ While it would be inappropriate for historians to attempt to answer the questions of modern theology, the illumination that a rich historical perspective gives may provide a guiding light for those theologians lost in what Tierney calls their “cul-de-sac.”⁵ It is at least somewhat ironic that a doctrine inextricably entangled with the historical development of dogma is itself lacking in historical explanation. While Tierney and Heft provided an important starting point for understanding infallibility, their

² Pope Paul VI. *Dei Verbum* [“Dogmatic Constitution on Divine Revelation”], (November 18, 1965).

³ John Henry Newman, *An Essay on the Development of Christian Doctrine*, (London: James Toovey, 1845).

⁴ Brian Tierney, *Origins of Papal Infallibility 1150-1350*, (Leiden: E.J. Brill, 1972), 3-5.

⁵ Tierney, *Origins*, 6.

arguments are smartly critiqued by John Kruse, who notes that the debate between Pope John XXII and the Franciscans was rarely couched in the terms—most notably, infallibility—which theologians use today. Rather, popes and most theologians of the thirteenth century preferred to discuss the notion of “irrevocability,” which is necessarily similar to infallibility but not identical.⁶

An understanding of the vocabulary in fashion during the Poverty Controversy is critical for understanding the development of infallibility in this period. Precise language helps to clarify concepts that are frequently confused and blended. Irrevocability is an important element in infallibility, but irrevocability does not necessarily imply infallibility. The central issue of the Franciscan Poverty debate was the irrevocability of papal decrees. Infallibility can only be surmised, for the most part. There are a few theorists, though, who actually use the terms “infallibility” or “inerrancy.” The first widely accepted explicit mention was made by Pietro John Olivi.⁷ While Olivi is regarded as the first explicit theorist of the idea of papal infallibility, the precise origin of the doctrine is far more controversial. Without getting too caught up in the long debate between Heft and Tierney, it is important to mention that one of their central disagreements is whether the doctrine of infallibility originated entirely with Olivi or if at least an implicit assumption of infallibility had existed since the time of the Apostles.

While Tierney makes a compelling case that infallibility “was created at a particular point in time to meet the needs of particular persons and groups in the church,” it is Heft’s perspective which is more convincing on at least one limited count.⁸ Heft claims “while [infallibility] is not explicit in the writings of the canonists and theologians of the thirteenth century (with the

⁶ John Kruse, “Reevaluating the Origins of Papal Infallibility: Understanding Papal Authority in the Bulls of the Franciscan Poverty Controversy (1230-1329)” (PhD diss., St. Louis University, 2005).

⁷ Tierney, *Origins*, 93.

⁸ Tierney, *Origins*, 9.

exception of Olivi's *Quaestio* of 1280...), it is nevertheless not inimical to their way of thinking."⁹ It is this last point on which Tierney and Heft disagree. Tierney notes that the arguments of the Franciscans were sophisticated enough to include elements of historically orthodox theology and valid canon law. However, the way in which the Franciscans applied the ancient sources to the pope was novel and was completely opposed to the earlier canonists' emphasis on the authority of Scripture.

Heft accuses Tierney of misunderstanding the nuances of infallibility.¹⁰ Heft has several objections to Tierney's interpretation and assumptions, one of most significant being that the pope can create an article of faith with weight equivalent to that of Scripture without strong doctrinal support.¹¹ However savvy Heft's critiques are, they are insufficient to disprove Tierney's thesis without the observation delivered by Alfons Stickler in his review of Tierney's work: "If then [the canonists] declare a pope to have fallen from office as soon as he is certainly and obstinately heretical, they admit implicitly that by this personal event not only is the infallibility of the office not compromised but that on the contrary it is defended and affirmed."¹² Here, Stickler is referring to the canon law maxim that "[the pope] is to be judged by no one, unless he is found straying from the faith."¹³ In his review, Stickler draws out an assumption that almost leaps off the page: the office has to be infallible if the man who occupies it can be deposed for grievous error. This also implies a broader definition of infallibility, namely a Church-wide form infallibility. While such an assumption of infallibility in the office of the pope is not sufficient to establish that the

⁹ James Heft, *John XXII and Papal Teaching Authority*, (New York: Edwin Mellen Press, 1986), 199.

¹⁰ Heft, *John XXII*, 193-194, 199-200.

¹¹ Heft, *John XXII*, 192.

¹² Alfons Stickler, "Review: Papal Infallibility: A Thirteenth-Century Invention? Reflections on a Recent Book," *The Catholic Historical Review* 60, no. 3 (1974): 432.

¹³ Gratian, *Dist.* 40 c.6, in Brian Tierney, *The Crisis of Church and State 1050-1300* (Toronto: University of Toronto Press, 1988): 124.

canonists were thinking explicitly in terms of infallibility, it does demonstrate that their concern with a hypothetical “bad pope” led them to devise protections for the office which sound quite a bit like theories which were to come later—which is the exact contention Heft puts forward.

In the medieval tracts on infallibility, one repeatedly sees a number of closely related subjects, among the most important of these are indefectibility and irrevocability. Tierney demonstrates that the canonists of earlier centuries strongly held to the doctrine of indefectibility, that is the assumption that the essential nature and faith of the Church will remain pure in at least one individual.¹⁴ This view of indefectibility continued to be uncontroversially held by canonists of succeeding centuries, Panormitanus being one of the most prominent advocates of the doctrine.¹⁵ This doctrine proved to be ready-made for the pro-infallibility camp. Tierney posits that William of Ockham was the first to weave the doctrine of indefectibility into the Franciscan ideal of the pope as a validator of new revelation.¹⁶ This idea of progressive revelation could be interpreted in two ways. Some thinkers might consider this to be the constantly morphing understanding of particular doctrines due to the passage of time and circumstantial changes. However, there is also the more radical conception which makes its appearance among the Franciscans in the form of Joachimism—the unconventional idea that God continued to give revelation which held weight equivalent to the gospel of Jesus Christ.

All of this discussion logically leads to the question of reformability. In particular, what material of the faith is changeable and in what circumstances may a pope or council change it? The answer is complex, and while Tierney is content to treat the irreformability of papal decrees as a simple dichotomy (irreformable or not), it is again Heft and Kruse who provide the more

¹⁴ Tierney, *Origins*, 35-38.

¹⁵ John A.F. Thomson, *Popes and Princes 1417-1517* (London: George Allen and Unwin, 1980): 8.

¹⁶ Tierney, *Origins*, 210.

nuanced and complete perspective. Heft incorporates the definition given in 1973 in *Mysterium Ecclesiae*, which lists factors in dogmatic decrees which are subject to reinterpretation and change.¹⁷ However, it is a bit misleading to apply such modern theological definitions to a centuries-old debate. Instead, the general principle, not the details, of the 1973 definition may be accurately applied to the debate in question; papal decrees are in essence true but not always perfect in form. The imperfection in form is what the Church declared reformable in 1973, but no alterations could be made which would affect the essential meaning.¹⁸ While no list of changeable portions of papal bulls existed prior to *Mysterium Ecclesiae*, there was always an understanding that papal decrees carried some weight. It is for this reason that popes almost always included a statement of the decree's perpetual validity and a malediction against those who would violate their words.¹⁹ A contradiction loomed, though; the popes declared their decrees perpetually valid while changing the letter of a predecessor's decree. This leads us back to the assumption put forward by Heft and Kruse, that medieval popes thought it perfectly acceptable to alter previously promulgated decrees only if the meaning remained intact.²⁰

All of these theoretical disputes between Tierney, Heft, and Kruse lead to vastly different interpretations of actual historical circumstances, with Kruse falling closer to Heft than to Tierney. Pope John XXII set the stage for a major controversy when he sought to revoke an earlier papal decree, *Exiit qui seminat*, which stated, “we affirm that such renunciation of the ownership of all things, both individually and in common, for God’s sake, is holy and meritorious. Christ himself,

¹⁷ Heft, *John XXII*, 211.

¹⁸ Sacred Congregation for the Doctrine of the Faith. *Mysterium Ecclesiae* [“In Defense of the Catholic Doctrine on the Church Against Certain Errors of the Present Day”], (Rome, June 24, 1973).

¹⁹ Kruse, “Reevaluating,” 39-40.

²⁰ Kruse, “Reevaluating,” 231.

in demonstrating the path of perfection, taught it in word and confirmed it by example.”²¹ The Franciscans tried to stop the pope from moving them out of their place of privilege by shackling him with the chain of infallibility. This anti-papal version of infallibility is how the doctrine would be defined during the dispute between John XXII And the Franciscans. Tierney argues that Pope John XXII, as a good canon lawyer with knowledge of the Roman law system, held firmly to the doctrine of sovereignty, at least until the publication of *Quia quorundam mentes* in 1324.²² Following this point, Tierney posits that John XXII only rejected the doctrine of “the key of knowledge.”²³ The doctrine of the keys, in general, comes from the Gospel of Matthew, chapter 16 when Christ says to Peter, “And I will give unto thee the keys of the kingdom of heaven: and whatsoever thou shalt bind on earth shall be bound in heaven: and whatsoever thou shalt loose on earth shall be loosed in heaven.”²⁴ The key of knowledge was a doctrine the Franciscans appropriated from older sources in order to establish the pope’s infallible authority as given directly by Christ.²⁵ This key of knowledge, however, was controversial. Many theologians doubted the existence of a key of knowledge conferred by Christ, and those who did believe in a key of knowledge had a difficult time agreeing on what it meant.²⁶ The Franciscans gave the idea new life in their excursus in Emperor Lewis of Bavaria’s Sachsenhausen Appeal of 1324. The Franciscans applied the key of knowledge unambiguously to the pope, as a gift given by Christ to ensure the unfailling faith of the Church. The Franciscans argued that *Exiit qui seminat* had been promulgated by Nicholas III using the key of knowledge, and that Pope John had no power to

²¹ Nicholas III, *Exiit qui seminat*, in *Francis of Assisi: Early Documents*, ed. Regis J. Armstrong, J.A. Wayne Hellmann, William J. Short (Hyde Park: New City Press, 1999-2001): vol. 3, 745.

²² Tierney, *Origins*, 190.

²³ Tierney, *Origins*, 190.

²⁴ Matt. 16:19 KJV

²⁵ Examples of the older writers from whom the Franciscans drew inspiration are Bede, Peter Lombard, and Gratian. See Tierney, *Origins*, 40.

²⁶ Tierney, *Origins*, 45.

change it. John held steady his refutation of *Exiit qui seminat*, and in fact published a series of bulls which delineated his own authority to do so, namely *Ad conditorem*, *Cum inter nonnullos*, and *Quia quorundam mentes*.

Tierney and Heft disagree as to exactly what John XXII was defending when he was accused of heresy for changing the decree of a predecessor. Tierney believes that John failed to comprehend the distinctions the Franciscans were drawing between articles of faith and matters of discipline.²⁷ Tierney proceeds to portray John as walking an “intellectual tightrope” by claiming that he had the right to change articles of faith but then going on to say he had never actually done so.²⁸ Heft offers a more charitable explanation. Heft claims that John XXII always proposed a kind of papal authority identical to the one defined at Vatican I (1869-1870)—that is the kind which states no pope may err when he speaks officially on matters of faith or morals but any pope may change articles of discipline—and simply rejected the argument regarding the key of knowledge.²⁹ This is clearly an anachronistic argument. Kruse’s argument is a bit more nuanced than that given by Tierney and lacks the zealotry that Heft exhibits to prove the orthodoxy of John’s position. While Kruse also believes John had no intention of changing a matter which was settled, he echoes Tierney’s idea that John did not draw such a clear distinction between matters of faith and of discipline. Kruse hypothesizes that John XXII saw papal decrees on a continuum, and the factors which contributed to any particular decree’s reformability were: “1) the seeking of counsel, 2) the approval of a general council, 3) conformity with legal precedent, 4) consistency with the historic teaching of the papacy, 5) rootedness in Scripture and the creeds, and 6) conformity with common

²⁷ Tierney, *Origins*, 193.

²⁸ Tierney, *Origins*, 190-191.

²⁹ Heft, *John XXII*, 54.

sense and logic.”³⁰ Kruse provides a useful and textually faithful lens through which to view the Tierney-Heft debate and appreciate the nuances of the medieval argumentation.

One possibly major point which John Kruse misses in his otherwise informative work comes in his analysis of the controversial bull *Exiit qui seminat*. In that bull, Pope Nicholas III writes, “It is our intention, therefore, to remove any such lack of clarity and adequacy by means of an explanation that shall interpret the points perfectly.”³¹ This word “perfect” must always strike a scholar of infallibility. It is surprising, then, that Kruse missed such an interesting point. The particular wording of Nicholas’ constitution comes about as close as one possibly can to assuming infallibility without stating it. Here, Nicholas is claiming that he will explain a doctrine “perfectly” which his predecessors could not. The pope presents himself as speaking with a kind of special authority that his predecessors did not use in their constitutions. It is surprising that Kruse missed such an important and seemingly obvious precursor of papal infallibility in this bull. However, such an interpretation of Nicholas’ language would work against the theses of Kruse and Heft that John XXII did not compromise the infallible teaching of his predecessor. If Nicholas did intend to speak with unique papal teaching authority, this would imply that John did in fact violate an article of faith established infallibly by a predecessor. However, this interpretation also violates Tierney’s proposition that infallibility was the original creation of Pietro Olivi, who used old theological and legal concepts but in a novel way. While it would be premature to say this text could upend the whole debate, it is a text which has not been given sufficient attention.

Donald Prudlo’s recent work, *Certain Sainthood: Canonization and the Origins of Papal Infallibility in the Medieval Church*, claims to completely refute Tierney’s thesis that Pietro John

³⁰ Kruse, “Reevaluating,” 231.

³¹ Nicholas III, *Exiit*, in *Francis of Assisi*, 3:743.

