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François Hotman and the Critique of Gratian's *Decree*: From the Investigation of Early Councils (*De statu primitivae Ecclesiae*, 1553) to the Rewriting of Europe's Legal History (*Antitribonian*, 1567)

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Abstract: François Hotman (1524–1590) was one of the leading Reformed jurists of his time. Past research has stressed his innovative interpretations and practices in the study of Roman, feudal, and French constitutional law. Little has yet been said about his views on canon law, another fundamental legal body in Western history that experienced renewed intellectual scrutiny during the sixteenth century. This paper investigates some of Hotman's early work on canon law, focusing on his legal-historical reconstruction of the early Church in *De statu primitivae Ecclesiae* (1553) and his contribution to a budding historical field in Catholic circles: conciliar history. Despite the general lack of interest in the history of councils on the part of some leading Protestant theologians (Luther, Calvin, Bullinger), Hotman clearly believed that the textual tradition of councils provided a prime example of sustained popish efforts to control and deform the historical narrative and the legal structure of the Church. Yet, although he seems to have worked on demonstrating just that over more than forty years, he never again voiced his views on the matter in a dedicated work. Comparing in its conclusion *De statu primitivae Ecclesiae* with *Antitribonian*, this paper suggests that, in parallel to his better known 'complex of Tribonian' (Pierre Mesnard), Hotman seems to have suffered from a 'complex of Gratian': the doctrinal unity and institutional accomplishments of the early Church, as represented by the first councils, may well have dazzled Hotman and kept him from writing some definitive work against Gratian.

Keywords: canon law; primitive Church; Gratian; François Hotman; councils; primacy; Du Tillet; Pseudo-Isidore; Calvin; ecclesiology



Citation: Martens, Christian. 2024. François Hotman and the Critique of Gratian's *Decree*: From the Investigation of Early Councils (*De statu primitivae Ecclesiae*, 1553) to the Rewriting of Europe's Legal History (*Antitribonian*, 1567). *Religions* 15: 1187. <https://doi.org/10.3390/rel15101187>

Academic Editor: Bruce Gordon

Received: 7 August 2024

Revised: 24 September 2024

Accepted: 27 September 2024

Published: 29 September 2024



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1. Introduction

As early as 1850, Rodolphe Dareste noted the work of François Hotman (1524–1590) on canon law (Dareste 1850, pp. 28–29) while acknowledging the Reformed jurist was best remembered for his historical study of Roman, feudal, and constitutional French law (Kelley 1973). Canon law seems to have remained a matter of interest throughout Hotman's life, since references to a grand-scale publication project on the topic, though still at the stage of notes, crop up as late as 1587 in Hotman's correspondence. In a letter to Daniel Toussaint (1541–1602), professor of theology at Heidelberg, the jurist asked him to find out whether the young Prince Palatine Frederick IV (1574–1610) or his regent, John Casimir (1543–1592), would be prepared to finance his move from Geneva to Basel in exchange for the dedication of this future work. Jobst Reuber (1542–1607), a former pupil of Hotman who was soon to become the regent's chancellor, responded positively to the idea, having already sent his old professor funds from his own purse to finance his trip: 'I would judge that either these books of *Observations* or, which I would prefer, your *Meditations against Canon Law* should be dedicated to our young prince' (Hotman and Hotman 1700,

p. 212).¹ The letter to Toussaint intended the promised work to be a major contribution to demonstrating the pope's antichristic nature (*ibid.*, p. 195):

I have countless notes against canon law, in which I have laid bare, in part, the stupidity of the Roman Antichrist in his knowledge of civil law, in part, his deceits, fakery and incredible lies. I have compared the Greek Councils and the more recent Latin Councils with that hodgepodge of Gratian. There is no telling what great deceits I have found there, so that I have no doubt that the world will from now on be ashamed of having worshiped the foul menstrual flows of the Scarlet Whore for so long and so blindly, as if they were divine oracles.²

This was not the first time that Hotman wrote against canon law. He had recently done so at the request of Henri de Navarre (1553–1610) and Philippe Duplessis-Mornay (1549–1623), who wanted him to respond to the ‘fulminating’ bull of excommunication issued by Sixtus V against the king and his cousin, the Prince of Condé, on 21 September 1585 (Schmitz 2015). In the same year, Hotman published his *Brutum fulmen* (Hotman 1585): the text created such a stir that it remained one of the key texts of the Gallican controversy during the reign of Henry IV, as the large number of reprints testifies (Kelley 1973, pp. 303–6).

However, when reading the extract quoted above, one wonders what exactly Hotman could have written, as a jurist primarily specialized in Roman civil law (Vogel 1960), that would have constituted a substantial contribution to the scholarly discussion of the canonical traditions summarized by Gratian in his *Decree*. The official Roman edition of the text had just been published five years earlier: compiled in Rome, with Antonio Agustín (1517–1586), archbishop of Tarragona, the preeminent canonist of the times, weighing in on the emendations only from a distance, it offered a compromise on matters historical and philological that, although unsatisfactory to our modern critical sense, showed a qualified willingness to revise Gratian's text—most probably, a compromise acceptable even to Agustín's high standards (Falkowski 2023). The committee work that led up to the Roman edition has been investigated by Mary Sommar (2009) and gives a clear indication of the victories the critical study of canon law produced in the decades preceding could claim. The French school of the study of civil law played a central role in the critique of Gratian's text, with most prominent among them being Charles Du Moulin (Thireau 1980, pp. 272–347) and François Baudouin (Turchetti 1984, pp. 129–35).

