

Deposing a Heretical Pope

Part I

By Robert J. Siscoe

“Indeed the Church has the right to separate herself from a heretical pope according to divine law. Consequently it has the right, by the same divine law, to use all means of themselves necessary for such separation...” - John of St. Thomas

With the recent developments concerning the Synod on the Family, and the reality that many are beginning to face about Pope Francis’ transparent agenda, which attacks the Faith, contravenes the natural and divine law, undermines the stability of the family, and encourages sacrilegious communion under the specious pretense of “mercy” and “compassion”, some are beginning to openly ask: what remedy does the Church possess to rid herself of an heretical Pope? For if Providence can permit a man to be raised to the Pontificate whose words and actions risk leading countless souls into sin and heresy, surely the Good God has likewise provided the Church with the means necessary to protect herself and to remedy the dire situation. During the First Vatican Council, Bishop Zinelli, a *Relator* for the Deputation of the Faith (the body charged with explaining the meaning of the schemas to the Council Fathers), said the following about the hypotheses of an heretical Pope: “God does not fail in the things that are necessary; therefore, if He permits so great an evil, the means to remedy such a situation will not be lacking”.¹

In this article, we will examine the means by which the Church can separate herself from a heretical Pope. We will consider the complex question on both the speculative and practical level by consulting the theologians and canonists who have written on the subject over the centuries. We will make the distinctions necessary to navigate through the minefield of possible errors that touch upon this issue, while carefully avoiding the heresy of Conciliarism.

Can a Pope fall into heresy?

We will begin by considering the twofold question: can a pope fall into personal heresy internally, and can he profess heresy externally?

¹ Conc. Vatic., Mansi 52, 110 – see Salaverri, *De Eccl. Christi*, p. 718

It is the common opinion amongst theologians that a Pope can fall into personal heresy, and even public and notorious heresy. Regarding this point, Fr. Paul Laymann, S. J. (d. 1635), wrote the following:

“It is more probable that the Supreme Pontiff, as a person, might be able to fall into heresy and even a notorious one, by reason of which he would merit to be deposed by the Church, or rather declared to be separated from her.”²

In his famous book *The Catholic Controversy*, St. Francis de Sales wrote:

"Under the ancient Law, the High Priest did not wear the *Rational* except when he was vested with the pontifical robe and was entering before the Lord. Thus we do not say that the Pope cannot err in his private opinions, as did John XXII; or be altogether a heretic, as perhaps Honorius was."³

Pope Adrian VI⁴ († 1523) went further by saying “it is beyond question” that a Pope can err in matters of faith, and even “teach heresy”:

“If by the Roman Church you mean its head or pontiff, it is beyond question that he can err even in matters touching the faith. He does this when he teaches heresy by his own judgment or decretal. In truth, many Roman pontiffs were heretics. The last of them was Pope John XXII († 1334).”⁵

While St. Bellarmine personally held to what he called the “pious opinion” of Albert Pighius,⁶ namely, that a Pope could *not* fall into personal heresy, he conceded that “the common opinion is the contrary.”⁷

² Laymann, *Theol. Mor.*, Lib II, tract I, cap, VII, p. 153

³ St. Francis de Sales, *The Catholic Controversy* (TAN Books, Rockford IL) p. 305-306

⁴ According to Döllinger (writing under the pen name “Janus”), this comment was actually made while Pope Adrian was a professor of Theology in Louvain prior to his election to the Pontificate. Döllinger notes that the statement was well-known at the time since it was included in his principle work (see “The Pope and the Council,” by “Janus,” i.e., Johannes Joseph Ignaz von Döllinger), second edition (Rivingtons, London, Oxford and Bambridge, 1869), p. 376.