Olivi was the creator of the doctrine of papal infallibility. Prudlo contends that Bonaventure, the revered Franciscan theologian, was the original theorist of infallibility and that Thomas Aquinas followed close on his heels with a more systematic definition of infallibility.³² Throughout his book, Prudlo talks about infallibility in canonization, but only in a footnote does he explicitly state that infallibility in canonization is not the same concept as the more general infallibility that Tierney describes in his book.³³ Then, confusingly, he calls Tierney “flatly incorrect” in his assertion that Pietro Olivi was the first theorist of general infallibility just pages after Prudlo has said that Bonaventure and Aquinas were talking about infallibility in canonization, not general infallibility.³⁴ Scholars have noted that Prudlo’s delivery and tone were frequently problematic in his work, especially in sections where he overzealously critiqued Tierney.³⁵ Prudlo’s book turns out to be a study more of canonization than of infallibility. He spends over four chapters building up to the ultimately disappointing payoff of Thomas Aquinas’ somewhat indirect Quodlibet IX and a brief passage in Bonaventure’s *On the Poverty of Christ* about miracles testifying to the beatification of the saints. Prudlo trumpets both writings as breakthroughs in infallibility even though neither mentions infallibility. However, it is certainly fair to say that both texts indicate medieval theologians were much closer to articulating a doctrine of papal infallibility in canonization than in more general matters of faith. On this point, Prudlo is on strong ground.

Prudlo’s detailed research on medieval heresy and canonization may well contribute to other areas of medieval historical research, but its contribution to the field of infallibility, while

³² Donald Prudlo, *Certain Sainthood: Canonization and the Origins of Papal Infallibility in the Medieval Church*, (Ithaca: Cornell University Press, 2015), 126-127.

³³ Prudlo, *Certain Sainthood*, 126.

³⁴ Prudlo, *Certain Sainthood*, 129.

³⁵ Francis Oakley, “Infallible Saintmakers?” *Commonweal* 144, no. 10 (June 2017): 29-30 and Jehangir Malegam, “Certain Sainthood: Canonization and the Origins of Papal Infallibility in the Medieval Church,” *Church History* 86, no. 1 (March 2017): 212-213.

smaller than what might be expected of a book with “infallibility” in the title, still is significant. Prudlo proves clearly that papal infallibility in canonization developed on a shorter timeline than the much more gradual progression of general *ex cathedra* papal infallibility. Tierney discussed both Bonaventure and Thomas Aquinas at length in his seminal study, though Prudlo certainly brings a more nuanced perspective to their theology. Understanding that the fundamental ideas of papal infallibility were in circulation before Pietro John Olivi helps explain one objection which Tierney himself could never answer, which is why Olivi’s novel doctrine elicited so little response. In this sense, Prudlo’s work can be taken as a supplement to Tierney’s rather than an alternative.

The intellectual pedigree of infallibility is obviously striking, in large part because the political circumstances of the day influenced the doctrine’s creation so strongly. This is the backdrop against which future controversies surrounding papal infallibility would take place, and it would prove to be significant for centuries to come. Tierney, Heft, Kruse, Prudlo, and others have contributed greatly to the progress of historical documentation on this subject. It is from this starting point that one can now begin to examine the ideological movement of papal infallibility through the conciliar period.

2.0 PAPAL INFALLIBILITY IN THE WRITINGS OF NICHOLAS OF CUSA

Nicholas of Cusa's shadow looms large over the historiography of the late Middle Ages. A German philosopher, theologian, canonist, and cardinal, Nicholas of Cusa (Cusanus, in Latin) wrote on a host of topics, including epistemology, theology, and mathematics. He is best known for his sweeping metaphysical arguments, but his ecclesiological thought is even more interesting. Nicholas of Cusa was just a student at the University of Padua during the Council of Constance (1414-1418), but he was influenced by the ideas that emerged from the Council about the nature of authority in the Church. Cusa distinguished himself in ecclesiastical circles first as a legate, then as a member of the Council of Basel (1431-1449). Cusa, following the lead of the council fathers, was a supporter of conciliar authority over the pope. Cusa was never a radical conciliarist, but he was firmly committed to the idea that the pope must be subordinated to a general council.³⁶ At the Council of Basel, Cusa experienced a crisis which caused him to reverse course entirely.³⁷ He defected from the conciliar camp and became "the Hercules of all the followers of [Pope] Eugenius," according to Aeneas Sylvius, who would later become Pope Pius II.³⁸ This transformation was not all that unusual, since many of the Basel fathers were shedding their conciliar predispositions when they saw how radical the Council had become. While Cusa's

³⁶ Nicholas of Cusa, *The Catholic Concordance*, trans. Paul Sigmund (Cambridge: Cambridge University Press, 1995), 108-118.

³⁷ No one knows the nature of the crisis. He joined other council members aboard a ship that was to bring authorities from the Greek church to Florence for a reunification council. When he boarded the ship, he was a conciliarist. Upon his return, he became a papalist of the first order. For a description of the controversy over Cusa's crisis, see James Biechler, *The Religious Language of Nicholas of Cusa* (Minneapolis: American Academy of Religion and Scholars Press, 1975), 5. For an overview of the tumult at the Council of Basel, see Nelson Minnich, "Councils of the Catholic Reformation: A Historical Survey," in Gerald Christianson et. al, *The Church, the Councils, and Reform: The Legacy of the Fifteenth Century*, (Washington, D.C.: Catholic University of America Press, 2008), 27-59.

³⁸ Aeneas Sylvius in Biechler, *Religious Language*, 6.

actions had precedent, they were by no means inevitable, since many council members also stayed in Basel, even electing a new anti-pope.³⁹ Once Cusa converted to the papal cause, however, his allegiance was absolute. His regard for papal power increased markedly, as demonstrated by the place of privilege he ascribes to the pope. While his conception of the pope's role in the Church changed, many of his fundamental commitments remained unchanged. The most important of these was the unity of the Church. The concept of infallibility was not foreign to Cusa before his conversion. He discussed the infallibility of Church councils extensively before his conversion to the papal camp. Many of his underlying convictions about infallibility remained the same throughout his life, but at different times he applied them to different entities within the Church. When Cusa arrived at Basel in 1432, he believed conciliar infallibility was the best way to preserve the Church. By 1437, when the pope ordered that the assembly be translated to Florence, Cusa had come to believe in papal infallibility as the surest means of ecclesiastical preservation.

Perhaps one of the most surprising elements in Cusa's writings is the moderation of his conciliarism. He is far more comfortable than many of his contemporaries with assigning the pope a privileged place, even suggesting in some places that the pope may be infallible. In many ways, this is surprising for an author who is widely-regarded as one of the most prominent conciliar theorists. This papalist tendency, even in his conciliar days, demonstrates that he did not regard a strong papacy with the same level of suspicion as his conciliar predecessors. Cusa was most concerned about the unity of the Church. This concern led him to a moderate anti-papal position early in his career, but the division caused by the Council of Basel pushed him decisively in the direction of the papacy, which he believed to be the best institution for the preservation of Church unity.

³⁹ Biechler, *Religious Language*, 6.

Three themes stand out in Cusa's writing throughout his life: the importance of Church unity, the absolute authority of the Church, and a constantly-shifting method for promulgating a doctrine infallibly. The first two ideas are more general subjects in his ecclesiological writings, and I will reference these in my analysis. However, they were of secondary importance to the realization of infallibility. The realization of infallibility will constitute the focus of my analysis. I will reference all three themes, since infallibility is built upon the preceding two, but ultimately even Cusa recognizes that his arguments and the arguments of his opponents rely on infallibility. Thus, the shift from conciliar infallibility to papal infallibility represented a major development in his theology, and this shift did not require updating his underlying commitments, only his political allegiances.

2.1.1 Infallibility in *De concordantia catholica* (1433)

Nicholas of Cusa's most famous work, *De concordantia catholica* (1433), is also notoriously unclear to modern scholars. It is a landmark treatise in the conciliar movement, but the language of the document and the arguments are frequently opaque and disjointed.⁴⁰ Cusa himself apologizes for his "uncultivated style," saying that Germans "are able to speak Latin correctly only with great effort, overcoming, as it were, the force of nature."⁴¹ Therefore, any study of Cusa's arguments must be carried out cautiously, with an eye for consistency across his works to demonstrate that he meant what he said and that a particular statement was not just a problem of expression stemming from language difficulties. I will attempt, wherever possible, to demonstrate

⁴⁰Jasper Hopkins, *A Concise Introduction to the Philosophy of Nicholas of Cusa* (Minneapolis: University of Minnesota Press, 1978), v, and Biechler, *Religious Language*, vi.

⁴¹ Nicholas of Cusa, *The Catholic Concordance*, 3.

the coherency of Cusa's statements within the framework of the principles that were most important to him, chief among these is the unity of the Church.

In *De concordantia catholica*, Cusa expresses the foundations of his ever-changing thoughts on infallibility. For Cusa, infallibility stems from how well various expressions of the Church, all of which he confusingly calls the "*ecclesia*," represent the entire body of the faithful. According to Cusa, the Roman Church (*ecclesia*) can take several forms: the Apostolic See alone (the pope), the pope and his diocese, the pope and his archdiocese, the pope and all of the faithful in Western Christendom, and all Christians.⁴² Cusa writes that God gave infallibility to the Church in four of the above expressions. The Apostolic See is the only expression of the Church that does not receive the divine gift of infallibility. So infallibility itself stems from the communion of the pope with the faithful. Cusa's exclusion of the pope alone from his list of infallible Church actors is a significant statement that scholars have not fully recognized. Cusa's purposeful exclusion of the pope, a core element of his conciliarism, leads directly into the points he makes at the start of Book 2 of *De concordantia catholica* regarding the necessity of conciliar advice. He defines the ranks of various councils, paying particular attention to what constitutes a universal council.⁴³ By juxtaposing an explicit denial of papal power with a discussion of conciliar authority, Cusa suggests that the pope is infallible only with the advice and consent of others and only to a limited degree. By the time of the Council of Basel, conciliar theologians and canonists were already arguing that Christ gave the *plenitudo potestatis* (fullness of divine authority) to the pope and the cardinals; therefore the pope could not exercise it in matters of faith without the consent of the

⁴² Nicholas of Cusa, *The Catholic Concordance*, 48. A discussion of these definitions can be found in Thomas Prügl, "The Concept of Infallibility in Nicholas of Cusa," in *Cusanus: The Legacy of Learned Ignorance*, ed. Peter J. Casarella (Washington, D.C.: Catholic University of America Press, 2006), 164-165.

⁴³ Nicholas of Cusa, *The Catholic Concordance*, 49-51.

College of Cardinals.⁴⁴ Cusa incorporates the cardinals into all of his definitions of the Church except for the Apostolic See.⁴⁵ Here, he follows the lead of other prominent conciliarists in insisting on the significance of the cardinals, whom Cusa calls simply “his [the pope’s] clergy.”⁴⁶ Thus, by requiring the pope to consult with others, Cusa significantly limits the extent to which the pope can use his infallibility.

Cusa proceeds to explain that the various expressions of the Church “possess the truth in varying degrees.”⁴⁷ Some scholars have attempted to call this “comparative” or “graduated infallibility.”⁴⁸ They suggest this because it is the simplest way of reading Cusa’s text. Paradoxically, in the same paper in which he suggests the idea of “graduated infallibility,” Thomas Prügl also notes the difficulty of thinking in terms of simple gradation. In his view, infallibility is a binary concept; either one is or is not infallible.⁴⁹ Nevertheless, he goes on to suggest that readers think about Cusa’s version of infallibility in graduated or comparative terms, leaving the paradox unresolved. Cusa seems to be describing gradations in probability of infallibility, a way of thinking that does not present the same contradiction as graduated infallibility.⁵⁰ Gradations in probability in infallibility creates uncertainty, a problem Cusa was not concerned with. Comparative infallibility creates an obvious logical contradiction, something that even Cusa could not write. The distinction is subtle, but his opinion is that better representations of the universal Church are

⁴⁴ Brian Tierney, *Foundations of the Conciliar Theory* (Cambridge: University of Cambridge Press, 1968), 6. For Hostiensis’ view, see p. 150-151. For Joannes Monachus’, see p. 188-189, for Franciscus Zabarella and Huggucio’s, see p. 233-235.

⁴⁵ Nicholas of Cusa, *The Catholic Concordance*, 47.

⁴⁶ Nicholas of Cusa, *The Catholic Concordance*, 47.

⁴⁷ Nicholas of Cusa, *The Catholic Concordance*, 48.

⁴⁸ Prügl, “The Concept of Infallibility,” 165, and Paul Sigmund, *Nicholas of Cusa and Medieval Political Thought* (Cambridge, MA: Harvard University Press, 1963), 172.

⁴⁹ Prügl, “The Concept of Infallibility,” 166.

⁵⁰ This perspective is first suggested by John A.F. Thomson in *Popes and Princes, 1417-1517: Politics and Polity in the Late Medieval Church* (London: Allen and Unwin, 1980), 9.

less likely to fall into error than smaller representations. For example, a council of the universal Church is less likely to fall into error than a council of the local diocese. This, I argue, is why he was willing to assign infallibility to all of the aforementioned expressions of the Church except the pope; the pope, as one man, does not represent Christendom as well as a universal council that includes representatives from the entire Western Church. This interpretation is a departure from the exact words Cusa uses in Book 1, Chapter XVII, which is the most widely cited section on infallibility, and thus requires some explanation. In a later section of *De concordantia catholica*, where Cusanus discusses the authority of a universal council, he says its decrees are “more certain.”⁵¹ In contrast to Prügl’s logically contradictory formulation of graduated infallibility, I argue this indicates that Cusa understood councils to be more likely to be infallible in their decrees rather than more infallible. Later in the work, Cusa states that “infallibility was not promised to any member but to the whole church.”⁵² This theme of consensus being required for infallibility recurs throughout Cusa’s writings. Thus, according to Cusa, the universal council is more likely to be infallible because it is a better approximation of the universal Church, the only entity to which Christ promised the gift of infallibility. The most important element to note in Cusa’s complex formulation of infallibility is how infallibility flows up the Church hierarchy. Infallibility originates with the entire body of the Christian faithful, then from that body of the faithful other expressions of the Church, like the diocesan councils and the universal council, receive their infallibility. Only the pope, at the top of the hierarchy, does not benefit from the gift of infallibility.