This paper intends to explore an avenue of research that has, as of yet, been little studied: how Gratian's text, in its multifarious medieval forms, fared against the printing of the decrees of the councils. To do so, I focus on whether, why, and how Reformed polemicists confronted both conciliar traditions: Gratian's and that transmitted independently of Western canon law (for the latter, see Joannou 1962). The fact is that Hotman's insistence, in his letter to Toussaint, on the question of councils and his comments on the authenticity of the Catholic tradition make clear that there is a plurality of manners to question the legitimacy of canon law. That is why I believe it necessary to leave for further study texts where Hotman used canon law rather than making it an object of scholarly inquiry. Such works as *Brutum fulmen* and the responses in Macaronic style that Hotman addressed to Papire Masson in 1575 as part of the controversy surrounding the Francogallia (1573) demand a different approach. The retorts to Masson, for example, were clearly written with satirical intent, as they claimed on their titlepage to be the work of ‘Matago of the Matagos, bachelor in decrees’ (*Matago de Matagonibus, decretorum baccalaureus; Matagones de Matagonibus*) (Hotman 1575a, 1575b). In these texts, no matter how subversive they might be, Hotman employed canon law professionally: the satire staged a fictional trial that judged the validity of the verdict, printed at the beginning of Matharel's *Reponsio*, which Masson delivered against *Francogallia* (*Judicium Massonii*) (Matharel 1575). Canon law was thus essential to the processes of legal argumentation which lay at the very heart of these literary constructs (it should be noted that *Brutum fulmen* also takes the form of a fictional trial). Instead, I focus in this paper on the role that Hotman played in the broader critique of the validity, sources, and *raison d'être* of canon law. In this endeavor, I investigate two texts, principally *De statu primitivae Ecclesiae* (Hotman 1553) but also more briefly *Antitribonian*

(Hotman [1603] 2021, first written in 1567), as they allow us to submit the results yielded by a close reading of the former work to the diachronic test presented by the latter. This article has two prongs of different length: (i) an analysis of how Hotman developed, in the earlier text, a historical argument against canon law, which he derived mostly from proformas of conciliar history, a rare interest among Reformation intellectuals (Sections 4–6); (ii) a reflection on whether and why that argument and the narrative that developed out of it fitted into the large-scale account of Western legal history offered in *Antitribonian* (Section 7). The inquiry itself is preceded by two framing subsections (Sections 2 and 3). The first section deals with the undeniably limited and self-interested ventures into the conciliar tradition by the leading Protestant Reformers (Luther, Calvin, Bullinger). In contrast, the second section examines scattered and uneven yet constant efforts by Catholics to provide, if not a full-on history, at least the edition of materials of the councils.

2. The Reformation and the Councils

At first glance, Hotman's interest in the history of councils is not easy to explain. Most reformers seem to have conceded them only a secondary role. Certainly, we should not over-interpret the apparently sacrilegious gesture by which Luther burned in 1520 the books of the *Corpus juris canonici*, in which many of the conciliar decrees were recorded, along with the bull proclaiming his excommunication (Mühlmann 1972). In fact, Luther's *Tischreden* retain some of the praise, albeit qualified, that he bestowed on the compiler of the *Decree*, Gratian (Pincherle 1955, p. 481, n. 82). Moreover, it is now well established that, in practice, the Lutheran churches retained significant parts of canonical practice, particularly in procedural law (Schmoeckel 2020, pp. 312–14). Thus, while in Luther's gesture his rejection of pontifical authority is clear, the extent of his repudiation of canonical tradition in the broad sense is less precise. Yet, it must be highlighted that, over time, Luther was forced to adopt a clear stance regarding the councils and their authority, given his own appeal against papal condemnations to the universal assembly of Christians. He expounded this final position in one of his mature works, published in 1539: *Von den Konziliis und den Kirchen* (Spehr 2010, pp. 506–38). Written in the context of Paul III's call for a council in Mantua—which was to become the future Council of Trent—the work reflected the gradual collapse of Luther's initial confidence in a conciliar solution: papal and imperial delays and the refusal to organize the meeting in the Empire in order to ensure its independence from the pope ultimately extinguished Luther's desire to see the schism resolved by the assembly of Christians (ibid., pp. 565–72; see also Tallon 2000).

From the very beginning of his book, Luther noted the many contradictions that infested both the conciliar and patristic traditions: he gives the example of Gratian, who, in trying to reduce these discrepancies, only succeeded in looking 'like a crab walks; he often cast aside the best and kept the worst, and yet he neither compared nor harmonized' (Luther [1539] 1966, p. 21). And that was without taking into account the incompleteness of any council: 'there is neither a council nor a father in which one could find, or from which one could learn, the whole of Christian doctrine'. According to Luther, the councils and fathers themselves simply owed their wisdom to Scripture, and so it was Scripture that must preside over any reform of the Church (ibid., pp. 51–52). This is why, in the third part of the work, the reformer developed a new ecclesiology, grounded in a new interpretation of the Augustinian theme of the hidden Church and the *notae Ecclesiae*, the marks manifesting its existence. The point was to repudiate the idea that the authority of the fathers, the councils, and, through the latter, the popes was absolute, yet without breaking with the Western consensus around the first four ecumenical councils (Congars 1960, pp. 96–99). That is why Luther insisted, in typical fashion, on the centrality of sanctification through the Word and, in so doing, on the supreme role of Sacred Scripture (Alfsvåg 2008). Indeed, it is only in so far as the Word of God was present at certain councils that they may be considered authoritative. Such was the case, to a large extent, for the first four ecumenical councils, as Luther explained in the second part of the *Von den Konziliis* and as he had

already shown at the Leipzig Debate (1519), where he relied extensively on the decrees of the first council of Nicaea when arguing against the primacy of the pope (Robinson 2019).