⁵*IV Sentent, Quaestio de confirm.* The Sedevacantists John Lane claims that this quote was “invented,” and first published in 1904. He then accused those who quoted it as being “immoral”. Here are two sources proving that the quotation was not invented in 1904: “*IV Sentent, Quaestio de confirm.* was quoted by De Bossuet (d. 1704) in “*Oeuvres completes*,” Tome XVI (Paris : Adrien Le Clère, imprimeur-libraire, rue; Lille : L. Lefort, imprimeur-libraire, 1841), p. 686.; Original Latin also found in “*Paus Adriaan VI*,” by Andreas Franciscus Chrisstoffels (Stoomdrukkerij Loman, Kirkerger & Van Kersteren, Amsterdam, 1871), p. 96.

⁶ *Hierarch. Eccles.*, lib. 4, cap. 8,

⁷ *De Romano Pontifice*, lib II, cap. 30

Pastor Aeternus

Several years ago a lengthy article was published,⁸ which interpreted Chapter IV of Vatican I's Constitution, *Pastor Aeternus*, as teaching that a pope cannot fall into *personal* heresy (cannot lose the virtue of faith). The author essentially argued that the First Vatican Council raised to the level of dogma the opinion of St. Bellarmine and Albert Pighius (who held that a pope *cannot* lose his personal faith), and that, consequently, the contrary opinion can no longer be defended. Without getting into a detailed analysis of this author's novel interpretation of Vatican I (which, as far as I know, is shared by no one), suffice it to say his private interpretation of *Pastor Aeternus* is in direct contradiction to the *official interpretation* of the document given during the Council.

In his famous four hour speech delivered during Vatican I, Bishop Vincent Gasser, the official *Relator* (spokesperson) for the Deputation of the Faith, stated that this is precisely *not* what the Council intended to teach. During the speech, which provided the Church's *official interpretation* of the document to the Council fathers, Bishop Gasser responded to what he called "a very serious objection raised in this podium, to the effect that we wish to elevate the extreme opinion of a certain school of theologians into a dogma of the Faith". What was this extreme opinion? He explains:

"As far as the doctrine set forth in the Draft goes, the Deputation is *unjustly* accused of wanting to raise an extreme opinion, viz., that of Albert Pighius, to the dignity of a dogma. For the opinion of Albert Pighius, which Bellarmine indeed calls 'pious and probable', was that the Pope, as an individual person or a private teacher, was able to err from a type of ignorance *but was never able to fall into heresy or teach heresy.*"⁹

After quoting the text in which St. Bellarmine agrees with Pighius, Bishop Gasser concluded by saying: "it is evident that the doctrine in the proposed Chapter [of *Pastor Aeternus*] is *not* that of Albert Pighius or the extreme opinion of any school..."¹⁰

Suffice it to say that the hypothesis of a pope falling into personal or even public heresy is not contrary to the teaching of Vatican I *when interpreted according to the mind of the Church*. This explains why the dogmatic manual of Msgr. Van Noort, which was published many decades after the Council, noted that "some competent theologians do concede that the pope when not speaking *ex cathedra* could fall into *formal heresy.*"¹¹ Clearly, neither Msgr. Van Noort, nor the other "competent theologians" he is referring to, considered this teaching to be at variance with Chapter IV of *Pastor Aeternus*.

⁸ The Sifting: The Never-Failing Faith of Peter, by James Larson

⁹ The Gift of Infallibility (San Francisco: Ignatius Press, 1986), pp 58 - 59

¹⁰ Ibid.

¹¹ Christ's Church, Van Noort (Newman Press, Westminster, Maryland, 1961), p. 294

Papal Infallibility?

There is a great deal of confusion over the issue of papal infallibility, which prevents the pope from erring when defining doctrines for the universal Church. Many erroneously believe that the *charism* of infallibility would prevent a person raised to the Pontificate from erring when speaking on matters of faith and morals. In reality, the charism only prevents the pope from erring in limited circumstances.¹²