Another element of note in Cusa’s formulation of infallibility is his opinion on the “keys to the kingdom.” First, he claims that when Christ gave the keys to Peter, Peter was acting as a

⁵¹ Nicholas of Cusa, *The Catholic Concordance*, 58.

⁵² Nicholas of Cusa, *The Catholic Concordance*, 118.

representative of the universal Church.⁵³ Later, Cusa appropriates the argument of other theologians that the keys were given to Peter and the apostles jointly, seeming to abandon his theory of Peter as representative of the Church.⁵⁴ In this section, Cusa proves his conciliar credentials by claiming “Therefore we are correct in saying that all the apostles are equal to Peter in power.”⁵⁵ This section stands in stark contrast to the first book of *De concordantia catholica* in which he was quick to point out the privileged place of authority of the See of Peter. Cusa had to include a sentence like this, deemphasizing the importance of the pope to prove to his colleagues that he was committed to the superiority of the council over the pope. These are examples of the disjointedness which modern scholars have come to associate with Cusa’s work.

De concordantia catholica became a watershed in the Conciliar movement. Cusa systematized the vague ideas that his eminent predecessors at the Council of Constance had brought into the mainstream of Church thought. The lack of clarity in Cusa’s conciliar summation testifies to the diversity of opinion within the movement. He tried to bring into harmony divergent ideas, all based on the simple premise that a council is superior to a pope. The only way Cusa can manage to achieve this monumental task is by creating a complex theory of how *ecclesia* is not a monolith. He introduces infallibility and the “keys of the kingdom” as further confirmation that Christ gave gifts to the universal Church, not just the Apostolic See. At the heart of this, though, is his idea that all divine inspiration flows from how well a given form of the *ecclesia* approximates the universal Church. To this point, scholars have not been able to connect the unwieldy arguments of Nicholas of Cusa into a coherent whole. Part of the reason for this is that by attempting to synthesize a variety of divergent arguments, he purposely defies the clean categorization that those

⁵³ Nicholas of Cusa, *The Catholic Concordance*, 34 and 119.

⁵⁴ Nicholas of Cusa, *The Catholic Concordance*, 90.

⁵⁵ Nicholas of Cusa, *The Catholic Concordance*, 90.

old theories produced. By considering the numerous pieces Cusa used to construct his idea of infallibility, I suggest that they do not add up to one of the simple labels modern scholars have grown accustomed to using. Instead, Cusa charts his own path, concerned less with ideological purity than the unity of the Church.

2.1.2 Infallibility and the Hussites

One of the most fruitful areas for the study of infallibility in Nicholas of Cusa's thought is his writing against the followers of Jan Hus. Hus was condemned as a heretic for leading an early 15th-century religious movement that opposed indulgences, the headship of the pope, absolution by priests, and various Eucharistic practices.⁵⁶ Hus's followers fixated on the idea of receiving the body and the blood at Mass; some even maintained that it was necessary for salvation.⁵⁷ At the behest of Bohemian bishops, the Council of Constance in 1415 denounced this practice, known as ultraquism, declaring its practitioners heretics.⁵⁸ This condemnation and the threat of excommunication was not enough to stop them, though. The ultraquists continued their practice well after Hus's death. When Nicholas of Cusa first arrived at the Council of Basel, he was assigned to a group in the deputation of faith tasked with a theological exposition of the ultraquists' errors.⁵⁹ John of Ragusa ultimately delivered the speech requested by the council fathers, but Cusa expanded on John's speech by writing a letter in 1433, after the ultraquists had returned to

⁵⁶ Thomas Fudge, *Jan Hus: Religious Reform and Social Revolution in Bohemia* (London: I.B. Tauris, 2014), 27-28, 36, 42, 49-54.

⁵⁷ Fudge, *Jan Hus*, 51-52, and Prügl, "The Concept of Infallibility," 152, and Thomas Izbicki, *Nicholas of Cusa: Writings on Church and Reform* (Cambridge, MA: Harvard University Press, 2008), ix.

⁵⁸ Fudge, *Jan Hus*, 52.

⁵⁹ Prügl, "The Concept of Infallibility," 152, and Izbicki, *Nicholas of Cusa*, ix.

Bohemia.⁶⁰ The letter, which explains the correctness of the more universal Roman practice of giving only the bread to the laity, is somewhat surprising since Cusa had signed on to a compromise between the council and ultraquists permitting the Bohemians to continue their practice.⁶¹

Cusa first broaches the subject of infallibility in his letter to the Bohemians with a strong statement on the role of the pope: “Hence the refuge of infallibility is to be in union with the prince in the Church.”⁶² This statement comes just after an exposition on errors into which the Patriarchate of Constantinople had fallen after separating from the authority of Rome.⁶³ This was a thinly-veiled reference to the open defiance the Bohemians had learned from their revered leader, Jan Hus, that resulted in an interdict on the city of Prague.⁶⁴ The important role Cusa assigns to the pope is consistent with his writings in *De concordantia catholica* but is more prominent here. Specifically, in his earlier work, Cusa explicitly denies authority to the pope. Here, he more clearly speaks to the pope’s role in maintaining the unity of the Church, but in both works he more strongly emphasizes unity than any person’s role. Cusa does not become more critical of the pope as the letter continues. He allows for a difference of opinion on the question of whether the Church’s infallibility flows from the pope or the unity of the Church.⁶⁵ He announces that he falls into the second camp, but he acknowledges the plausibility of alternate interpretations. This is all

⁶⁰ Prügl, “The Concept of Infallibility,” 152.

⁶¹ Izbicki, *Nicholas of Cusa*, ix-x.

⁶² Nicholas of Cusa, “To the Bohemians: On the Use of Communion,” in Izbicki, *Nicholas of Cusa*, 37.

⁶³ Nicholas of Cusa, “To the Bohemians,” 37.

⁶⁴ Fudge, *Jan Hus*, 15. Fudge gives a very good summary of how serious interdict was: “interdict amounted to spiritual or religious starvation. All ecclesiastical activities were suspended for the duration of the interdict. Though a religious matter, the imposition of interdict could not be separated from the political and economic turmoil which inevitably surrounded it. Not only were church services suspended – no marrying, burying, or formal religion whatever – all of the industries which depended upon the operation of official religion, from wine merchants to candle makers, were also affected.”

⁶⁵ Nicholas of Cusa, “To the Bohemians,” 41.

surprising, coming from a man who was not fond of the pope's authority in his other writings completed around the same time.

Cusa also allows for the possibility of some error in the Church. He says that the Church might fall into error because of false testimony.⁶⁶ In this case, the error would not be in interpretation but in the source material itself. Thus, the Church might promulgate a false doctrine, but this would not be due to the Church's error but purposeful deception on the part of the witness or authority, whether that individual submitted their opinion in writing or in person. Furthermore, Cusa refers here specifically to pleas or testimony (*causae*), not scripture or tradition. For scripture and tradition, Cusa holds to the infallible interpretation of the Church. Specifically, he calls the Bohemians' questioning of papal interpretation of scripture and tradition "damnable."⁶⁷ Cusa gives no room for doubt as to the authority of the Church on this matter, because the unity of the Church testifies to the guidance of the Holy Spirit. For Cusa, the consensus of the Church falls on his side, and the schismatic actions of the ultraquist Bohemians is an act of grave defiance against a Church united in infallibility under the See of Rome.

The final piece of infallibility in this tract is a peculiar statement Cusa makes almost offhandedly about the ancient practice of communion with bread alone. He says that Augustine wrote "the infallible rule of our salvation in these matters," following the ideas of Basil the Great.⁶⁸ Ordinarily, these citations would go unnoticed, since the work is filled with references to unimpeachable authorities from the early Church, but the invocation of infallibility is notable. Church fathers are not typically ascribed the gift of infallibility. To bolster his argument about

⁶⁶ Nicholas of Cusa, "To the Bohemians," 45-47.

⁶⁷ Nicholas of Cusa, "To the Bohemians," 47.

⁶⁸ Nicholas of Cusa, "To the Bohemians," 83. Nicholas simply names Augustine without giving a work in which this was supposedly written. He says that Basil wrote about Eucharistic practices in *De ecclesiasticarum conscripta*, a work that is no longer extant. See Izbicki, *Writings on Church and Reform*, p. 82-83 and 605.

communion with bread alone being an infallible doctrine of the Church, he goes on to say that the Fourth Lateran Council (1213-1215) confirmed the practice of communion with only the bread.⁶⁹ Yet the Council is not the source of infallibility. Augustine wrote the infallible rule before the Fourth Lateran Council confirmed it. Therefore, he is writing here that Augustine and Basil, not working as official members of a Church council, were able to promulgate an infallible truth. This is one of Cusa's more surprising claims. This is the only place in which he suggests a mere theologian, with no claim to representation of the Church, could be infallible. This passage would not be surprising if he wrote that Augustine confirmed the infallible rule of salvation given by the pope, a council, or the Bible, but that is not what he wrote. He says that Augustine wrote down the infallible rule, following only Basil, another mere theologian. Both men were bishops, Basil of Caesarea Mazaca and Augustine of Hippo Regius, but neither was pope. Lone bishops and theologians are rarely ascribed infallibility. That Cusa suggests that theologians can be infallible is a bold and uncharacteristic claim for him, but it reaffirms his penchant for being at once unusual and precedent-setting.

This statement about the "infallible rule" of Augustine is more likely an expression of Cusa's respect for patristic authority than a rigorous application of infallibility to Augustinian teaching. Cusa suggests that Augustine and Basil simply wrote down the infallible truth. That is, neither man created the doctrine; they discovered it. Cusa's statement is unique because of whom he ascribes infallibility to. It seems likely, given his previous writings, that calling Augustine and Basil infallible was an error on Cusa's part. Specifically, it seems that he was trying to convey a general sense of respect for the Church Fathers, but he would have been better served by avoiding

⁶⁹ The canon he cites, *Decretals c. Omnis utriusque sexus* (X 5.38.12) is not even about communion in one kind. The decree actually orders the laity to take communion and confess their sins at least once per year. Never does it mention communion only being the body and not the blood.

such a loaded term like infallibility. An error of this kind is not surprising, since Cusa had a propensity to defy the simple categorizations that have come to define the historiography of this period. Granted, in defying simple categorization he sometimes errs in reasoning, as he does here. Cusa's contemporaries would have respected Augustine and Basil, and Cusa likely said what they were all thinking: if Basil and Augustine said it then it cannot be wrong. In other words, the early Church, of which Basil and Augustine were both members, was the standard of truth against which all of later Christian teachings should be judged. This is, after all, the substance of infallibility. In earlier times this may have been an acceptable use of the word. But in Cusa's day, when the word infallibility was acquiring a precise ecclesiological definition, it could not be used in the ambiguous, fluid way in might have been in the past. The writings of Augustine and Basil might not ever be doubted by medieval Christian theologians, but they had not been rigorously defended as infallible, and Cusa does not make that defense. Cusa ascribes this more general, less defined infallibility to them, further demonstrating the imprecision that categorizes Cusa's writing.

A close reading of this document reveals that Cusa was not as strong an opponent of the pope as many have painted him. Cusa is typically placed among the fathers of the conciliar movement, though in no way is he as radical as his earlier thinkers, such as William of Ockham and Marsilius of Padua. It is likely that the Schism had a significant effect on Cusa's thinking. Some of the greatest conciliar writers took their inspiration from the division the Schism caused in the Church. Cusa did not experience the Schism in an official Church office, but he was no doubt familiar with the ideological currents the Schism produced. As a result, his view of the papacy was not so marred as those of his contemporaries who had more direct contact with the tumult the Schism produced. Cusa's writing is reminiscent of earlier canonists, like Alanus, who placed the pope in a place of authority. Despite the surprising assertion Cusa makes about

Augustine writing infallibly, the most important reference to papal infallibility in this work is when he calls infallibility a “refuge.” For Cusa, the context makes clear that infallibility is a protection given to the Church against error. That he conceptualizes infallibility in a defensive way contrasts sharply with the way opponents of infallibility would go on to define it as borne out of the papacy’s lust for power. While Cusa’s claims about Augustine are interesting and deserve more study, it the idea of refuge that resonates in his later writings on infallibility.

2.2 INFALLIBILITY IN NICHOLAS OF CUSA’S PAPALIST WRITINGS

Nicholas of Cusa distinguished himself at the Council of Basel by writing *De concordantia catholica* and participating extensively in some of the most difficult matters the Council considered. He also maintained contact with the papacy despite the Council’s copious grievances.⁷⁰ Cusa’s intentions in corresponding with Rome remain questionable. Some scholars suggest that Cusa wanted to ensure he had a relationship with both sides in the pope-council dispute, so that regardless of the winner he would remain influential.⁷¹ It is also possible, however, that he wanted to maintain a genuine relationship with the papal curia. Unlike some of his more radical colleagues, he never disregarded the papacy’s significance. Irrespective of his intentions, his defense of traditional communion practices at the Council of Basel established as a defender of papally-sanctioned orthodoxy. *De concordantia catholica* likely contained more than a few elements the papacy found objectionable, though the weakness of Rome in the mid-fifteenth

⁷⁰ Eric Meuthen, *Nicholas of Cusa: A Sketch for a Biography*, trans. David Crouner and Gerald Christanson (Washington, D.C.: Catholic University of America Press, 2010), 51-52.

⁷¹ Meuthen, 52.

century left it few allies who would defend every article of faith it propagated. In this unenviable set of circumstances, the papacy was forced to rely on men like Nicholas of Cusa who were only partly loyal to its cause.

Cusa's half-measure of allegiance was enough to make him vote against the majority at the Council of Basel in favor of translating the Council to Ferrara, Italy. He traveled with two other councilmembers to Bologna, where Pope Eugenius IV was staying. Cusa carried with him the Council minority's approval of the pope's request to translate the Council from Basel to Ferrara.⁷² The delegation from the former Council of Basel, including Cusa, then traveled to Greece to bring the Patriarch of Constantinople and his top officials to Ferrara. At the Council, the sole agenda item was reunification. The Eastern Church (also called the Eastern Orthodox Church) had been separated from the Latin or Western Church since 1054. Fear of the neighboring Muslim power of Turkey spurred the Greeks to negotiate for reunification.⁷³ Upon arrival in Constantinople, Cusa found that the Holy Roman Emperor and Patriarch of Constantinople harbored doubts about reunification with a divided Western Church. The emperor and patriarch were concerned that the pope and cardinals had approved a legation from a minority of the Council of Basel while some clerics still sat at Basel without recognizing the pope's delegation or the new council at Ferrara.⁷⁴ Cusa convinced the Greeks to join the Council of Ferrara using much of the same reasoning he employed in his earlier dispute with the Hussites over Eucharistic practices. Namely, he argued that the Church was unified under the papal banner, and the councilmembers at Basel were heretics because they were dividing the Church.⁷⁵ This declaration of heresy was typical of Cusa's

⁷² Meuthen, 52-53.