In his *Institutio religionis Christianae*, Calvin too showed a balanced skepticism towards the authority of councils. In the 1559 Latin edition, passages from previous editions are brought together in a chapter devoted to the theology of councils (IV, IX), which leaned towards an argument close to that of Luther (Calvin [1559] 1961, pp. 1166–79). The authentic councils were those in which Christ himself participated (ibid., pp. 1166–67). Thus, a council was not just any assembly of clergy, however great and universal, since clerics could sometimes be bad, ignorant, or vicious. Put simply, there was in itself no association between clerical status and mastery of the truth (ibid., pp. 1167–70), hence the fact that the Church cannot be reduced to its councils—otherwise, the ‘Council which the high priests and Pharisees assembled’ (Jn, 11, 47ff.) and which condemned the doctrine of Christ would have to be recognized as authentic (Calvin [1559] 1961, p. 1170). But Calvin, on numerous occasions, insisted on the fact that he ‘venerate[s] [the ancient councils] from [his] heart, and desire[s] that they be honored by all’ (ibid., p. 1166). For the French reformer, the Councils should be granted a certain authority but only insofar as they respected, after examination, ‘the standard of Scripture’ (ibid., p. 1171), a principle almost identical with Luther’s. That principle is reflected in the structure itself of the *Institutio*, as the chapter on councils is part of its fourth book, that touching upon the mere ‘external means’ to God (Gordon 2016, pp. 45–47). Thus, for both reformers, the numerous undeniable contradictions that infected the conciliar tradition had to be resolved on a *sola Scriptura* basis. Yet, as Calvin was weighing in on the question of the authority of the Councils, he thought it advisable to strengthen his theological position with a methodological point (ibid.):

But whenever a decree of any council is brought forward, I should like men first of all diligently to ponder at what time it was held, on what issue, and with what intention, what sort of men were present; then to examine by the standard of Scripture what it dealt with—and to do this in such a way that the definition of the council may have its weight and be like a provisional judgement, yet not hinder the examination which I have mentioned.

In this passage we find expressed a concern, recurrent in humanists, for historical contextualization in the interpretation of texts (Kelley 1970) but applied to the written products of events traditionally seen as sacred, the councils. Notwithstanding Calvin’s general lack of rigor when writing as a Church historian (Backus 1991), the need to situate each decree both in time and within the patristic tradition in order to assess its value, albeit subject to the authority of Scripture, was fully in keeping with the spirit of the times. Indeed, Calvin’s appreciation for a historical approach to some exegetical problems, even in the case of the biblical text, has often been recognized (Pitkin 2010). When it came to councils, Calvin was not afraid of putting his principle into practice. For example, he relied heavily upon the *Libri Carolini*, a series of arguments directed by the clergy of Charlemagne against the iconodulic decrees of the Second Council of Nicaea (787) (Payton 1993). The text had been published pseudonymously in 1549 by Jean Du Tillet the Younger, to whom we will soon return, and Calvin had no compunction in lifting from it the biblical passages the Carolingian theologians believed supported their case (Payton 1997). Luther too, in the *Von Konziliis*, had remarked on the unprecedented intellectual possibilities offered by the recent publication by the papists of ‘all the councils in one book’ (Luther [1539] 1966, p. 14),³ yet felt it necessary to stress, a little further on, the incomplete nature of the sources on the councils, at least from a historiographical point of view (ibid., pp. 106–107):

The *Ecclesiastical History* ends with the first council, of Nicaea; the *Tripartita* and Theodoret with the third at Ephesus; and from then on we almost have to depend upon the pope and his histories, which are, for sound and obvious reasons, very difficult to believe.

The need for a historical treatment of the conciliar material, at a time when its value was being called into question and its absolute authority was being denied, thus constituted

an emerging point of convergence in the ecclesiological writings of Luther and Calvin. Undoubtedly, this point of convergence—which Karin Crousaz (2015, p. 141) has identified as ‘one of the few areas in which Protestant theologians of all persuasions were united in the sixteenth century’—emerged gradually in the wake of the announcement of the Council of Trent. However, the main consequence of their common consideration of the Councils remained their marginalization: they were mere historical manifestations, and their dogmatic validity ultimately depended on their agreement with Scripture, which alone could signal the inspiring presence of Christ to the deliberative assembly (Campi 2018, pp. 278–83, 295–303). In fact, it was not until the end of the Tridentine deliberations and the methodical implementation from Rome of the dogmatic and disciplinary decisions reached by the assembled fathers that Huguenot intellectuals took up in earnest the question of the Councils. The question, however, had changed, as the central issue had become that of the so-called reception of the Council’s canons in France, a process said to endanger the freedoms of the French Church and, as such, one which was particularly inflammatory for Gallican Catholics (Daussy 2006).

3. Conciliar History in the 16th Century: A Catholic Affair

The historical question of conciliar material remained for a long time the monopoly of clerics faithful to the Catholic Church, as the Jesuit Father Hermann Josef Sieben has shown in his study of the birth and development of conciliar history as an intellectual practice between the sixteenth and eighteenth centuries (Sieben 1988, pp. 223–73). The lack of interest shown by theologians of an evangelical bent in the material bequeathed by the conciliar tradition is quite surprising, especially when compared with the symbiotic relationship between evangelical and Reformed intellectuals and the systematic production of patristic editions of increasing quality (Backus 2003, pp. 130–95).⁴ While the zeal such men put into researching manuscripts, editing texts, and correcting proofs produced ‘reference’ patristic texts, most notably the Basel editions of the Erasmus circle (Diu 2014), work on the councils remained for a long time the province of Catholic ecclesiastics, often even of second rank (Quentin 1900, pp. 7–28).

Thus, Jacques Merlin (c. 1480–1541), a canon of Notre-Dame de Paris, was the first scholar to put into print a collection of conciliar canons (Merlin 1524). He dedicated his text to two leading prelates, the archbishop of Sens, Étienne Poncher, and his nephew François, the bishop of Paris, a sign of how much he valued his own enterprise. This did not prevent Merlin from deriving the canons he published from Isidore’s false decretals (Sieben 1988, pp. 225–26). The latter corpus, the alleged author of which was later conflated with his namesake of Seville, is a canonical compilation, composed partly of authentic texts, such as conciliar acts, mostly of fakes, the origins of which date back to 9th-century Carolingian France. With the collapse of Charlemagne’s empire, the growing power of a plurality of secular rulers (in essence, the emergence of feudalism) was accompanied by the crushing of the Church: its privileges were significantly hit. One of the reactions from the side of the Church was the development of this canonical compilation, the forged elements of which support Rome’s primacy by granting it a series of powers and privileges hitherto reserved for sovereigns, including, for example, the calling of councils (Fuhrmann 1972–1974).⁵ Although there was a meagre late medieval tradition of criticism of certain decretals that made up this false collection, notably through Nicholas of Cusa’s *De concordia catholica*, such criticism never took on the pseudo-compilation in its entirety. Indeed, according to Horst Fuhrmann and Martina Hartmann, the first systematic attack on it was the work of the Magdeburg Centuriators, Lutheran historians who were contemporaries of Hotman’s research on the councils (Hartmann 2002).