Infallibility is not to be confused with *inspiration*, which is a positive divine influence that moves and controls a human agent in what he says or writes; nor is it to be confused with *Revelation*, which is the communication of some truth by God through means which are beyond the ordinary course of nature.¹³ Infallibility only pertains to safeguarding and explaining the truths *already* revealed by God and contained within the deposit of faith,¹⁴ which was closed with the death of the last apostle.¹⁵ Since infallibility is only a negative charism (*gratia gratis data*), it does not inspire a pope to teach what is true or even defend revealed truths, nor does it “make the pope’s will the ultimate standard of truth and goodness”¹⁶, but simply prevents him from teaching error under certain limited conditions. During Bishop Gasser’s address at Vatican I, he said:

“In no sense is pontifical infallibility absolute, because absolute infallibility belongs to God alone, Who is the first and essential truth and Who is never able to deceive or be deceived. All other infallibility, as communicated for a specific purpose, has its limits and its conditions under which it is considered to be present. The same is valid in reference to the infallibility of the Roman Pontiff. For this infallibility is bound by certain limits and conditions...”¹⁷

The conditions for Papal Infallibility were subsequently defined by Vatican I as follows:

“We teach and define as a divinely revealed dogma that when the Roman pontiff speaks *ex cathedra*, that is, when, in the exercise of his office as shepherd and teacher of all Christians, in virtue of his supreme apostolic authority, he defines a doctrine concerning faith or morals to be held by the whole Church, he possesses, by the divine assistance promised to him in blessed

¹² See ‘Papal Infallibility and Its Limitations’, by R. Siscoe, The Remnant Newspaper, (available online)

¹³ Volume XIII, Catholic Encyclopedia, 1913, p. 1

¹⁴ Christ’s Church Van Noort, p. 120

¹⁵ Pope St. Pius X, Lamentabili Sane, #21, 1907

¹⁶ Christ’s Church. Van Noort, p 290

¹⁷ The Gift of Infallibility, p. 49

Peter, that infallibility which the divine Redeemer willed his Church to enjoy in defining doctrine concerning faith or morals".¹⁸

Here we see that the divine assistance is present only when a pope, (1) using his supreme apostolic authority in the exercise of his office as teacher of all Christians (2) defines a doctrine, (3) concerning faith and morals, (4) to be held by the universal Church. If any of these conditions are lacking, infallibility is not engaged and error is possible. Therefore, when considering whether a Pope can teach errors regarding faith and morals, we must make three distinctions:

- 1) A pope teaching as a private person.
- 2) A pope *teaching as pope* on matters of faith or morals, but not intending to define a doctrine.
- 3) A Pope, teaching as Pope, defining a doctrine of faith or morals, to be held by the universal Church.

It is only in the last instance that the charism of infallibility will prevent the Pope from erring. What this means is that, not only can a pope err when teaching as a private theologian,¹⁹ he can also err in official papal documents,²⁰ as long as he does not intend to define a doctrine to be held by the universal Church.²¹

In light of the foregoing, we can see that it is within the realm of possibility for Pope to lose the faith internally, and it is also possible for him to err in teaching the faith externally, provided he does not meet the four conditions set down by Vatican I. To insist on that a pope can never teach error, or can never lose the faith, is to affirm what the Church herself has never taught.

Can a Heretical Pope Be Deposed?

The common opinion among theologians and canonists is that a heretical Pope can be deposed for the crime of heresy. The highly respected author, Arnaldo de Silveira, surveyed the writings of 136 theologians on this question,²² and found only one who taught the contrary. All others affirmed that if a Pope were to fall into heresy, he can, and indeed *should*, be deposed.²³

¹⁸ Vatican I, Pastor Aeternus, Chapter IV

¹⁹ Christ's Church, Van Noort, p 292-293

²⁰ Ibid.

²¹ cf. De Silveira, 'La Nouvelle Messe de Paul VI: Qu'en penser', pp. 188-194

²² 'La Nouvelle Messe de Paul VI: Qu'en penser'

²³ The term "deposed" is here being used loosely to express both of the "two opinions" discussed later in this article.