⁷³ Meuthen, 51.

⁷⁴ Meuthen, 54-55.

⁷⁵ Meuthen, 55.

practices. He chose to judge heresy according to what the heresy produced, with Church division as the worst possible result. For him, then, sound doctrine was less important than Christian unity, and those who failed to recognize the Ferrara Council were guilty of dividing the Church.

2.2.1 Infallibility in “Dialogue Against the Amediests” (1441)

Nicholas of Cusa’s vote in favor of the reunification council at Ferrara marked a decisive moment in his career and thought. By this action, he broke from the conciliar movement. Cusa’s earlier ideological hedging provided a convenient way for him to frame his switch of allegiance as consistent with his core convictions. His somewhat puzzling statements in *De concordantia catholica* that alluded to a place of privilege for the papacy dovetailed nicely with his newfound papal affinity. It was his “Dialogue Against the Amedeists,” though, that laid out the latest iteration of his convictions. Cusa wrote the “Dialogue” in 1441. There is no obvious audience for the “Dialogue.” It may simply have been a document Cusa wrote to elaborate for himself the implications of papalism.⁷⁶ Throughout the “Dialogue,” Cusa retains his signature lack of clarity and consistency, in many cases working himself out of binds by defining a key term differently than before. He continues to assert the importance of the unity of the Church, and readers of his papalist works must always keep in mind that this was the principle that motivated him. Ideological consistency mattered little if it came at the expense of the Church’s unity.

From the very beginning of the “Dialogue,” Cusa explains away his troubles by defining legitimacy. For a general Church council to be legitimate, it must adhere to the truth.⁷⁷ By defining

⁷⁶ Izbicki, *Writings on Church and Reform*, xiii.

⁷⁷ Nicholas of Cusa, “Dialogue Against the Amedeists,” in *Nicholas of Cusa: Writings*, 275.

legitimacy in this way he makes the infallibility of a council cyclical: a legitimate council is infallible because a council is only legitimate if it adheres to the truth. This naturally leads to the question of who, if not the council itself, can judge whether a council has adhered to the truth. Here, Cusa introduces some ambiguity. Using the Council of Basel as an example, he says, “on the basis of its erroneous interpretation [the Council of Basel] presumed to do many things which were with justice condemned at [the Council of] Florence.”⁷⁸ In this instance, Cusa suggests that a subsequent council can judge an earlier council. He does not explain why a council cannot judge itself. Again, though, for him the measure of veracity is the consensus of the Church: “when [the Council of Basel] gave [the decrees of the Council of Constance] another interpretation than did the synod at Constance itself and the entire Catholic Church, head and members, it then fell into error.”⁷⁹ The consensus of the Church still holds significant weight for him. From the start of this condemnation of the Council of Basel, we see that Cusa has not become more authoritarian. He has not capitulated to the wishes of the papal monarchy. He continues to insist upon deliberation and consensus, but he changed his view on the weight of conciliar decrees.

For Cusa, infallibility required a mixture of proper procedure and subjective judgments. He wrote, “it is therefore untrue that the fact of [a council’s] being rightly proclaimed is alone sufficient for a council to represent the universal Church and have power immediately from Christ.”⁸⁰ He goes on to state that the council must represent the Church in two ways: a papal legate and representatives from every corner of Christendom must be present.⁸¹ This is also

⁷⁸ Nicholas of Cusa, “Dialogue,” 275.

⁷⁹ Nicholas of Cusa, “Dialogue,” 275.

⁸⁰ Nicholas of Cusa, “Dialogue,” 281.

⁸¹ Nicholas of Cusa, “Dialogue,” 283.

consistent with Cusa's earlier ideas regarding the unity of the pope with the rest of the Church.⁸² Because of the ambiguities in his later works, Cusa had the luxury of being able to claim ideological consistency, at least in some respects. Cusa rejected formulaic applications of infallibility, regardless of the entity to which they were applied. Following the convocation procedure for a council was not enough to ensure its infallibility. This is what makes analysis of Cusa's ideas so difficult. His aversion to rigid cause and effect relationships ensured that he could escape any ideological cul-de-sac in which he found himself by saying that the subjective criteria for infallibility were not met. Nor was this solely an issue with the infallibility of councils. He would later subdivide papal proclamations by function, introducing a subjective criterion for papal infallibility.

Cusa also shows that he had become more comfortable with the idea of hierarchy in the Church. First, he says that representation ought to be measured by the power of each individual member, that is the greater the jurisdiction represented, the more representative.⁸³ The obvious upshot is that papal legates bring with them the most representational power. At this point, he begins to wade back into the waters of papal infallibility. After some discussion of historical circumstances in which the Church had fallen into error, Cusa asserts, "the Church over which the pope presides cannot depart from the truth of the faith and from those things necessary for salvation. Hence the argument from infallibility ought rather to favor the Roman pontiff than subject him to the members of a council."⁸⁴ This sentiment represents a full break from his earlier conciliar predispositions. His conciliar colleagues were arguing the exact opposite: a council was

⁸² Prügl claims that "the consent of the Pope becomes decisive" for infallibility, but it has always been decisive for Nicholas. See Book 1 of *De concordantia catholica* and Prügl, "The Concept of Infallibility," 172.

⁸³ Nicholas of Cusa, "Dialogue," 285.

⁸⁴ Nicholas of Cusa, "Dialogue," 319.

more likely to be infallible than a pope, since the pope is not a good representation of Christendom. The conciliarists' insistence upon the authority of Church councils in opposition to a pope was understandable because it was borne out of their experience in the Great Schism, in which three men claimed to be pope and only the intervention of a council resolve the crisis. Cusa, however, continues to insist upon the importance of representation, but his conception of how the Church can be represented has changed. In Cusa's framework, the pope is more likely to be infallible because he has greater authority in his office than a council does. He has more authority because he represents the entire Church, whereas a council can only represent the entire Church if it has representatives from every corner of Christendom. In addition, without the pope, the council is simply a collection of bishops to whom much less was promised than what was promised to the pope by Christ himself.⁸⁵ This attitude towards authority is an innovation in Cusa's thinking that was not explicitly present in his earlier works, though Cusa's reluctance to denigrate the role of the papacy, even in his conciliar days, shows that he was not altogether averse to authority at any point.

One of the broadest grants of power Cusa issues to the pope is dispensatory. Cusa claims that the pope, by virtue of the infallibility of his office, may abrogate any canon passed by a council which does not conform to the true Catholic faith.⁸⁶ Essentially, Cusa was reiterating his trust in the infallibility of a pope over a council in more practical terms. He uses the pope as a safeguard against errors in a council. Because the pope cannot lead the faithful astray and councils' decrees must receive papal approval, conciliar decrees are thus infallible as well. Nonetheless, this is not

⁸⁵ All of this is based on theological disputes over the meaning of Matthew 16:19, where Jesus promises the keys of the kingdom to Peter and Matthew 18:18, where Jesus makes the same promise to the rest of the Apostles. See Tierney, *Foundations*, 30-33 and discussion of Nicholas' doctrine of the keys above.

⁸⁶ Nicholas of Cusa, "Dialogue," 303.

a power operated without balance. Cusa writes that a council can convince a pope to change his mind. He offers the example of the translation of the Council of Basel, which Pope Martin initially supported, but later the fathers convinced him not to translate the Council.⁸⁷ So Cusa set up balances between the pope and the council. The pope unquestionably possessed an advantage in the system, for if the council failed to convince a pope of the error of his ways, it had to simply trust that errant decrees would not affect the salvation of Christians.⁸⁸ Cusa challenges some of the older papal theories of authority by giving councils at least some power. He also responds to the radical conciliar threat by reaffirming the pope's ultimate authority over the Church. In this way, he updates papal ecclesiology for a new generation of thinkers and clerics, who would live in the shadow of the Great Schism but also wanted a strong shepherd in Rome.

At this point in the document, Cusa makes clear that the authority of the pope rests on his infallibility. He repeats the oft-used canon law maxim that "heresy can make [the pope] a non-pope."⁸⁹ His roundabout answer to the question of when a pope is subject to a general council brings him back to the question of infallibility. The crux of the conciliarists' arguments was that a pope must be subject to a council to protect the Church from falling into damnable error. In other words, a pope could never be permitted to lead the faithful astray from the true faith.⁹⁰ Cusa addresses the conciliarists' concern by digging up an old argument of his own: those who are concerned about the actions of a pope should pray that he corrects his errors. Here, he answers the crucial question of who may judge a pope, and the answer is no one. He realizes that this sounds

⁸⁷ Nicholas of Cusa, "Dialogue," 309.

⁸⁸ Nicholas of Cusa, "Dialogue," 303, 325.

⁸⁹ Nicholas of Cusa, "Dialogue," 323.

⁹⁰ The Decretists write about this topic at length, citing Gratian's *Decretum*. Huguccio, the Italian canon lawyer, first developed the idea that a pope who errs ceases to be pope. See Tierney, *The Crisis of Church and State 1050-1300*, (Toronto: University of Toronto Press, 1988), 124-126, and Tierney, *Foundations*, 8, 60-67.

ridiculous, but his criticism of them is biting. He accuses conciliarists of not trusting in the providence of God to sustain the Church in correct teaching. Such a grave charge is shocking coming from a man who had only recently converted from the conciliar persuasion. Cusa goes so far as to write that a pope could become a “tyrant,” but according to Cusa, even a tyrant could not imperil the salvation of souls.⁹¹ So, even tyrant popes bore the divine grace of infallibility in those matters necessary for salvation.

The question of authority was inextricably bound up with the matter of infallibility. Huguccio codified inherent infallibility when he wrote that a pope who errs effectively removes himself from office. Cusa acknowledges that strain of thinking, but it also contradicts his premise that the pope can never lead the Church astray. In order to keep his thinking in line with canon law, he proposes an innovative, if vague, solution. He writes that no ordinary measure exists to judge a pope, but extraordinary measures may be used as long as they promote the Church unity.⁹² That is, general councils may be called and take extraordinary measures if a pope scandalizes the Church. He argues that these remedies for an errant pope are from “divine ordinance.”⁹³ This is clearly not the scheme of a systematic theologian. By allowing for extraordinary action, Cusa leaves a grey expanse that could be filled with all sorts of actions antithetical to the peace of the Church that he was trying to promote. This is characteristic of Cusa’s writings. He entrusted the Church as a general body with the responsibility of judging valid and invalid actions taken against a pope whose office was infallible. This line of theorizing puts Cusa in dialogue with the significant body of medieval literature delineating the distinctions between the holder of an office and the office itself.

⁹¹ Nicholas of Cusa, “Dialogue,” 325-327.

⁹² Nicholas of Cusa, “Dialogue,” 327.

⁹³ Nicholas of Cusa, “Dialogue,” 327.

The purpose behind all of this, however, is as usual, the unity of the Church. Cusa quotes Augustine, who emphatically states that papal declarations of truth are made for the unity of the Church.⁹⁴ The continued emphasis on Church unity is not surprising. After all, Cusa's underlying convictions did not change in his conversion to the papalist cause. The shifting political sands of the day moved him in that direction. In the "Dialogue," Cusa outlines his basic convictions on the infallibility and authority of a pope over a council. The "Dialogue" carries a polemical edge to it that many of his subsequent works did not. The ideas Cusa presented in the "Dialogue," however, would inform his ecclesiology for years to come. His strong defense of the papal cause earned numerous honors and offices. Even while he is not remembered by history as a papal defender, his contemporaries certainly saw him as a strong advocate for the papacy.

2.2.2 Infallibility in the Brixen Sermons (1454)

After distinguishing himself as a papal supporter, Nicholas of Cusa earned an appointment as a cardinal. In 1450, when Bishop Johan Röttel of Brixen died, Cusa appeared the perfect candidate to succeed Bishop Röttel.⁹⁵ However, this was not a simple succession. Political struggles between the papacy and a Habsburg duke, Sigismund, complicated the matter. Germans assumed that Sigismund would have his choice of bishop, but the papacy had been trying to assert full control over appointments to bishoprics for centuries. Pope Nicholas V, the newly-anointed pope, was not about to concede to a German duke. So, he declared the election held by the local clergy invalid on the grounds that Sigismund's army waited outside the door as the priests made their selection.⁹⁶

⁹⁴ Nicholas of Cusa, "Dialogue," 319.

⁹⁵ Richard Serina, *Nicholas of Cusa's Brixen Sermons and Late Medieval Church Reform*, (Leiden: Brill, 2016), 24.

⁹⁶ Serina, *Nicholas of Cusa's Brixen Sermons*, 25.

The Pope then appointed Nicholas of Cusa as bishop of Brixen on March 23, 1450, but Sigismund refused to seat Cusa until 1452, when the duke struck a deal with the pope.⁹⁷ Cusa preached the sermons I analyze here in 1454, just two years after taking his bishopric. These came before other political disputes Cusa found himself in, but the political influences in the texts are clear.⁹⁸

During his career as a bishop, Cusa built a reputation as a reformer. He attempted, with varying degrees of success, to reform religious houses in his diocese, the relationship between the bishopric and the local secular authorities, and even the Church at large. His sermons, especially in the later years of his episcopacy, focused intensely on the theme of spiritual renewal within the Church.⁹⁹ This theme was also evident, if to a lesser extent, in the early sermons I examine here. As he grew older, Cusa became more mystical, but in his early days as bishop of Brixen he propounded an authoritarian view of the Church.¹⁰⁰ The sermons I examine in this section can be categorized as authoritarian. Cusa redoubles his support for the papacy against its conciliar opponents.¹⁰¹ One major theme throughout these sermons is trust in the institution of the Church. Cusa spends a significant amount of time demarcating the line between the pope as an individual and the papacy as an institution. For him, the institution carries divine graces, even when the individual who occupies the office of the papacy falls into grave error.