However, dependence on the pseudo-Isidorean corpus meant Merlin presented the conciliar canons of the early Church only in Latin and not in the original Greek. In spite of this, a notable deficiency in a time of Greek renewal in France under humanistic impulse (e.g., Sanchi 2006), he understood his publication as a weapon in the fight against the Lutheran schism, as evidenced by his dedicatory epistle, a piece full of pathos and

brimming with apocalyptic overtones inspired by the spectacle of the heresy's conquests (Merlin 1524, vol. 1, pp. aaa.ii^r-aaa.iii^r; Quentin 1900, pp. 8–10). Pieter Crabbe, a Friar Minor from Mechelen, did include the Greek text of the *Canones apostolorum* in the second edition of his collection in 1551 (Sieben 1988, p. 227). However, the presentation of the Latin text alone remained the norm for printed conciliar collections until completion of the official Roman edition, an undertaking stemming from the first decree of the fourth session of the Council of Trent, and as such both philological and apologetic, that was to be published in Rome between 1608 and 1612 (ibid., pp. 231–34).⁶

For the first half of the sixteenth century, there is one exception to this tendency, unknown to Henri Quentin and Hermann Sieben but on which Hotman certainly relied: the edition of the Greek canons of the first thirteen councils, by Jean Du Tillet the Younger (c. 1500–1570), future bishop of Saint-Brieuc (1553) and Meaux (1564), published in Paris in 1540 and dedicated to Cardinal de Tournon (Du Tillet 1540; Pitra 1858, pp. 5–7; Turner 1905, p. 50). This edition, which quickly landed in the hands of the likes of Agustín (Bernal Palacios 1988, pp. 511–15), was also the basis for the first bilingual edition, which came out of the presses of Zurich printer Andreas Gessner between 1559 and 1560 (Gessner 1559–1560). This publication was contemporary with Heinrich Bullinger's *De conciliis* (Campi 2018, pp. 293–95) yet was not linked to this attack on Trent. It is not at all clear why the bilingual conciliar edition was printed. In his epistle to the reader, the typographer stuck to justifying the translation into Latin of some Church fathers printed next to the councils, whose orthodoxy was then a matter of debate (Gessner 1559–1560, pp. 3–4, paginated separately). This is only a further sign of the secondary role played by the conciliar tradition in Reformed theology.

Jean Du Tillet was one of the major law and Church scholars of the French Renaissance (Brown 1998, pp. 356–65). Although there can be no doubting his ultimate faithfulness to the Roman Catholic Church, in which he achieved an impressive career, his family's links to Calvin had been serious in the 1530s. His brother, Louis, had converted to the Reformed faith around 1533 and had followed Calvin, who had stayed at the Du Tillet's in Angoulême, to Geneva. He only came back to the Catholic fold in 1538 and exchanged over that year letters with the reformer that reveal that the latter came into contact with Jean's famous elder brother, his namesake Jean, the *greffier du Parlement* (1495/1502–1570) (Brown 1995; Carpi-Mailly 1995). Hotman himself can be placed in that same Parisian, erudite circle for his early years, as he acknowledged in one of his first books that 'Jean du Tillet'—either the Elder or the Younger—showed him 'at his house' a 'very old book' most useful to study the correct use of abbreviations in writing up law commentaries (Hotman 1548, fol. t4^r).⁷ The younger Jean had been closely associated with Jean de Gagny († 1549), a doctor in theology from the University of Paris who, after becoming royal almoner in 1536, was sent by Francis I to explore the libraries of the churches and monasteries of France to enrich the king's library (Jammes and Barker 2010). Du Tillet benefited from the same kind of connections, and it was thanks to similar official support that he could publish such texts as the *Libri Caroli*—pseudonymously, given the risky nature of their content (Bastgen 1912, pp. 16–24)—and his conciliar collection—under his name, as fully within royal policy. Such humanist insatiable pursuit of unknown texts offers a good example of how thin confessional barriers remained even after the Affair of the Placards (1534) and Francis I's change in tune towards the Protestants (Hari 1957). Indeed, James Payton (1997, pp. 475–80) suggests rather convincingly that textual evidence internal to Calvin's corpus constrains us to suppose that the reformer knew part of the *Libri Caroli* before they were printed; he may well have consulted the text in manuscript form as early as 1536, at the younger Jean's house in Paris.

As for the conciliar collection, it was above all an official product serving the interests of the French high clergy, viz. of these few ecclesiastics helping shape the king's action. The printer, Conrad Néobar (†1540), as the titlepage proudly proclaimed, was a *regius typographus* and specialized in Greek texts (Renouard 1991, pp. 82–115). The dedicatee, Cardinal François de Tournon (1489–1562), was then at the apex of his influence at the

king's council (Michon and Nawrocki 2011). It is likely that, with his edition, Du Tillet was trying to assist in framing the French participation in the Council, even though, despite the peace signed at Nice in 1538, neither Francis I nor Charles V actually wanted their kingdoms to take part at that time (Tallon 1997, pp. 97–115). Indeed, right from the first page, the text was presented as the starting point for the reunification of the Church: *Hinc sarcienda ecclesiae concordia*, 'on this basis, the concord of the Church must be mended'. The dedicatory letter expressed a genuine concern for the pacification and harmonization of the Christian community, although recourse to the vocabulary of war still framed the endeavor in the terms of a struggle: as Du Tillet addressed Tournon himself, he showed himself confident 'the leading role' would be granted to him 'if God [...] made all the greatest shepherds of the flocks come forward, as if called to the front line, to lay siege to Satan's camp' (fol. $\alpha 2^v$).⁸ Du Tillet considered that the canons of the councils, 'sanctioned by the blood and death of so many martyrs', were a spiritual weapon: precisely in this lay their potential for 'peace' and 'concord' (ibid., pp. $\alpha 2^v$ – $\alpha 3^r$).⁹ Despite their contrasting tones and cultures, Merlin and Du Tillet seemed to agree, as 'good' Catholics, or at least as Gallicans opposed to the Protestant heresy, on the high value of the conciliar canons, not only in legal but also in spiritual and salvific terms.