Fr. Francisco Suarez, who Pope St. Pius V called *Doctor Eximus et Pius* (Excellent and Pious Doctor),²⁴ is considered one of the greatest theologians of the Society of Jesus. In his commentary on this point, Suarez states that Pope Clement I (who was ordained by St. Peter himself) related, in his First Epistle to the Corinthians, that “St. Peter taught that an heretical Pope should be deposed.”²⁵ Suarez then explains why this is so:

“The reason is the following: It would be extremely harmful to the Church to have such a pastor and not be able to defend herself from such a grave danger; furthermore, it would go against the dignity of the Church to oblige her to remain subject to a heretic Pontiff without being able to expel him from herself; for such as are the prince and the priest, so the people are accustomed to be (...) heresy ‘spreads like cancer,’ which is why heretics should be avoided as much as possible. This is, therefore, all the more so with regard to a heretical pastor; but how can such a danger be avoided, unless he ceases to be the pastor?”²⁶

Cardinal Thomas Cajetan, the Master General of the Dominican order and the trusted adviser to Pope Clement VII, wrote the following in his extensive treatise on this subject:

“Three things have been established with certainty, namely, 1) that the pope, because he has become a heretic is not deposed *ipso facto*²⁷ by human or divine law; 2) that the pope has no superior on earth; and 3) that if he deviates from the faith, *he must be deposed.*”²⁸

In the next quote, John of St. Thomas, who was referred to in his own day as “the second Thomas” begins by saying the Church has the right to separate herself from a heretical Pope, and then logically concludes that the Church also possesses a right to the means necessary to accomplish such a separation. He wrote:

“Indeed the Church has the right to separate herself from a heretical pope according to divine law. Consequently, it has the right, by the same divine law, to use all means of themselves (*per se*) necessary for such separation; and those that juridically correspond to the crime, are of themselves necessary.”²⁹

²⁴ Volume XIV, Catholic Encyclopedia (1913), p. 319.

²⁵ John of St. Thomas also mentions this teaching of Pope Clement, in *Cursus Theologici*; however, we have been unable to locate the citation in the modern translations of Clement’s 1st epistle to the Corinthians.

²⁶ F. Suarez, *De Fide*, Disp. 10, Sect 6, n. 10 (*Opera Omnia*, Vol. 12, Paris: Vives, 1858), p. 317

²⁷ It should be noted that the Cardinal is not referring to public and notorious heresy in point #1, but to the sin of heresy that remains hidden within the internal forum (the realm of conscience). This is clear from a previous comment in which he said: “We are dealing, however, with a purely internal heretic”.

²⁸ *De Comparatione Cuctoritatis Papae et Concilii*, by Cardinal Cajetan, translated by Burns I Izbicki, included in *Conciliarism & Papalism*, (Cambridge University Press, New York, NY 1997) p. 82

²⁹ *Cursus Theologici II-II De Auctoritate Summi Pontificis*, Disp II, Art. III, *De Depositione Papae*. All quotations used in this article are found within pages 137-140.

Who Would Oversee the Deposition?

The common opinion is that a general council alone would be the competent authority to oversee the matter of a heretical Pope. John of St. Thomas provided the reason. He wrote: “since the matter at hand concerns the universal Church, it must be overseen by the tribunal that represents the universal Church, which is that of a general council”.³⁰ He cites three historical examples in support of his position:

“This is indeed evident from the practice of the Church, for in the case of [Pope] Marcellinus, who offered incense to idols, a synod was gathered together for the purpose of discussing this case, as is recorded in *Cap. Hunc c, distinct. 11*. And in the case of the [Great Western] schism in which there were three reputed pontiffs, the Council of Constance gathered for the purpose of settling that schism. And also in the case of Pope Symmachus, a council at Rome was gathered to treat those things which were presented to it. It is known, from the resources cited above, that the pontiffs, who, being accused of various crimes, and wanting to excuse themselves of charges, did so in the presence of a council.”³¹

Suarez confirmed that it is “the common opinion of the doctors” that a general council would be responsible for overseeing the matter of a heretical pope. He began by saying: “I affirm: If he is a heretic and incorrigible, the Pope ceases to be Pope as soon as a declarative sentence of his crime is pronounced against him by the legitimate jurisdiction of the Church.” Then, one paragraph later, he adds:

“In the first place, who should pronounce such a sentence? Some say that it should be the Cardinals; and the Church could undoubtedly assign this faculty to them, above all if it were established with the consent and decision of the Supreme Pontiffs, just as was done for the election. But to this day we do not read anywhere that such a judgment has been confided to them. For this reason, it must be affirmed that of itself it belongs to all the Bishops of the Church. For since they are the ordinary pastors and the pillars of the Church, one should consider that such a case concerns them. And since by *divine law*, there is no greater reason to affirm that the matter involves some Bishops more than others, and since, according to *human law*, nothing has been established in the matter, it must necessarily be held that the matter should be referred to all of them, and even to a general Council. *This is the common opinion of the doctors*. One can read Cardinal Albano expounding upon this point at length in *De Cardinalibus*, (q. 35, 1584 ed., vol. 13, p. 2).”³²

³⁰ Ibid.

³¹ Ibid.

³² F. Suarez, *De Fide*, Disp. 10, Sect 6, n. 10, pp. 317-18

Perfect and Imperfect Council

At this point, a question naturally arises: How can the Church convene a general council to oversee such a situation, when a general council must be *called* and *overseen* by a Pope, either personally or through his legates? In answering this question, theologians make a distinction between a *perfect council* and an *imperfect council*.

A *perfect council* is one in which the body is united to its head, and therefore consists of the Bishops and the Pope. Cardinal Cajetan referred to as an *absolutely perfect council*.³³ Such a council has the authority to define doctrines and issue decrees that regulate the universal Church.³⁴

An *imperfect council* is one that is convened “with those members who can be found when the Church is in a given condition.”³⁵ Cajetan refers to an imperfect council as “a perfect council *according to the present state of the Church*”, and taught that such a council “can involve itself with the universal Church only up to a certain point”.³⁶ Unlike an absolutely perfect council, it cannot define doctrines or issue decrees that regulate the universal Church, but only possesses the authority to decide the matter that necessitated its convocation. Cajetan notes that there are only two cases that justify convoking an imperfect council. They are: “when there is a single heretical pope to be deposed, and when there are several doubtful supreme pontiffs”.³⁷ In such exceptional cases, a general council can be called without, or *even against*, the will of the Pope. Writes Cajetan:

“A perfect council according to the present state of the Church [i.e. an imperfect council] can be summoned without the pope and against his will, if, although asked, he himself does not wish to summon it; but it does not have the authority to regulate the universal Church, but only to provide for the issue then at stake. Although human cases vary in infinite ways ... there are only two cases that have occurred or can ever occur, in which, I declare, such a council should be summoned. The first is when the pope must be deposed on account of heresy; for then, if he refused, although asked, the cardinals, the emperor, or the prelates can cause a council to be assembled, in which will not have for its scope the care of the universal Church, but only the power to depose the Pope. (...)

“The second is when one or more Popes suffer uncertainty with regard to their election, as seems to have arisen in the schism of Urban VI and others. Then, lest

³³ Conciliarism & Papalism, p. 67

³⁴ Ibid. p. 67

³⁵ Ibid. pp. 66-67

³⁶ Ibid. p. 68

³⁷ Ibid. p. 68

the Church be perplexed, those members of the Church who are available have the power to judge which is the true pope, if it can be known, and if it cannot be known, [it has] the power to provide that the electors agree on one or another of them.”³⁸

The council of Constance is often cited as an example of an imperfect council. It was convened during the Great Western Schism, when there were three claimants to the papacy and sufficient uncertainty as to which of the three was the true Pope. The council ended the schism by deposing or accepting the resignation of the papal claimants, which then paved the way for the election of Cardinal Odo Colonna, who took the name Martin V.³⁹