Cusa preached both of the sermons I analyze here in his cathedral as bishop, but he always intended the audience to be broader than just those who attended Sunday Mass. He sent several

⁹⁷ Serina, *Nicholas of Cusa's Brixen Sermons*, 25-26.

⁹⁸ For a full account of Nicholas' political activities as bishop, see Serina, *Nicholas of Cusa's Brixen Sermons*, 21-32.

⁹⁹ Serina, *Nicholas of Cusa's Brixen Sermons*, 46.

¹⁰⁰ Serina, *Nicholas of Cusa's Brixen Sermons*, 46.

¹⁰¹ In the two years between Nicholas' appointment as bishop of Brixen and his investiture, he traveled throughout Germany as a papal legate and preacher. His former conciliar allies did not welcome him to their home dioceses. There are reports that some may have attempted to murder Cusanus. See Serina, *Nicholas of Cusa's Brixen Sermons*, 25.

translated collections of his sermons to Rome to be published, including the two sermons I analyze.¹⁰² Scholars have determined that Cusa edited these sermons from their original form, but to what extent they were edited is unclear.¹⁰³ It is thus reasonable to assume that the sermons in the form we have them today were in fact written with an educated, reading population, probably the upper echelons of the clergy, in mind. As a result, Cusa devotes much time to expounding doctrinal issues such as the keys of knowledge and in what cases a pope might fall into error. He was trained as a canon lawyer, and these sermons likely include expanded sections on ecclesiology and finer points of theology.

Cusanus delivered the first sermon I examine in this section on June 29, 1453 for the feast day of Saints Peter and Paul. Cusa begins by citing the opinion of St. Jerome: “[the pope] does not err if the Truth furnishes him with the keys that open. But, if the truth does not furnish them, he can err.”¹⁰⁴ He leans once again on the highly-disputed theory of the key of knowledge that the Franciscans had toyed with in their earlier forays into papal infallibility.¹⁰⁵ Cusa’s listeners probably were not aware of the complex theological and legal debate that defined this issue, but certainly they would have been familiar with the general doctrine of the keys. In this section, he once again states unequivocally that a pope can err. No one could mistake Cusa’s conception of papal infallibility for an absolute one. In every instance where Cusa mentions the doctrine, he immediately qualifies it by saying that there are at least theoretical instances in which the pope might err. In this sermon, Cusa does not define what he means when he says that the pope may not be given the keys of knowledge. This, once again, highlights the ambiguity of Cusa’s formulation.

¹⁰² Serina, *Nicholas of Cusa’s Brixen Sermons*, 48.

¹⁰³ Serina, *Nicholas of Cusa’s Brixen Sermons*, 48.

¹⁰⁴ Nicholas of Cusa, “Sermon 144: ‘I shall give thee the keys to the Kingdom of Heaven,’” in *Nicholas of Cusa: Writings*, 469.

¹⁰⁵ See “Literature Review” section of this paper.

If any opponent cited an instance in which a pope erred, Cusa could retreat to the defense that God did not grant the pope the keys of knowledge at the time when the errant pronouncement was made. However, this is a retroactive classification. It has no prescriptive abilities. That is, only after looking back on decrees a pope has made can one determine whether the pope spoke infallibly or not. It provides no criteria according to which the pope can definitively be considered infallible.¹⁰⁶ This is a major theme in Cusa's writing. He occasionally hands down a few specific rules that are later qualified into a form where they carry no predictive power. For him, historical perspective is critical in determining which decrees are infallible and which are not.

One utterance he makes in the midst of a rhetorical flourish absolves him of his theological imprecision: "Truth inheres in the chair."¹⁰⁷ This bold and unqualified claim to papal power. It is a simple line but one that once again refers to the distinction Cusa draws between the man who occupies the office of the papacy and the papacy itself. According to this logic, truth does not inhere in the man who sits on the chair but in the chair itself. It is also notable because he pairs the idea of infallibility with the chair, a formulation that would become dogma in the First Vatican Council. Cusa clearly links the earlier formulations of infallibility that discussed the office of the papacy with the language of the chair that was employed at Vatican I. In other writings, he uses the vocabulary of office, but here he uses the chair. For Cusa, the concept of chair and office were interchangeable. While modern theologians have added numerous qualifications to the idea of the chair, at base it is a similar understanding to that of Cusa. Cusa was also not the first to associate the chair of Peter with the truth. There was earlier medieval precedent, but as an eminent churchman, Cusa was likely responding to the ideological currents the conciliarists had created

¹⁰⁶ Tierney calls this "infallibility in its Pickwickian form." He contends that it continues to this day. See Tierney, *Origins*, 4-6, 273-281.

¹⁰⁷ Nicholas of Cusa, "Sermon 144," 471.

and perpetuating the pairing of infallibility and the chair of Peter in a more explicit way than the canon lawyers before him had done.¹⁰⁸ One must be careful not to overstate his influence, since he was only one part of a larger ideological current granting additional power to the papacy, but his eminence in the Church would certainly have helped to establish a firm link between the chair of Peter and infallibility.

In another sermon, delivered just a year later, Cusa refutes the oft-repeated proposition that a pope who scandalizes the Church could be deposed. Once again, it is Huguccio who first articulated this constraining doctrine of papal power that Cusa argues against. Huguccio claimed that a pope could be deposed if he was found guilty of a sin that scandalizes the Church.¹⁰⁹ Cusa stridently opposes any such broad definition of heresy. He refers his listeners back to Christ's words regarding the Pharisees: "Therefore whatever they tell you to observe, that observe and do, but do not do according to their works."¹¹⁰ Cusa claims that this instruction applies to the pope as well. The pope can be a scandalous sinner, but he will continue to possess the truth. For Cusa, there is a sharp contrast between the infallible words of the pope and his less-than-perfect behavior. He reminds his listeners that Peter himself erred in deed by denying Christ three times. He goes so far as to write "it is necessary to follow after Peter, who sinned."¹¹¹ Thus, according to Cusa, not only is it acceptable for a pope to sin, it is necessary for him to fully imitate Peter. Previous

¹⁰⁸ Edward Pace "Ex Cathedra," in *The Catholic Encyclopedia*, (New York: Robert Appleton Company, 1909), accessed February 9, 2018, <http://www.newadvent.org/cathen/05677a.htm>

¹⁰⁹ See Tierney, *Crisis*, 116-119, 124-125: "Behold, [the pope] steals publicly, he fornicates publicly, he keeps a concubine publicly, he has intercourse with her publicly in the church, near the altar or on it, and being admonished will not desist. Shall he not be accused? Shall he not be condemned? Is it not like heresy to scandalize the church in such a fashion... and so it is the same with any notorious crime as with heresy."

¹¹⁰ Matthew 23:3 NKJV

¹¹¹ Nicholas of Cusa, "Sermon 160: 'Thou art Peter'" in *Nicholas of Cusa: Writings*, 481.

generations of canonists and theologians conceded that Peter erred but none claimed that popes would do well to follow in Peter's sin.¹¹²

I propose that Cusa's surprising statements in this sermon came as a result of his trust in the strength of the papacy. Cusa was reaffirming that the office of the papacy will always remain untarnished by heresy and sin, no matter how despicable the man who occupies the office might become. Cusa insisted upon distinguishing between the office and its occupant. These rather unsettling statements about papal sin are outgrowths of the confidence he had in his interpretation of the keys. After all he predicated his argument upon synthesizing the key of knowledge and the distinction between office and officeholder. The grace of infallibility, as conferred by the key of knowledge, was given to the papacy as an institution, not to any one man. That is the strain of thinking that underlies all of Cusa's ideas about infallibility. This is why he spends so much time distinguishing between the papacy and the pope. Even with this understanding, his ideas still stand out as unique. His confidence in the keys underlies his confidence in the papal office.

2.3 POLITICAL INFALLIBILITY: THE CASE OF NICHOLAS OF CUSA

Nicholas of Cusa is a cornerstone of the conciliar movement. He wrote the seminal treatise on conciliar theory. Aside from decrees from the Council of Constance, *De concordantia catholica* is the authoritative text on the supremacy of Church councils. Despite his prominent place in the conciliar movement, Cusa reversed course after seeing the possibility of reconciliation with the Eastern Church. He realized that reunification of the Church required a strong head. This view of

¹¹² The notion that Peter erred is enshrined in Gratian's *Decretum*, thus few canonists would have had trouble with that idea. See Tierney, *Foundations*, 38.

authority led him to reexamine his ideas about infallibility. In his early days, he considered councils more likely to be infallible than the pope because they better represented Christendom. His thoughts on representation were most important in this line of thinking. For him, representation was descriptive. That is, every locality and interest had to be represented by a person in a council. The pope was simply unable to represent all of Christendom's conflicting interests as one man.

Conflict lies at the heart of debates about infallibility, but it takes an especially prominent role in Cusa's conception. Following the lead of other medieval intellectuals, Cusa used infallibility as a terminal point for appeals of various kinds of judgment. Theologians and canonists were free to disagree on any matter until an infallible body issued a ruling. In this way, infallibility operated much as a court of last resort. Infallibility functioned to silence debate on core issues. At first, Cusa used the general council to fulfill this purpose. By his thinking, all of the competing interests of Christendom should be compared to one another by representatives who hold conflicting beliefs. They can then compromise and decide unanimously on a solution. It was the unanimity of the decision that signified the guidance of the Holy Spirit.

Forcing infallible decisions to be promulgated unanimously speaks to Cusa's emphasis on the unity of the Church. Everything in his writing was aimed at uniting the Church into a more cohesive whole. This is not surprising since, like most of his contemporaries, the Great Schism deeply influenced his thinking. The centrality of Church unity renders all other theological ideas a means to an end. For Cusa, a council's infallibility was not an intrinsic feature but a divine gift for the preservation of the Church. This is where Cusa differs from many of his contemporaries. His core commitments are laid bare in his writings. It takes little inference to see the importance of a united Church in his writings. This makes his shift from the conciliar camp to the papal camp more comprehensible, because in changing allegiances he did not alter his fundamental commitments.

He reexamined them and decided that the papacy was a better guard of the Church's unity than a general council. A shift like this is noteworthy, but in context it demonstrates that Cusa's loyalties lay with unity rather than any particular faction.

No scholar could claim that Cusa's ideology was consistent, except perhaps in its lack of clarity. His imprecision allowed him to assert that he did not change his mind on infallibility. There is some truth in this since his commitments remained the same and from the beginning, and he was more reticent to denigrate the place of the pope than some of his conciliar colleagues. One sees the early seeds of papal infallibility even in Cusa's conciliar writings where he asserts that papal approval is necessary to render any conciliar decree infallible. This idea came in stark contrast to those of Cusa's conciliar colleagues who were theorizing how they might convoke a valid council without the pope. Later in his career, after his move to the papal camp, Cusa ascribed an even more extensive role to the papacy. At no point does Cusa grant the papacy unchecked authority. However, in his later years, exemplified in his Brixen sermons, he painted a much more authoritarian picture of the papacy than he did in his earlier papalist stage, represented by the "Dialogue."

Thus, Cusa's ecclesiastical career demonstrates a relatively constant trajectory from moderate conciliarism to firm papalism. To say that Cusa capitulated to the papal monarchy would be an overstatement, but the influence of the political situation of the day, specifically the possibility of reunification with the Eastern church, on his thought is clear. That is the truly striking element throughout Cusa's writings: the political influences are readily apparent. He makes no apologies for being influenced by the political situations he saw unfold. He evaluated events through the lens of what would bring greatest harmony in the Church and rendered judgment in his writings on how best to preserve that. His judgments were never static. With Cusa, it is easier

to see his ideological progression than many other medieval authors who attempted to obfuscate their intent and influences. Cusa never hid his influences nor his fluid ideas.

The goal of this section was not to give a comprehensive review of Cusa's ecclesiology, nor even of his ideas on authority. I have focused on his conception of papal infallibility as a vehicle to demonstrate the influence of politics and developments on the ground to his ideology. With these ideas in mind, I now turn to Cusa's contemporary and papalist colleague to show how similar the language of infallibility became, even among rival factions.

3.0 INFALLIBILITY IN THE WRITINGS OF JUAN DE TORQUEMADA

Juan de Torquemada (1388-1468), a cardinal from Castile, is not typically mentioned among the stars of the conciliar movement. His name is not often mentioned in the same breath as Nicholas of Cusa, Panormitanus, or Francisco Zabarella. Torquemada is overshadowed by his famous nephew, Tomás, a brutal inquisitor. Scholars have largely forgotten Juan de Torquemada because of his papalism. For good reason, scholarship on the conciliar period has focused on conciliarists and not papalists. The seminal pieces on conciliarism, especially Tierney's *Foundations of the Conciliar Theory*, analyzed extensively the conciliar theories deployed against the papacy but included only papal responses to conciliar doctrine, not papalist responses. Thus, Juan de Torquemada is left out of many scholarly treatments. His name returned to the scholarly literature in the period following Vatican I, during which his name was invoked as a major authority on papal infallibility.¹¹³ However, his strong papalist reputation is only partially deserved. It happens that some of Torquemada's ideas accord quite well with the doctrine of papal infallibility promulgated by the First Vatican Council, but his ideas are more closely aligned with those of his contemporaries.

Juan de Torquemada borrows the common medieval ecclesiological ideas of representation, Petrine authority, and the keys to the kingdom. Juan de Torquemada is certainly less concerned with political ideas, like representation, than his canonist colleagues, such as Nicholas of Cusa. Torquemada was a theologian and therefore much more likely to turn to theology

¹¹³ Thomas Izbicki, *Protector of the Faith: Cardinal Johannes de Turrecremata and the Defense of the Institutional Church* (Washington, D.C.: The Catholic University of America Press, 1981), ix.

to explain the place of privilege he ascribed to the papacy. For him, only Scripture and tradition could justify doctrines as important as papal primacy, indefectibility, and infallibility. So Torquemada frequently refers to Luke 22:32, where Christ prays for the faith of Peter. He also litters his text with appeals to Church Fathers.