A further indication of this clear enlistment by Du Tillet of the conciliar tradition in the struggle against the growing Christian schism was the previously alluded to subtitle of the collection. It directly echoed a work by Erasmus, the *Liber de sarcienda ecclesiae concordia*. Erasmus published it in 1533 as an answer to his friends' demands for a clear stance on Luther's doctrine, now that the Diet of Augsburg (1530) had failed to settle the differences between Catholics and Protestants (Erasmus 2010, pp. 126–31). Although some historical councils (Tyre [335], ibid., pp. 148–50; Carthage [393], ibid., p. 204) appeared in the short tract, they did not play a central role in the argument, notwithstanding that, in Erasmus' eyes, the solution lay in the calling of an ecumenical council (ibid., pp. 206, 208–209, 211, 213). Still, Erasmus kept in his text a clear focus on the main pillars of his opposition to Luther: he recognized the validity of the tradition of the Church, especially the fathers, when it had been legitimately received (e.g., by the councils); he did not deny—but also did not loudly support—the primacy of Rome (McSorley 1974), and he offered an *ethos* of skepticism mixed with submission to the authority of the Church as a transitional solution, arguing that the incompleteness and the obscurity of Scripture called for an indulgent form of tolerance while the concord of the mystical body of the Christians was mended by authoritative Church decisions (Rummel 2004, pp. 100–5).

Did Du Tillet share the Erasmian understanding of the Church as spiritual concord (Turchetti 1991)? What is certain is that he would not have refuted his elder brother's pamphlets against the Huguenots of the 1560s, when he opposed their claims for a form of political tolerance, viz. recognition by the state of the legitimate existence of their confession (Du Tillet 1994). Indeed, the clearest ideological commitment of both Du Tillet's was to Gallicanism, which was the set of legal and historical precedents elevated into a body of doctrine asserting that the French Church enjoyed a series of privileges and liberties specific to her, which restrained the power the Roman pontiffs wielded over her (Tallon 2002). In the case of the younger Jean, such a commitment can be identified in his *Mémoire et Advis sur les libertés de l'Église gallicane*, a text written in 1551 at a juncture in Franco-Pontifical relations we will touch upon soon. The *Mémoire et Advis* was only published much later, in 1594, along Pierre Pithou's now classic *Libertés de l'Église gallicane*, when Henri IV had converted back to Catholicism but had not yet been readmitted into the Roman confession by the pope (Reulos 1980).

4. Hotman's *De statu primitivae Ecclesiae* as a Polemical and Homiletical Piece

The two last subsections have shown that François Hotman's *De statu primitivae Ecclesiae eiusque sacerdotiis* can only be understood if we place it in the historical, intellectual, and literary context brought about by the announcement and the convening of the Council of Trent (Hotman 1553, henceforth *DSPE*). However, published in 1553 under the name

of François Villiers,¹⁰ the *DSPE* owed its existence more specially to what historiography now calls ‘the Gallican crisis of 1551’, which also begot Du Tillet’s *Mémoire et Advis* (Romier 1911, 1912; Venard 1981, pp. 202–8). At that time, the Franco–Pontifical rivalry over the fate of Parma, which the Farneses, traditionally allied with France, controlled, was heating up. Pope Julius III wanted to recover the city for the Church States. This was an act of aggression to which Henry II responded by, in addition to vaguely calling for a forthcoming national council, proclaiming the *édit contre les petites dates*. The royal Edict’s immediate effect was to abolish a papal financial privilege linked to unassigned benefices, which were paid to Rome. The king had commissioned a juriconsult close to the government, Charles Dumoulin, to offer a supportive commentary on the edict. Once peace had been restored between the Holy See and Paris, this commissioned work became a source of embarrassment for the king because its author did not want to disavow it. Such obstinacy first led to imprisonment and then to exile as Dumoulin fled to Protestant Switzerland (Thireau 1980, pp. 34–39).

The origins of the *DSPE* lay in the subsequent reunion of Hotman and Dumoulin, as the latter had acted as a kind of mentor to the former during his early years in Paris (Kelley 1973, pp. 29–33). In the early 1550s, after becoming a fervent follower of Calvin, Hotman found a position at the Académie de Lausanne, where he taught mostly Latin literature (Crousaz 2012). Frédéric Gabriel has shown that conciliar activity on the side of Rome acted throughout France during that decade as a spur for legal production in the Gallican vein (Gabriel 2011; Tallon 1997, pp. 491–516). In 1551, François Le Douaren published his *De sacris Ecclesiae ministeriis ac beneficiis libri VIII*, in which he defended a vision of law, based notably on the study of the primitive Church, as a necessary emanation of both temporal and religious power, thereby disputing the right of the popes to legislate autonomously. Soon, a text such as Baudouin’s *Constantinus Magnus* (1556) would go further and attempt to propose a juridical, and therefore partly conciliar, history of the time of Constantine. It fell to Hotman to bend such widespread anti-Roman positions in a distinctly Calvinist direction.