Another council that is often mentioned is the Council of Sinuesso, which was convened by the Bishops to oversee the matter of Pope Marcellinus (d. 304), who offered incense to Jupiter.⁴⁰ Today such papal actions would likely be explained away (“10 Reasons Why Pope Marcellinus Didn’t *Really* Offer Incense to an idol”), or praised as a positive ecumenical gesture. In the days of the early Church, however (when the Faith was strong), there was a different reaction: a council was called, and the Pope, through shame, *deposed himself* and anathematized anyone who would bury his body.⁴¹ But this tragic story had a happy ending. For the bishops were so edified by his public repentance that they re-elected him to the Papacy. Pope Marcellinus went on to die as a martyr for the Faith and is now a canonized saint. Here we see the good fruit that followed such a council. How different his end may have been had his scandalous public sin against the Faith been explained away, or, worse still, defended and praised as a positive good.

Deposing a Heretical Pope

One of the difficult questions the theologians have had to sort out, is how a Pope “who is judged by no one” and who has no superior on earth, can be judged and deposed for heresy? How can a pope be declared a heretic, and then deposed for heresy, without the Church judging him or claiming authority over him? Theologians have had to navigate through these difficult questions while carefully avoiding many errors, especially that of Conciliarism, which maintains that a general council is superior to the Pope.

³⁸ Ibid. p. 70

³⁹ Volume IV, Catholic Encyclopedia (1913) p. 290

⁴⁰ In a letter to the Emperor Michael in 865, Pope Nicholas wrote: “In the reign of the sovereigns Diocletian and Maximian, Marcellinus, the Bishop of Rome, who afterwards became an illustrious martyr, was so persecuted by the pagans that he entered one of their temples and there offered incense.” (Rev. Reuben Parsons, D.D., Studies in Church History, Vol. II, (Philadelphia : John Joseph McVey, 1900) p. 510.

⁴¹ Hidgen, Polychronicon Ranulphi Higden maonachi Cestrensis, vol. 5 (Longman, London, 1865), p. 107.

Four Opinions

John of St. Thomas discusses at length the four opinions enunciated by Cardinal Cajetan⁴² regarding this question. Of these four opinions, there are two *extreme opinions* and two *middle opinions*.

The first extreme opinion maintains that a Pope who commits the *sin* of heresy falls from the pontificate *ipso facto* without human judgment. The opposite extreme opinion holds that the Pope has a superior over him on earth (a general council), and therefore can be judged and deposed. Both of these opinions are shown to be false and therefore rejected.⁴³

Within the two extreme opinions, there are two middle opinions: The first maintains that a Pope does not have a superior on earth *unless he has fallen into heresy*, in which case the Church would be superior to the Pope (e.g. Azorius⁴⁴). This is a variant of Conciliarism and is therefore rightly rejected. This leaves the second middle opinion which holds that the Pope has no superior on earth, even in the case of heresy, but that the Church does possess a *ministerial* power when it comes to deposing a heretical Pope. This opinion (which is defended convincingly by John of St. Thomas) avoids the error of Conciliarism by affirming that the Church has no *authority* over a Pope, *nor does the Church herself depose the pope*, but only performs the *ministerial* functions required for the deposition. The ministerial functions consists of those acts which are necessary to establish that the Pope is a pertinacious heretic, issue a *declaratory sentence* of the crime (rendering him Notorious by a notoriety of law), and then declaring him *Vitandus* (to be avoided). It is God himself, however, who authoritatively *causes* him to fall from the Pontificate, but not before the Church herself performing the necessary ministerial functions and establishing the crime.

Establishing the Crime

Heresy consists of two elements, namely, the *matter* (which exists in the intellect) and the *form* (which exists in the will).

The Matter: The material aspect of heresy is a belief, or proposition, contrary to what Catholics must believe with Divine and Catholic Faith. Doctrines that must be believed with Divine and Catholic Faith are those that have been *revealed by God* (contained in Scripture or Tradition), and have been *definitively proposed* as such by the Church, either by a solemn pronouncement, or by virtue of Her Ordinary and Universal Magisterium.⁴⁵ Two points are to be noted in this explanation: To qualify as heresy on

⁴² Conciliarism & Papalism, Idem, p. 83

⁴³ Ibid pp. 73-83

⁴⁴ Azorius, (II, Tom. II, Cap. VII).