Torquemada's writings uniquely emphasize the concept of truth. This is not surprising given his theological background. However, he is not as dogmatic as his papalist predecessors, like Humbert, an 11th-century cardinal. Torquemada was aware of the practical realities of the Church as an institution. Scholars too frequently gloss the ideological disposition of conciliarists as responsive while they call the papalists dogmatic. For some thinkers, this holds true. However, the distinction is not helpful when examining theorists like Juan de Torquemada. He was aware of the ideological currents within the Church and the practical exigencies of administration. In this way, he is an exception to a stereotype about papalists that has outlived its usefulness. Torquemada was as deeply influenced by the Great Schism as his conciliarist opponents, his response simply differed. Instead of denigrating the papal office, he embraced it. Juan de Torquemada espoused a limited form of papal monarchy.¹¹⁴ It is common to see modern scholars discuss Torquemada as if he were a radical papalist, when in fact he did not push his conception of the papacy to the extremes of other radical papalists. He was clearly a product of the Great Schism and even embraced some of the key ideas from that period.

Juan de Torquemada first distinguished himself in ecclesiastical circles at the Council of Constance as a representative of the king of Spain. As a royal legate, he was specifically instructed to avoid conflicts at the Council, but he was so concerned with reforming the Church that he

¹¹⁴ Thomas Izbicki, "Introduction," in *Juan de Torquemada: A Disputation on the Authority of Pope and Council* trans. Thomas Izbicki (Oxford: Blackfriars Publications, 1988), xvii.

disregarded the instructions and fell headlong into the Council's debates.¹¹⁵ This categorizes much of Torquemada's style. He was obstinate and opinionated. Torquemada was combative and always an active participant in the debates of his day. It is then no surprise that he made a name for himself by wading into the Hussite controversy at the Council of Constance.¹¹⁶ The Council had already executed Jon Hus by the time Torquemada arrived, but Hus's followers continued to divide the Bohemian church. This the matter which John of Ragusa and Nicholas of Cusa engaged later at the Council of Basel. Juan de Torquemada earned his papalist credentials refuting the ideas of the Hussites and supporting doctrines sanctioned by the papacy.¹¹⁷ This reputation for papalism would stay with him for the rest of his life for good reason. While Torquemada was technically present at the Council of Constance as a representative for the king of Spain, it was clear that he was far more interested in defending the papacy than any king's claim to power. It is especially noteworthy that Torquemada argued for a strong papacy in the midst of such division in the Church. After all, the Council of Constance was assembled to end the Great Schism and return the Church to unity under one pontiff. Most churchmen were eager to blame an overly-powerful papacy for the division in the Church. Torquemada saw the exact opposite: he saw a papacy that was not powerful enough. Couching his argument in terms of a return to the early days of Christianity, Torquemada strongly believed that a strong papacy was the means of preserving unity in the Church. This theme is evident throughout his writings.

At the Council of Basel, Juan de Torquemada was equally influential. He won a debate with the Council's conciliarists and retained the ability of a litigant to appeal his case to Rome if

¹¹⁵ Izbicki, *Protector of the Faith*, 4.

¹¹⁶ Izbicki, *Protector of the Faith*, 4-5.

¹¹⁷ Izbicki, *Protector of the Faith*, 5.

a Council decided it unsatisfactorily.¹¹⁸ This was a major victory for the papacy since it essentially upheld papal supremacy in jurisdiction. Jurisdiction became a surprisingly important concept in Torquemada's writing despite his lack of a legal education. Torquemada regarded jurisdiction as foundational for the papalist theology he espoused. He never stopped advocating for extensive jurisdiction for the papacy, from his early days at the Council of Basel to his last days as a cardinal.

As a member of the Council of Basel, Torquemada combatted the conciliarists, but when it became clear that the Council was headed in a radical direction, he abandoned it like many of the more moderate fathers. He joined the Council of Ferrara-Florence and helped compose the decree of reunification with the Eastern Church.¹¹⁹ As with most other prominent churchmen of the period, Church unity concerned Torquemada. Unlike most other churchmen, however, Torquemada actively promoted it and was decisive in the near unification of Eastern and Western churches. But he was not ecumenical to the point of significant compromise. Torquemada was likely selected as a key figure in the negotiations with the Greeks because the pope knew that Torquemada would fight for Rome. This reputation also earned him a place in the papal delegation, alongside Nicholas of Cusa, to the imperial Diet at Nuremberg in 1438.¹²⁰ The Diet was translated to Mainz in 1439, and it was there that Torquemada first declared the pope infallible.¹²¹ At that point, Torquemada cemented his reputation as an outspoken papalist, and his efforts were rewarded with a promotion to the College of Cardinals on December 18, 1439.¹²² At this point, Torquemada would have already secured a legacy for himself if he ceased all major Church activity, but he was

¹¹⁸ Izbicki, *Protector of the Faith*, 9.

¹¹⁹ Izbicki, *Protector of the Faith*, 12.

¹²⁰ Izbicki, *Protector of the Faith*, 11.

¹²¹ Izbicki, *Protector of the Faith*, 11.

¹²² Izbicki, *Protector of the Faith*, 13.

not satisfied. He continued to write and debate the key issues of the day, almost always siding with the pope.

Torquemada composed numerous works throughout his lifetime on a variety of subjects. His most noted works concern ecclesiology. Specifically, his *Summa de ecclesia* is the first comprehensive work on ecclesiology in the Middle Ages. His aim was to create an analog document to Thomas Aquinas' *Summa theologiae*. That document has been studied extensively.¹²³ Therefore, I devote only limited space in this essay to that document. Instead, I devote more attention to his earlier, lesser-known work, *A Disputation on the Authority of Pope and Council*. This document demonstrates some of Torquemada's fundamental doctrinal commitments in a more concentrated form than the extensive *Summa*. Torquemada also composed devotional works, but the passion of his life was reform. He took great pleasure in reforming religious houses and the Church at large to more closely resemble what he saw as God's will.¹²⁴ This is unique among papalists because he co-opted the idea of reform from the conciliar camp and applied it to papalism. So, Torquemada's novel take on conciliarism, coupled with his prominent place in the late-medieval Church and his strong influence on modern theology makes him a very worthy object of study. As of yet, historians have examined Torquemada, aside from his *Summa*, surprisingly little. In addition, few of his works are available in English, a problem that will need to be overcome in the future if Torquemada is to be studied more closely.

¹²³ Thomas Izbicki, "Papalist Reaction to the Council of Constance: Juan de Torquemada to the Present," *Church History* 55, no. 1 (March 1986): 7-20 and Eugene Morris, "The Infallibility of the Apostolic See in Juan de Torquemada, O.P.," *The Thomist* 46, no. 2 (April 1982): 242-266.

¹²⁴ Izbicki, *Protector of the Faith*, 19.

3.1 INFALLIBILITY IN A *DISPUTATION ON THE AUTHORITY OF POPE AND COUNCIL (1439)*

On July 12, 1439, Pope Eugenius IV issued a proclamation of reunion between the East and West. This was a significant victory for the pope, who promulgated *Moyses vir Dei* later that same year to respond to the deposition imposed on him by the clerics still assembled at Basel.¹²⁵ At that point, only the most obstinate conciliarists remained at Basel, while churchmen with any allegiances to the pope assembled at Florence to engage in reunification talks with the Eastern churches. Cardinal Giuliano Cesarini led the Western delegation despite his noted conciliarist orientation.¹²⁶ Cesarini had acquired a sterling reputation as the papal legate to the Council of Basel. He never joined the Council's most radical proposals, but he supported its existence and purpose. Pope Eugenius chose Cesarini to defend *Haec sancta*, a document issued by the Council of Constance in 1415. Juan de Torquemada was selected as Cesarini's opponent in a debate to be staged in front of the Council of Ferrara in 1439. Unfortunately, written records of Cesarini's argument have been lost. However, Torquemada's survives, and from it we can reconstruct Cesarini's position, at least in part. Much of this is due to the systematic manner in which Torquemada attacks his opponent's position. He breaks Cesarini's argument down into three parts and proceeds to show how the Cardinal had misinterpreted the relevant sources. At the live debate, there is some indication that Torquemada spoke extemporaneously, with limited notes, but he composed the document which survives today at some later date.¹²⁷ Some sources indicate that Torquemada's arguments swayed Cardinal

¹²⁵ Izbicki, "Introduction," in *Juan de Torquemada*, viii.

¹²⁶ Izbicki, "Introduction," in *Juan de Torquemada*, ix.

¹²⁷ Izbicki, "Introduction," xii.

Cesarini, but others doubt this.¹²⁸ It is clear, however, that Torquemada's status among Church elite increased dramatically as a result of his debate victory over Cardinal Cesarini.

Most of *A Disputation on the Authority of Pope and Council* is concerned, unsurprisingly, with the power relationship between the pope and a general council. Torquemada delves into questions of jurisdiction, authority, and representation. There is a significant section in which he discusses papal infallibility, but it would be a mistake to read only this section for Torquemada's ideas relative to that doctrine. With a broader view of the ideological building blocks of papal infallibility, one can see how the entirety of this document crescendos at the idea of infallibility. Essentially, Torquemada's first sections of the work correct errors in previous papalist theology. Specifically, he takes up the perennially controversial doctrines of the key of knowledge, necessity of representation, and the meaning of Luke 22:32 and Matthew 16:19. It would also be a mistake to read this document only through the lens of papal infallibility. Clearly, the document is addressed to the question at hand which concerned the proper relationship between council and pope. But the components which made up his answer also contributed to the development of papal infallibility from its earliest iterations, largely influenced by the arguments of the Franciscans, to a more nuanced, mature doctrine.

The beginning of the work is devoted in large part to disputing the claim that councils receive their power directly from Christ and instead demonstrating that all power flows through the pope. From just this first section in Torquemada's writing, it seems that he will advocate a position of unlimited power for the pope. He says, "supreme power and the supreme principate in the church was given by Christ, not to a group of people [churchmen assembled in a general

¹²⁸ Izbicki, "Introduction," xii.

council], but to one man alone [the pope].”¹²⁹ Torquemada expresses no limits to this supreme power, at least at this point in the oration. He would later go on to clarify that he did believe there were limits to papal power, and he strongly upheld many of the principles first argued by the Decretists and Decretalists centuries earlier. However, his audience and strategy necessitated a bold introduction. As a young churchman with a reputation on the rise, he would have had the attention of the Council of Ferrara, but he was nowhere near as eminent as Cardinal Cesarini. Therefore, he had to deconstruct Cesarini’s argument systematically and convincingly. He had to first refute the basic tenets of Cesarini’s conciliar position before he could move to a more nuanced discussion of papal power.

A strong theme throughout this section on papal power is the unity of the Church. Torquemada proposes a strong papacy but then argues that a strong papacy is the only way to ensure unity in the Church: “the unity of the church requires that the power of all prelate should derive from the Roman pontiff.”¹³⁰ Torquemada’s opinion stands in contrast to Nicholas of Cusa’s which was a more measured appreciation for the pope’s role in the Church. Here, Torquemada proposes papal power as the sole option for preserving the oneness of the Church. This also suggests that any hint of conciliar supremacy would lead to dispute and schism. Torquemada’s emphasis on unity is not surprising given the time period in which he lived and the effect of the Schism on his work. While unity clearly concerns Torquemada, it is not a focal point of his theology like it is for Nicholas of Cusa. Torquemada uses the unity of the Church as the premise of his argument rather than the goal of his ecclesiological system. This results in a radically

¹²⁹ Juan de Torquemada, *Juan de Torquemada: A Disputation on the Authority of Church and Council*, trans. Thomas Izbicki (Oxford: Blackfriars Publications, 1988), 10-11.

¹³⁰ Juan de Torquemada, *A Disputation*, 20.

different focus and a tone that is much more rigid and academic in Torquemada's writing than Cusa's.

Later in the work, Torquemada takes up several doctrines that he believed were misused by the papalists of earlier generations. The first doctrine he deals with is the keys to the kingdom. He recognized the muddled nature of the doctrine due to the use of the same terminology for several competing ideas. The first clarification he made was a distinction between orders and jurisdiction. That Christ entrusted the keys of the kingdom to both Peter and the other disciples, albeit at separate times and with very slight variations, had always given papalists trouble. Torquemada developed a clean distinction between the form of the keys given to Peter and the keys given to the apostles. To Peter, Christ gave the power of jurisdiction, or authority over the other apostles.¹³¹ To the apostles, he gave the power of orders, or the power to forgive sins in God's name.¹³² However, this was not the only understanding of the keys that was common in the ideological currents of Torquemada's day. He also needed to grapple with the key of knowledge the Franciscans had used centuries prior in defending their understanding of papal infallibility.

Torquemada was emphatic on the point that the jurisdiction granted to Peter in the keys did not entail the gift of infallibility: "not erring in faith and the power of the keys are two distinct graces."¹³³ For Torquemada, separating the keys to the kingdom from the grace of infallibility was necessary to protect the papacy from theological weakness. The key of knowledge was an invention of the radical Franciscans centuries earlier that had somehow found its way into the thought of most theorists of infallibility. As a good theologian, Torquemada saw the problems inherent in perpetuating an unsound idea created out of practical necessity as the basis for a major

¹³¹ Juan de Torquemada, *A Disputation*, 21, 29.

¹³² Juan de Torquemada, *A Disputation*, 29.

¹³³ Juan de Torquemada, *A Disputation*, 44.

doctrine. He thus reinvented the basis for papal infallibility quite deftly. Essentially, he leveraged the familiarity of the Church with the doctrine to alter its foundation. He kept the doctrine intact but radically changed its justification. Instead of being based on the controversial key of knowledge, he found a stronger theological justification with Luke 22:32: “But I have prayed for you, [Peter] that your faith should not fail.”¹³⁴ By using this justification and discarding the keys of knowledge, Torquemada opened himself up to a new criticism: a pope’s personal fallibility clashing with his official infallibility. This was a problem that earlier keys of knowledge theologians dispensed with quite easily, because they distinguished between the pope acting in an official capacity as a teacher, just as he acts as a formal mediator between God and humankind when forgiving sins, and his private studies and writings. Torquemada did not have the benefit of a simple analogy like the one employed by keys of knowledge advocates. Instead, he had to rely on a more formal delineation between a pope’s declarations on matters of faith and his more general teachings.