Beyond reinforcing the mockery of popery, how did Hotman ‘Calvinize’ Dumoulin’s strictly Gallican polemics? The *DSPE* was presented on its titlepage as a writing directed against a certain *Remundus Rufus* (Raymond Le Roux), long considered, following Moréri, to be the pseudonym of Pierre Grégoire (c. 1540–1597) (Gabriel 2011, p. 255, n. 56). Rufus, however, actually seems to have existed: he most probably was a juriconsult of slight renown and a councilor in the Parlement of Paris and, according to François Baudouin (1561, pp. 7–8), a pupil of the famous law professor Pierre Rebuffi (Hyver 1874, pp. 73–78).¹¹ Be that as it may, such a polemical framing as that recognizable in the *DSPE* implies a biting, even mocking, tone, punctuated here and there by bouts of indignant pathos. Above all, it was a rhetorical structure designed less for the successful communication of some content than victory over a particular individual: polemics remains, after all, a war of words. In this case, it seems the first condition for victory was the establishment of the very legitimacy of the conflict. Readers had to be convinced that there were good reasons for remaining so obstinate and refusing the slightest concession. A case in point is the beginning of the text: there, Hotman referred to the Dumoulin affair and the writing that lay at the root of his intervention, Rufus’s reply to his elder mentor. This reply was immediately presented as completely out of step with the nature of the argument demanded by the issues at stake, since, whenever Rufus wrote, the words lost their meaning. Indeed, claimed Hotman, Rufus had suggested that ‘Dumoulin has *recently* (*nuper*) published his commentary’, whereas Rufus himself took ‘almost two years’ (*prope biennium*) to write his rebuttal (*DSPE*, pp. 4–5).¹² By pointing out Rufus’ loose use of Latin vocabulary, Hotman suggested that his contradictor was either incompetent or duplicitous. He clearly valued the point made here, as he reinforced it at the end of the *DSPE*, when he mockingly signaled that he had written his own ‘little volume’ in just ‘a fortnight’ (*ibid.*, p. 110).¹³

Highlighting in this way the mediocrity, or at least the blindness, perhaps deliberate, of one’s opponent was not pure denigration. Polarizing the discourse in this manner allowed

Hotman to considerably reduce the options for judgement open to the reader: if Rufus was wrong about something as obvious as the correct use of *nuper*, there was a good chance he was always wrong. Such an argument thus allowed Hotman to justify the debauchery of erudition he displayed throughout the *DSPE* in referencing left and right councils and Church fathers (p. 48):

If we had to say as much as is necessary for men in whom there was enough honor and honesty left, the cause would have been discussed at length. But because we are dealing with a man who, it is quite clear, has been led to defend this cause not because of its excellence (*bonitate*), but by the hope of some benefice, we will not risk his complaining that we have confuted his subtleties and his cold and arid deceptions with uncertain and careless reasonings.¹⁴

Were Rufus honest, he would be no less corrupt. Therefore, to be sure of victory, one must go all the way to the end of their demonstration. Such apostrophes to the reader, calling on him to judge the man the writer contradicted, maintained a polarized atmosphere that Hotman had been instilling from the very first lines. Thus, he could distinguish most clearly the opposing camps and produce, by the end of his text, an impressive *imitatio Christi*-effect, which ensured his erudite dissertation could also be understood almost like a sermon. This interpretation seems to me the best way to explain the undeniable contradiction apparent in the opening pages of the *DSPE*. Although Hotman expressly stated that he wanted to resolve the dispute at hand (does the Church have one head, Christ, or two, Christ and the pope?) by relying on ‘the thirteen councils of the ancient Church, written down in Greek and Latin, those of Nicaea, Ancyra, Neo-Caesarea, Ephesus, and all the others’ (*DSPE*, p. 6),¹⁵ he immediately embarked on a classically Calvinist exegesis of Paul (see also Gabriel 2011, pp. 255–56). What is the point of this detour by Sacred Scripture (*DSPE*, pp. 7–12), given Hotman’s pretension to leave it aside?¹⁶ Let us follow his theological argument, developed mostly on the basis of the Greek text of Paul’s Epistles, systematically accompanied by a Latin translation of his making. Christ is the head whose body is the Church: ‘by his vital force, he animates, nourishes and develops the body of Christians towards happy and immortal life’ (*ibid.*, p. 8).¹⁷ To do this, he has left us his word: hence the idea that the Church is ‘the people called to listen to the preacher, certainly Christ, about whom it is said in Mt 3 [in reality, 17, 5], “Listen to him”’ (*ibid.*, p. 9).¹⁸ Now, there was an astonishing return of this idea at the end of the text, which channeled all its rhetorical truth-telling potential by bouncing off the idea that Rufus, as a good, stubborn Roman Catholic, was irretrievably lost to the truth. To put it in clear-cut terms, Hotman argued that to speak the truth necessarily meant not to be listened to by everyone and thus, in this way, to imitate Christ (*ibid.*, pp. 110–11):

And yet we have not sought out all that [Rufus] has fraudulently and in bad faith fabricated: partly because we considered this example sufficient to conjecture the rest; partly because his volume is full of puerile and futile discourses, which we judged better left to our children to torment and treat miserably at school. God knows what good we have done the Church of Christ. We can affirm what he repeated in frequent sermons, that our clamor will not be heard except by those whose ears have been divinely opened.¹⁹

In the absence of explicit quotations of Scripture by Hotman, and without a clear cross-reference to a specific passage, it seems to me that this clause should be interpreted as a return to the definition of the Church he developed in the *DSPE* on Pauline foundations, the clarity of which Frédéric Gabriel had already noted. Hotman understood the Church as a ‘vocal community’ (Gabriel 2011, p. 256). So, just as, according to Paul, we must listen to Christ and his preachers to enter the Church, we must listen to Hotman to avoid pontifical lies and Roman fraud. In his eyes, scholarship was another form of preaching, and exposing the lies of the popes was nothing less than a process of spiritual association.