⁴⁵ See 'Was Vatican II Infallible', Part I and Part II, by R. Siscoe, Catholic Family News, June and July 2014

the material level, the doctrine denied must be 1) a *revealed truth*, and 2) it must have been *definitively proposed* as such by the Church. Not all errors are qualified objectively as heresy.

The Form: The formal aspect of heresy is *pertinacity*, or incorrigibility, which is the willful (conscious and stubborn) adherence to a proposition that is at variance with what must be believed by Faith. Simply put, pertinacity exists when a person knowingly rejects an article of Faith, or willfully embraces a condemned heresy. Without pertinacity in the will, the subjective element of heresy does not exist, and consequently the person in question would not be a heretic in the true sense of the word.

Judging Heresy

The Matter: While the Church does not possess the authority to judge a Pope, as a superior judges an inferior, it does possess the competency and the right to judge whether or not a proposition professed by a Pope is materially heretical. This is an objective judgment, and therefore makes no difference if the proposition was professed by a pope or a non-pope. If any person (Pope or not) was to proclaim, for example, that the Mosaic Covenant “was never revoked by God,” or that “the resurrection of the body does not mean the resurrection of the actual physical body, but only the resurrection of the person”,⁴⁶ the Church, or any Catholic who knows his Faith for that matter, can judge *the statement* to be heretical. Such a judgment would not constitute an inappropriate judgment of the person, since it is only an objective judgment of the proposition itself. Accordingly, a council can certainly judge whether or not the material aspect of a teaching professed by a pope is heretical, but this objective judgment does not yet determine if the Pope himself is a heretic, since the second element of heresy, pertinacity, must also be established.

The Form: Establishing pertinacity is more difficult since it involves something that exists within the internal forum (the realm of conscience). If a person suspected of heresy does not openly admit that he rejects a Catholic dogma, or publicly leave the Church, pertinacity must be established in another way by the Church.

A Warning

A public warning serves as the most effective means for establishing pertinacity. For this reason, canon law requires that a warning be given before a prelate loses his office for the crime of heresy. (Canon 2314.2, 1917 Code) This aspect of canon law is founded on divine law (Titus 3:10) and is considered so necessary that even in the extreme case in which a cleric “publicly defects from the faith” (Canon 188.4, 1917 Code) by publicly joining a non-Catholic sect, either formally (*sectae acatholicae nomen dare*) or informally

⁴⁶ Cf. Joseph Ratzinger, *Introduction to Christianity* (Ignatius Press, San Francisco, 2004) , pp. 357-358.

(*publice adhaerere*), they must be canonically warned before being deposed.⁴⁷ According to the 1983 Code, a *declaratory sentence* must also be issued before such a cleric is deposed.⁴⁸

The warning determines, with a sufficient degree of certitude, whether or not the person who has professed heresy is pertinacious, rather than merely mistaken; or perhaps only guilty of a regrettable statement made out of human weakness, which might be a sin, but not necessarily the sin of *heresy*. Since pertinacity is itself a *necessary element* of heresy, it does not suffice that its presence be presumed; it must be confirmed. The warning accomplishes this by removing any chance of innocent ignorance, and/or providing the suspect with a chance to affirm what was denied in a moment of weakness, such as the moment of weakness experienced by St. Peter, when, as recorded in the Gospel of Matthew, “he began to curse and to swear that he knew not the man” (Mt. 26:26,28).

⁴⁷ “If they have been formally affiliated with a non-Catholic sect, or publicly adhere to it, they incur ipso facto the note of infamy; clerics lose all ecclesiastical office they might hold (Canon 188.4), and after a fruitless warning they should be deposed.” ~ Rev. Ayrinhac, *Penal Legislation in the New Code of Canon Law* (Benzinger Brothers, New York, Cincinnati, Chicago, 1920) p. 193.

⁴⁸ See Canon 194, §2, which is the equivalent of 188, §4 in the 1917 Code.