Torquemada’s reputation as a theological precursor to Vatican I is based in large part on his clear message that the pope only enjoyed the grace of infallibility in matters of faith. Specifically, he says, “the apostolic see, as Christ’s tribunal on earth, has from him the privilege of not erring in its judgment about the faith.”¹³⁵ He claims this in contradistinction with a general council which enjoys no such grace. He leaves “apostolic see” ambiguous and seems to imply that infallibility requires conference with the cardinals, an idea that had some precedent.¹³⁶ What Torquemada espouses here is a moderate version of papal infallibility. Having corrected erroneous justifications, he re-articulates the doctrine in a cautious form. By claiming that a pope cannot err

¹³⁴ NKJV.

¹³⁵ Juan de Torquemada, *A Disputation*, 45.

¹³⁶ See footnote 42 above.

in his “judgment about the faith,” Torquemada implies a level of formality in the declaration that other theorists had not always considered. This is a way of protecting the doctrine from popes who clearly fell into error. Under Torquemada’s system, one could simply claim that an errant pope was not making a judgment about the faith, only exercising his prerogative as a private teacher. This in turn relied on the classical distinction between the office of the papacy and the person of the pope that had been well-developed by this point, but Torquemada would nevertheless comment on it later in the work. In sum, though, the number of qualifications on Torquemada’s doctrine of infallibility in this work is probably why scholars are quick to compare Torquemada’s version of infallibility with the one the Church currently employs.¹³⁷

From the grace of papal infallibility, several implications follow for Torquemada, but the most important is that the pope must be obeyed above all others. Torquemada cites a gloss on the *Decretum* which states that the pope should be believed over a council when their decrees conflict.¹³⁸ However, there is one major complication. The citation Torquemada gives does not say that the pope is infallible. It says that the Roman church is infallible. There was no agreement on the precise definition of the Roman church.¹³⁹ Torquemada interprets the Roman church to mean the pope, or possibly the pope and the College of Cardinals. In either case, because of the authority he cites, this is not one of his strongest arguments. At other times, when Torquemada encountered theologically questionable material, he avoided controversy by developing a new definition and roundly criticizing the previous understanding the doctrine. Here, however, he relies on a highly ambiguous gloss to prove a major point. After all, for the purposes of his audience, this section

¹³⁷ For example, Morris, “The Infallibility of the Apostolic See,” 265.

¹³⁸ Juan de Torquemada, *A Disputation*, 46.

¹³⁹ See “Infallibility in *De concordantia catholica*” above for more discussion of the various interpretations of the Roman church.

was more important than his general proof of papal infallibility. The subject of the debate was the validity of *Haec sancta*, but it became a more general debate on the authority of a general council vis-à-vis the pope. Whether the pope was infallible or not on his own was almost a tangential issue. The implications of this infallibility when the pope and council were in conflict was clearly more important in this context, and it is on this matter that Torquemada stumbles. I argue that this stumble bound Torquemada in a weaker position and forced him to make greater concessions later in the discourse than would otherwise be necessary.

By weakly supporting his argument with an ambiguous gloss, Torquemada was forced to concede two significant points in this debate. The first is that a council's opinion should be preferred to a pope's in two scenarios: when the council is healing schism and when it speaks unanimously on a matter of faith and the pope disagrees.¹⁴⁰ On their face, neither of these seem to be a major concession, but the second is more serious and has a less obvious explanation. Unanimity should probably never be expected at a general council full of opinionated and, in many cases, highly educated theologians and canon lawyers. However, at an assembly like the Council of Basel where the participants are relatively homogenous and their purpose is radically anti-papal, Torquemada would encounter a problem. He glances over this glaring problem which should have been apparent to him given the saliency of the Council of Basel and the fact that it was still being conducted at the time of the debate, even though it was no longer recognized by the pope. By opening the door even slightly to a council overriding a pope, Torquemada gives his conciliar opponents fodder, and this was not the only concession he was forced to make.

The second concession Torquemada makes is on the controversial subject of a pope's deposition. He takes a modified papalist stand on the question, maintaining the traditional view

¹⁴⁰ Juan de Torquemada, *A Disputation*, 47-48.

that a pope who obstinately continued in heresy would lose his office.¹⁴¹ In contrast to conciliarists who would have a council judge a pope's heresy, Torquemada offers no such power to the general council. Instead, they are to correct the pope fraternally, not publicly with sanctions.¹⁴² The council can officially declare a pope deposed, but the pope deposes himself; he is never judged by the council.¹⁴³ Torquemada also rails against the idea of deposing a pope for sins aside from heresy, as Huguccio's gloss suggests.¹⁴⁴ So while this is a limited concession, Torquemada still allows for the possibility of a pope being deposed from office, which had always been a hindrance to the papacy.¹⁴⁵ This concession on deposition along with the superiority of council in some instances represent two apparent holes in Torquemada's famed papalism. But I argue that the holes create a pattern suggesting a purpose.

From the above concessions, it is clear that Torquemada was not an absolute papalist. He carefully considered cases in which a council might override even an infallible pope because he understood the need for safeguards in the Church. There can be little doubt that Torquemada elevated the pope to a lofty perch. In Torquemada's ecclesiology, the pope enjoyed infallibility in addition to near universal authority. But Torquemada had to qualify the pope's authority so that he could be infallible. Because an infallible pope must follow the infallible decrees of his predecessors, he cannot be said to have absolute authority.¹⁴⁶ Thus, Torquemada had to create a way to escape the quagmire created by an infallible papacy that was held by fallible men. The solution was to allow for the possibility of a council being correct while a pope errs, which would

¹⁴¹ Juan de Torquemada, *A Disputation*, 45.

¹⁴² Juan de Torquemada, *A Disputation*, 51.

¹⁴³ Juan de Torquemada, *A Disputation*, 51.

¹⁴⁴ Juan de Torquemada, *A Disputation*, 56.

¹⁴⁵ Tierney, *Crisis*, 119.

¹⁴⁶ This is one of the animating arguments in Tierney, *Origins*. For more on this topic, see "Literature Review" above.

first be handled with fraternal correction, but eventually the pope would depose himself if he continued in his heresy. These concepts essentially act as safeguards against a fallible man making an errant pronouncement under the infallibility of his office. That possibility is one that troubled theorists of infallibility from the beginning, especially with the documented cases of heretical popes. Torquemada creates a less-elegant but still functional system to protect the Church from falling into grievous error, the same end to which the Vatican I definition of infallibility was aimed. This is why scholars have been able to see the seeds of Vatican I in the writings of Torquemada. There are definite similarities but also differences. He further develops his position in his *Summa de ecclesia*.

3.2 INFALLIBILITY IN THE *SUMMA DE ECCLESIA* (1453)

Juan de Torquemada is best known for his *Summa de ecclesia*. The work was supposed to be the first comprehensive treatise on orthodox ecclesiology ever produced.¹⁴⁷ Completed in 1453, the *Summa de ecclesia* was the work of a more mature, more knowledgeable Torquemada. In the years leading up to the work's composition, Torquemada had learned canon law, a rare feat for a theologian.¹⁴⁸ Armed with his new understanding of the law, Torquemada set out to produce the most auspicious project of ecclesiology in the Middle Ages. The model he used was Thomas

¹⁴⁷ Izbicki, *Juan de Torquemada*, 19.

¹⁴⁸ Only two prominent theologians also wrote extensively on canon law: Guido Terreni and Juan de Torquemada. Guido Terreni was also a prominent theorist of infallibility in the 14th century. For more on his life and works on infallibility, see Tierney, *Origins*, 238-272. For a comparison of Guido Terreni and Juan de Torquemada, see Thomas Izbicki, "Infallibility and the Erring Pope: Guido Terreni and Johannes de Turrecremata," in *Law, Church, and Society*, ed. Kenneth Pennington and Robert Somerville (Philadelphia: University of Pennsylvania Press, 1977), 97-111.

Aquinas' *Summa theologica*, but form is not where Aquinas' influence stopped. Torquemada was a Thomist who intertwined the theology of Aquinas with the relevant canons.¹⁴⁹ The *Summa* was also a polemic directed against conciliarists and even earlier anti-papal writers, like William of Ockham and Marsilius of Padua.¹⁵⁰ Few copies of the voluminous *Summa* survive, and they were rarely touched before Vatican I. Some scholars argue that the work has not been studied due to the scarcity of copies, while others maintain that Torquemada's name alone has inhibited study due to its link with his infamous nephew, Tomás.¹⁵¹ In any case, even following Juan de Torquemada's popularization at Vatican I, his *Summa* has still not been studied in its entirety. Furthermore, the text does not exist in complete English translation. Therefore, the analysis that follows is partial and relies on the limited selections of the *Summa* that are available in English.

In the *Summa*, Torquemada presents a view of infallibility even more similar to the one promulgated at Vatican I, but it retains many of the medieval strands he traced in the *Disputation*. In the *Summa*, Torquemada continues to insist that the pope is infallible in his "judgment on matters of faith." This is precisely the formula he used in the *Disputation*. He also insisted upon infallibility tied to the office of the pope, not the person. However, he introduced new ideas about infallibility in the *Summa*. Principally, he identifies indefectibility as a cornerstone of infallibility. This was not an original idea of Torquemada's. He likely learned about the relationship between indefectibility and infallibility in his study of canon law.¹⁵² He applies it in this work with great vigor, echoing earlier canonists and theologians. The other principle argument he advances in the

¹⁴⁹ Izbicki, *Juan de Torquemada*, 19.

¹⁵⁰ Izbicki, *Juan de Torquemada*, 19. William of Ockham was another early theorist of infallibility; see Tierney, *Origins*, 205-237.

¹⁵¹ William Maguire, *John of Torquemada, O.P.: The Antiquity of the Church* (Washington, D.C.: The Catholic University of America Press, 1957), 9.

¹⁵² Morris, "The Infallibility of the Apostolic See," 249.

Summa is that infallibility is a necessary attribute given the nature of the pope's position. Specifically, the pope must be infallible for the good of the Church. Taken together, these elements show a complex theological formulation of infallibility that resembles later variants in part but also retains many of the contours of the doctrine defined by earlier thinkers.

In previous works, Torquemada did not use indefectibility as centrally as he does in the *Summa*. Torquemada appropriates the argument of some of the earliest proponents of infallibility who said that since the Church is indefectible—that is, since the Church cannot ever be completely destroyed because of the promise Christ made to Peter in Matthew 16:18—the papacy must preserve the true Catholic faith, even if the rest of the Church falls into error.¹⁵³ Indefectibility was a widely accepted doctrine from the time of the Decretists on, but there was no agreement among canon lawyers as to what form of the Roman church enjoyed the privilege of indefectibility.¹⁵⁴ Torquemada unambiguously applies indefectibility to the pope. However, he protects his doctrine from criticism by combining it with the distinction between man and office that he had developed in earlier works. Indefectibility and thus infallibility only applied to the office of the papacy, not the office's occupant. None of these concepts were Torquemada's original ideas, but this marked the first time that he adopted the argument of Pietro Olivi in claiming that indefectibility implied infallibility.

The other concept that Torquemada introduces in the *Summa* is the fittingness of papal infallibility. Essentially, he says that the pope must be infallible or chaos would reign in the Church: “there must be one faith for the entire Church ... this norm could not be followed unless every question arising out of faith were resolved by the one having care over the whole Church,

¹⁵³ For more on the early infallibility thinkers' position on indefectibility and infallibility, see Tierney, *Origins*, 116-119.

¹⁵⁴ Tierney, *Foundations*, 38-41.

whose decisions are therefore followed by the whole Church.”¹⁵⁵ This argument is somewhat unusual for the normally technical, citation-heavy Torquemada. He cites no authorities here. This is an argument from necessity. He claims that without infallibility the Church would be left in a dire state of uncertainty, and the possibility for schism is apparent. This was an argument advanced by earlier proponents of infallibility, but it took on a new urgency in Torquemada’s writing because of his experiences during the Great Schism. Suddenly, the hypotheticals the canon lawyers of centuries prior had bantered became reality, and Torquemada and his colleagues were left to deal with the aftermath. In this context, an argument from necessity could be more convincing than an argument based only on authority. Torquemada was always careful to include the relevant sources, but the *Summa* is the work of a more seasoned churchman who understood the practical considerations involved in managing an international faith community.

Finally, in the *Summa*, Torquemada once again insists on the possibility of a pope erring and thus deposing himself.¹⁵⁶ While this does represent a significant break with other papalists, it is no different from the ideas he had previously advanced. Some scholars consider this an innovation that contributed significantly to the discussion at Vatican I, but there is no evidence for this.¹⁵⁷ As demonstrated previously, this idea was originally popularized by Huguccio’s gloss on the *Decretum* and employed by a variety of thinkers with various ideological dispositions. That Torquemada employed this concept in a pro-papal document is somewhat surprising but only in the sense that papalists did not normally concede the point of automatic self-deposition. However, this is not the first time Torquemada advocates Huguccio’s position, in fact he discusses it rather

¹⁵⁵ Juan de Torquemada, quoted in Morris, “The Infallibility of the Apostolic See,” 255.

¹⁵⁶ Morris, “The Infallibility of the Apostolic See,” 261.

¹⁵⁷ Morris is among the scholars who believe Torquemada’s view on a heretical pope colored the discussion at Vatican I. See Morris, “The Infallibility of the Apostolic See,” 262.

extensively in the *Disputation*. Torquemada's argument in this document is the result of a more mature theologian and a knowledgeable canonist, but he completed more innovative work in the *Disputation*.