5. Hotman and His Sources: The Case of Du Tillet

Hotman's source was not Scripture alone. On the back of the titlepage of the *DSPE* (p. 2) a list of the *auctores* he used can be read, which to me seems exhaustive, apart from the mention of Gratian, who appeared several times in the work but only to be criticized.²⁰ Of particular note is the reference to the conciliar texts, mentioned right after Sacred Scripture, as well as the reference, in the last line of the list, to the *Codex Theodosianus*, a compilation of imperial rescripts of the late 4th century AD. Its original text had just been partially edited, on the basis of a newly discovered manuscript, by the same Jean Du Tillet the Younger, to whom Hotman owed his Greek councils (Coma Fort 2014, pp. 403–5). Now, while Hotman never mentioned where his expert knowledge of the Greek canons came from—we shall see that he tried to make it a central element of distinction with his opponent—he felt it necessary to demonstrate his participation in the intellectual movement of rediscovery and study of Roman law before the time of Justinian (Ferrary 2022). Thus, he proudly stated that he found an element contested by Rufus in 'a certain constitution [CT, 16, 1, 3] of the *Codex Theodosianus*, which, thanks to Jean du Tillet, a most famous man, has recently been published' (*DSPE*, p. 26).²¹ On the other hand, the only explicit reference to a conciliar edition could well refer to that of Crabbe: 'The Council of Milevis is indeed recorded in the first (*primo*) volume of the Councils' (*ibid.*, p. 108).²² The use of *primus* rather than *prior* suggests, even if the humanists themselves did not always respect ancient usage, that Hotman was referring to a publication consisting of more than two volumes. While Merlin's publication was in two volumes, Crabbe's was augmented in 1551 to three. The Council of Milevis appeared in the first volume of both collections (Quentin 1900, p. 12, n. 4).

Why did Hotman at one time conceal, and at another publicly acknowledge, his debts to Du Tillet? The answer lies in how Hotman sharpened his argument. As we have already seen, he combined denigrating Rufus's talents with an insistence on his own expertise, a contrast made especially stark if we remember that Rufus presented himself on the titlepage of his own text as a *doctor utriusque juris*. The sixteenth century was a time when the very meaning of the function of jurisconsult had been turned into a matter of debate (Kelley 1988; Pedrazza Gorlero 2012). It was thus crucial for Hotman to portray himself as a man at the cutting edge of the discipline, who embraced the *mos Gallicus*, the renewal of legal scholarship under the influence of the *studia humanitatis* and the associated high expectations for Latin and Greek proficiency (Troje 1971; Thireau 1985; Prévost 2011). Precisely on this, he consistently mocked Rufus, arguing, among other things, that his style was worthy rather of appearing in Mathurin Cordier's *Colloquia* than in juridical dissertations (*DSPE*, p. 5).²³ He went even further, when he suddenly asked his opponent, towards the end of the *DSPE* (pp. 96–97):

But what is this, Rufus? Are you still unfamiliar with the troubling and noble dispute of the legal experts *de dividuis et individuis*? [Other questions recently debated by jurists are briefly mentioned]. Do you find yourself a visitor and a stranger in this place, which is hackneyed and widely known even for new recruits?²⁴

There is no doubt that Hotman was seeking to highlight the superiority, and his own personal mastery, of humanist methods in law studies, which only began to take hold in France in the 1530–40s. Thus, Hotman evoked a colleague famous and celebrated for his editions of Roman legal texts in a performative effort to signal how closely and zealously he followed the moving object that, in the wake of the philological revolution, the field of civil law had become.²⁵ On the other hand, he did not acknowledge his debt to Du Tillet for the Greek conciliar collection, because doing so would have pointed to an interpretation of the decrees of the first Christian assemblies divergent from his own (*Hinc sarcienda ecclesiae concordia!*) but whose author he recognized as authoritative. The polarized universe that Hotman constructed throughout the *DSPE* implied a clear distinction between the experts, who simply revealed the truth and among whom he counted himself, and the Antichrist's henchmen, who did their utmost to cover it up. That is precisely why Hotman ended his text with a profession of faith in the truth, a rhetorical set piece recurrent in the works of humanist jurisconsults (*DSPE*, p. 105):

For as far as I am concerned, I can testify before God and mankind that, in the accusation brought against the Roman Pontiff, I behaved so honestly and with such integrity that, in truth, all the sycophants [of the Pope] at the same time could not find a single letter that I quoted for the purpose of slander.²⁶

Hotman, like many of his contemporaries, practiced quotation (of texts, of people) with all the rhetorical richness of which it was still capable in a world whose intellectual codes were undergoing radical transformation. As a means of self-presentation, such practice enabled him to portray himself as a jurisconsult who was not only better qualified but also more up to date, at a time when the very issues he was tackling were being renewed by an array of newly published documents and a greater mastery of their constituent elements, grammatical and material. Of course, such intellectual innovation was widespread and, as such, common among Catholics and Protestants alike. Precisely for this reason, a close study of Hotman's shifting uses of Du Tillet's authority reveals an attempt at building for himself, in his polemics against Rufus, a kind of monopoly of truth, a rhetorical illusion that would be of great use in his wider denunciation of the claims for primacy made by the popes.

6. *Falsitas Gratiani* in Conciliar History: Hotman and the Issue of Church Institutions

The idea that, in this debate, there was an objective monopoly of truth played a central role in the *DSPE*. To investigate this, I will offer a brief overview of what seems to me to be the part of this book that most specifically concerned conciliar history (*DSPE*, pp. 15–48), as opposed to the rest of the text, which dealt with the problem of Roman primacy in a manner typical of early modern academics, namely as a series of opposed arguments. Such a focus allows me to highlight the leitmotiv of the *DSPE*, that is, how the text aimed at demonstrating the deception co-essential with the Papacy by showing how deeply fraudulent practices ran in the Roman past. As the subsequent series of demonstrations that conclude the *DSPE* was highly dependent, for its persuasiveness, on the pervasive suggestion of Roman duplicity, grasping how Hotman produced it is key to understanding the general meaning of his critical study of canon law and, more specifically, his recourse to the conciliar tradition in the 1550s.