3.3 JUAN DE TORQUEMADA: DEVELOPER OF DOCTRINE

It is difficult to categorize Juan de Torquemada beyond the broad camp of papalism. In some ways, he was a moderate papalist. He was concerned with the possibility of schism in the Church, and while he believed that a strong papacy was the ideal way to maintain unity, he also recognized that the men who filled the office of the papacy were imperfect. Thus, infallibility could not be absolute. By the same token, infallibility was necessary for the peace of mind of the faithful. They needed to know that the Church's supreme authority was not pronouncing judgment in error. So, as much as Torquemada strengthened the position of the papacy, he also erected safeguards so that a pope could not define an errant doctrine in such a way that it could not be altered by a predecessor. To accomplish this end, he employed a variety of arguments. The most surprising is Huguccio's idea of automatic self-deposition for a pope who falls into heresy. This prominent idea is what keeps scholars from classifying Torquemada as a radical papalist. It was a major concession for a papalist to say that a pope could not only fall into heresy but also depose himself. Those who believe influenced later theological debates probably find their strongest argument here. Indeed, the qualified, limited form of papal infallibility defined at Vatican I seems to have been prefigured in the work of Juan de Torquemada, a man who wrote more about the limits of infallibility than how doctrines might be defined infallibly.

Perhaps the cardinal's greatest contribution to the doctrine of infallibility was the correction he administered to the underlying justifications. For centuries, papalists had relied on the controversial doctrine of the keys to support papal infallibility. Torquemada popularized the view that Christ's prayer for the faith of Peter in Luke 22:32 is a stronger justification for infallibility. Torquemada's views did not change radically over the course of his life, but they did mature, and practicality became a stronger consideration as time went on. Despite this, Torquemada still defies simple explanation. His views on infallibility are level-headed and pragmatic but also thoughtfully based on material from both sides of the debate. They are not glamorous and polemical. Nor do they quite reach the level of theological sophistication of the definition given at Vatican I. They stand on their own as a coherent way of thinking about infallibility. Perhaps the best way to think of them is as the beginning of a bridge that connects the earliest forays into infallibility with the form the Church adopted in the nineteenth century. Torquemada took on the thankless task of correcting theological frameworks so that future generations could build on a foundation he believed to be orthodox and firmly rooted in historical Church teachings.

4.0 CONCLUSION: THE MEN WHO MOVED INFALLIBILITY FORWARD

Papal infallibility is a bold doctrine. To claim that a human cannot err, even in a limited set of circumstances, is an idea that requires a great deal of justification. But infallibility never existed in a vacuum. Practical considerations influenced the doctrine from its inception. Papal infallibility first emerged in the midst of a dispute between Pope John XXII and the Franciscan Order. Infallibility was not meant to enhance papal power but to limit it. Sovereignty and infallibility could not exist alongside one another, and from the time of John XXII on, popes had to choose whether to emphasize their sovereignty or infallibility. The trouble was that the ancient sources supported both claims. Theorists were using many of the same texts and concepts—the theological doctrine of keys to the kingdom and the political idea of representation being the two most prominent examples—to support opposing conclusions.

From the beginning, papal infallibility was a political doctrine. Nicholas of Cusa and Juan de Torquemada's slightly different conceptions of papal infallibility illustrate the doctrine's political nature in similar ways. The Great Schism affected both men's theology and ecclesiology. Both were deeply concerned with the unity of the Church. Nicholas of Cusa's case is especially intriguing, since he reversed his position when he found that the papacy was better equipped to unify the Church than a general council. However, Juan de Torquemada's writings also bore distinct marks of influence from the debacle of the Schism. Both men wrote during the conciliar period, when the papacy was at one of its weakest points in centuries. Cusa and Torquemada used papal infallibility to rebuild the prominence of the bishop of Rome. They attempted to soften the blow to the papacy that the traditional dichotomy between sovereignty and infallibility represented. They adopted the doctrine of papal infallibility not as a limit to the pope's power but as a way to

enhance it. For they were concerned with the unity of the Church, and at that point both men saw the papacy as a unifying institution.

While they wrote in a political context, neither could be said to be motivated by politics alone. In their writings, a genuine concern for the unity of the Church is apparent. It is especially clear in Cusa's writings and Torquemada's later works. Cusa's greater concern for the unity of the Church is evident throughout his writings. Torquemada is largely concerned with the truth and authority of scripture, tradition, and doctrine. For Torquemada, unity is a necessary byproduct of correct teaching. Cusa, however, is more overtly concerned with promoting the unity of the Church. There is no indication that he believed that truth would inevitably lead to unity, as Torquemada did. Cusa's writings are undoubtedly more practical and more concerned with the ramifications of his ideas on the state of the Church. Despite the differences between the two theorists, both contributed to the development of infallibility during their lives. Even though Torquemada's ideas enjoyed a longer life, Cusa's ideas also raised important questions about consent and authority in the Church. The divergences in their thought show how the same sources can be used to support different ideas.

Torquemada and Cusa employ many of the same theological devices to support their version of infallibility. Luke 22:32, distinctions between office and officeholder, and heresy were significant to both men. These were premises that were largely developed by earlier thinkers but deployed by Cusa and Torquemada in novel ways. These three ideas are also a good demonstration of the broad array of sources from which papal infallibility is drawn. Luke 22:32 and relevant commentaries fall under theology. The distinction between office and officeholder is an idea that comes in part from secular politics and in part from canon law. The possibility of a heretical pope was first posed in canon law. Thus, Cusa and Torquemada drew from a variety of sources in order

to construct their arguments. This broad-based defense of infallibility was the only way to protect a doctrine so bold.

Papal infallibility was never an unlimited grace according to either thinker. They placed firm limits on infallibility. For both men, infallibility of a particular decree was a moving target. That is, one could not definitively say whether a decree was infallible or not at the time of its promulgation. There were certain factors, such as consultation with the College of Cardinals or confirmation by a council, that might make it more likely to be infallible, but no decree could be issued infallibly at the time of its promulgation. For both theorists, infallible was an *ex post facto* classification. Tierney roundly criticizes this way of conceptualizing infallibility because it provides none of the certainty that its proponents claim. I differ on this point, though. Tierney is right that a version of infallibility that cannot be applied to a document at the time of its promulgation is concept lacking in analytical usefulness. It is, however, an effective way of protecting the Church against error. With the passage of time, more theologians and canon lawyers have the opportunity to examine doctrines and can confirm them as orthodox, then insist upon their infallibility. This was the intent of doctrines like those given by Cusa and Torquemada. These are not weaknesses, they are protections against error.

The story of infallibility is deeply political. It is also theological. And now, it is a matter of history. Politics, theology, and history are all deeply intertwined in infallibility. From the beginning it was a doctrine dictated by political necessity, sometimes for the good of a particular group and sometimes for the good of the Church. The story of infallibility in the conciliar period is driven in large part by two voices who started as opponents but ended as allies. Nicholas of Cusa provided the ideological cornerstone of the conciliar movement with *De concordantia catholica*. Juan de Torquemada was a stalwart papalist, who became one of the most eminent minds of his

time. Surprisingly, though, they both came to agree on papal infallibility. Cusa arrived at his position using more political and logical justifications, most notably the idea of representation. Torquemada was a learned theologian and knowledgeable in canon law, so his theory was dictated in large part by his study of the relevant authorities. He came to appreciate the practicalities of a unified Church later in his life, and this took on a more prominent role in his writings. It is remarkable, though, that two diametrically opposed thinkers could arrive at a very similar conclusion regarding the teaching authority of the pope. Infallibility has produced is the result of processes initiated partly due to chance and partly due to the strident effort of a few well-positioned men. This is a study of two such men who moved the Church according to their ideas and preferences by synthesizing earlier strands of thinking with their own ideas and, in the case of Torquemada, eliminating justifications for infallibility that he considered errant.

This is a story of development. Over the course of centuries, ideas percolated around infallibility. The story began with the Franciscans who reached back into the ancient sources to produce a doctrine that would defend their Order. Then, in the conciliar period, Torquemada and Cusa continued to refine the idea of papal infallibility. Torquemada altered the underlying justifications for infallibility while Cusa showed its importance for Church unity. Both are important steps in the development of the doctrine, and one cannot be said to be more valuable than the other. The story of development continued long after they died, and some might even say it continues today. But Nicholas of Cusa and Juan de Torquemada both made contributions in their own right. Perhaps one day they will receive the appreciation they deserve.

BIBLIOGRAPHY

- Biechler, James. *The Religious Language of Nicholas of Cusa*. Minneapolis: American Academy of Religion and Scholars Press. 1975.
- Fudge, Thomas. *Jan Hus: Religious Reform and Social Revolution in Bohemia*. London: I.B. Tauris. 2014.
- Gratian. *Dist. 40 c.6*. In *The Crisis of Church and State 1050-1300*. Edited by Brian Tierney. Toronto: University of Toronto Press. 1988. 124.
- Heft, James. *John XXII and Papal Teaching Authority*. New York: Edwin Mellen Press, 1986.
- Hopkins, Jasper. *A Concise Introduction to the Philosophy of Nicholas of Cusa*. Minneapolis: University of Minnesota Press. 1978.
- Izbicki, Thomas. *Nicholas of Cusa: Writings on Church and Reform*. Cambridge, MA: Harvard University Press. 2008.
- . *Protector of the Faith: Cardinal Johannes de Turrecremata and the Defense of the Institutional Church*. Washington, D.C.: The Catholic University of America Press. 1981.
- . “Infallibility and the Erring Pope: Guido Terreni and Johannes de Turrecremata.” In *Law, Church, and Society*. Edited by Kenneth Pennington and Robert Somerville. Philadelphia: University of Pennsylvania Press. 1977. 97-111.
- . “Introduction.” In *Juan de Torquemada: A Disputation on the Authority of Pope and Council*. Translated by Thomas Izbicki. Oxford: Blackfriars Publications. 1988.
- . “Papalist Reaction to the Council of Constance: Juan de Torquemada to the Present,” *Church History* 55, no. 1 (March 1986): 7-20.
- Juan de Torquemada. *Juan de Torquemada: A Disputation on the Authority of Pope and Council*. Translated by Thomas Izbicki. Oxford: Blackfriars Publications. 1988.
- Kruse, John. “Reevaluating the Origins of Papal Infallibility: Understanding Papal Authority in the Bulls of the Franciscan Poverty Controversy (1230-1329).” PhD dissertation. St. Louis University, 2005.
- Maguire, William. *John of Torquemada, O.P.: The Antiquity of the Church*. Washington, D.C.: The Catholic University of America Press. 1957.
- Malegam, Jehangir. “Certain Sainthood: Canonization and the Origins of Papal Infallibility in the Medieval Church,” *Church History* 86, no. 1 (March 2017).

- Meuthen, Eric. *Nicholas of Cusa: A Sketch for a Biography*. Trans. David Crowner and Gerald Christianson. Washington, D.C.: Catholic University of America Press. 2010.
- Minnich, Nelson. "Councils of the Catholic Reformation: A Historical Survey." In *The Church, the Councils, and Reform: The Legacy of the Fifteenth Century*. Edited by Gerald Christianson, Christopher Bellitto, and Thomas Izbicki. Washington, D.C.: Catholic University of America Press. 2008. 27-59.
- Morris, Eugene. "The Infallibility of the Apostolic See in Juan de Torquemada, O.P.." *The Thomist* 46, no. 2 (April 1982): 242-266.
- Newman, John Henry. *An Essay on the Development of Christian Doctrine*. London: James Toovey. 1845.
- Nicholas III. *Exiit qui seminat*. In *Francis of Assisi: Early Documents*. Edited by Regis J. Armstrong, J.A. Wayne Hellmann, William J. Short. Hyde Park: New City Press, 1999-2001. Vol. 3, 738-764.
- Nicholas of Cusa. *The Catholic Concordance*. Trans. Paul Sigmund. Cambridge: Cambridge University Press. 1995.
- . "A Dialogue Against the Amedeists." In *Nicholas of Cusa: Writings on Church and Reform*. Edited by Thomas Izbicki. Cambridge: Harvard University Press. 2008. 272-333.
- . "Sermon 144: 'I shall give thee the keys to the Kingdom of Heaven.'" In *Nicholas of Cusa: Writings on Church and Reform*. Edited by Thomas Izbicki. Cambridge: Harvard University Press. 2008. 468-477.
- . "To the Bohemians: On the Use of Communion." In *Nicholas of Cusa: Writings on Church and Reform*. Edited by Thomas Izbicki. Cambridge: Harvard University Press. 2008. 2-85.
- Oakley, Francis. "Infallible Saintmakers?" *Commonweal* 144, no. 10 (June 2017).
- Pace, Edward. "Ex Cathedra." In *The Catholic Encyclopedia*. New York: Robert Appleton Company. 1909. Accessed February 8, 2018, <http://www.newadvent.org/cathen/05677a.htm>
- Paul VI. *Dei Verbum* ["Dogmatic Constitution on Divine Revelation"], (November 18, 1965).
- Prudlo, Donald. *Certain Sainthood: Canonization and the Origins of Papal Infallibility in the Medieval Church*. Ithaca: Cornell University Press. 2015.
- Prügl, Thomas. "The Concept of Infallibility in Nicholas of Cusa." In *Cusanus: The Legacy of Learned Ignorance*. Edited by Peter J. Casarella. Washington, D.C.: Catholic University of America Press. 2006. 150-177.

Sacred Congregation for the Doctrine of the Faith. *Mysterium Ecclesiae* ["In Defense of the Catholic Doctrine on the Church Against Certain Errors of the Present Day"], (Rome, June 24, 1973).

Serina, Richard. *Nicholas of Cusa's Brixen Sermons and Late Medieval Church Reform*. Leiden: Brill. 2016.

Sigmund, Paul. *Nicholas of Cusa and Medieval Political Thought*. Cambridge, MA: Harvard University Press. 1963.

Stickler, Alfons. "Review: Papal Infallibility: A Thirteenth-Century Invention? Reflections on a Recent Book." *The Catholic Historical Review* 60, no. 3 (1974): 427-441.

Thomson, John A.F. *Popes and Princes 1417-1517*. London: George Allen and Unwin. 1980.

Tierney, Brian. *The Crisis of Church and State 1050-1300*. Toronto: University of Toronto Press. 1988.

———. *Foundations of the Conciliar Theory*. Cambridge: University of Cambridge Press. 1968.

———. *Origins of Papal Infallibility 1150-1350*. Leiden: E.J. Brill. 1972.