To achieve this, Hotman tried to establish Rome's true place in the organization of the Church in the first 550 years of its history. He started with a close and erudite discussion, based on conciliar decrees and ancient ecclesiastical historians, touching on metropolitans and their gradual emergence (*ibid.*, pp. 15–29). This discussion enabled him to highlight the historical nature of the development that led to the attribution of some primacy to certain metropolitan sees, initially those of Alexandria, Antioch, and Rome, as established in the sixth decree of the First Council of Nicaea (325) (*ibid.*, pp. 19–20). Hotman insisted on the fact that this primacy was one of honor only and provided examples of the limits put on the power of such metropolitans (e.g., no creation of bishops, no right of universal appeal). He even demonstrated that the term 'patriarch' was used indiscriminately to designate *any* metropolitan, since he found that bishops other than those of Alexandria, Antioch, or Rome also used the title.

However, it is clear from his narrative that the autonomy he ascribed to metropolitans was bound to be one day overturned. In his words, it fell victim to a new 'triumvirate' (*ibid.*, pp. 30–48). After quoting the treacherous canon 28 of the Council of Chalcedon (which was never actually received by Rome and was even attacked by Pope Leo I) (Wuyts 1951), Hotman revealed that Constantinople and Alexandria joined forces with the Eternal City against Antioch, admitting Jerusalem into their midst only 'as a matter of form' (*DSPE*, p. 33).²⁷ Yet, by combining their destinies, the two capitals of the Empire, the old and the new, became great rivals (*ibid.*, pp. 34–37). Indeed, the true source of their claim to primacy was political power: 'We therefore clearly understand that the first degree of honor was granted to Rome only because the emperors had their seat and domicile there and the Senate which governed the world had been established there' (*ibid.*, p. 37),²⁸ hence the utility of the *Codes* of Theodosius and Justinian, as well as the *Novellae* of the latter, in the

study of the history of the Church. In Hotman's telling, it was an emperor's prerogative to move the places of ecclesiastical power. Still, the central role played by imperial power in high Church matters never dampened Roman ambitions. Thus, Hotman recounted the ancient capital's favorite treacherous procedure (*ibid.*, p. 40):

From then on [after the triumvirate], even though the Roman pontiffs kept almost endless territories under their power and authority, they always did their utmost to find some specious reason to invade the property of others. It seemed to them that there was nothing more convenient or expedient than to endeavor to restore to their former dignity the bishops of another province who had been dismissed from their priesthood.²⁹

Hotman then illustrated this practice with a famous case, which pitted the Church of Carthage against that of Rome. It is here that he demonstrates his talents as a historian of councils. He opened with a passage from the *Ecclesiastical History* of Socrates the Scholastic (II, xv), which recounted a similar phenomenon setting the Church of Antioch against that of Rome. Athanasius, faithful to the Nicene faith, was removed from his see in Alexandria by a provincial synod with an Arian majority. Hotman said nothing about this struggle for orthodoxy but merely pointed out the Roman interference, since Julius I welcomed the now exiled Athanasius into his communion. Thus, in Hotman's telling, the pope's interference forced the organization of a council in Antioch, the sole aim of which was to recall under legitimate form the Nicene principle according to which jurisdiction had been regionalized, viz. that discipline was administered independently within each metropolitan see.³⁰ Hotman then immediately followed this account with a supportive quotation from Cyprian of Carthage (c. 200–258), which, since the African father lived 'two hundred years after the beginning of the Christian Church' (*DSPE*, p. 42),³¹ anchored the principle of the regionality of ecclesiastical jurisdiction in an even deeper layer of the Christian past. Finally, he developed the confrontation between two councils: that of Serdica (343), convened by Roman emperor Constant I at the instigation of Rome to combat Arianism, and that of Carthage.³²

It is at Serdica that the principle of appeal to Rome was proclaimed for the first time (canons III [Hotman: II] and V), a decree which Hotman immediately described as *jus tum novum atque inauditum*. Yet, he at first seemed willing to concede a great deal to Rufus: '[the council] took place', its 'authority is invariable' (*ibid.*, p. 44).³³ He raised only one problem, that of the ecumenical nature of the Council, which an in-depth historical study refuted most evidently (*ibid.*, pp. 44–45).³⁴

My answer is this: even if this Council had been universal, yet at the Council which came immediately afterwards, a universal Council, all those things concerning the right of appeal to the Bishop of Rome were abrogated. What was this council? That of Carthage, at which 217 holy fathers were present [. . .], including Saint Aurelian Augustine, bishop of Hippo.

The appeal to the Carthaginian example and to the ancient history of the Church of Africa was to become a commonplace of Gallican polemic against Rome over the course of the sixteenth century (Gabriel 2009). Therefore, the specificity of Hotman's argument does not lie in the recourse to this bundle of sources, appreciated as both anti-Roman and ancient, nor even in the continuation of the anecdote, which he, as a skillful lawyer, calls a *magnum profecto quiddam* and 'something that completely reverses the case of the bishop of Rome' (*DSPE*, p. 45).³⁵ For the Roman authorities challenged the Carthaginian decrees by suggesting that they contradicted the ecumenical decisions of Nicaea (*ibid.*, pp. 45–46):

The bishop of Rome had sent to this sacrosanct council [of Carthage] three trusted men, Faustinus, Philip and Asellus, with this mandate: that the council should take care to preserve the right which had been attributed to his see by the Synod of Nicaea, namely that appeals should be made to him from everywhere. The scribe Daniel was ordered to recite the mandate according to what was written. The whole of chapter five of the Council of Serdica, which the Bishop of Rome

had fraudulently, criminally and deceitfully put in the place of the Council of Nicaea, was recited. All the bishops and archbishops who were then present denied ever having found this in the Synod of Nicaea. The copy of the Synod of Nicaea that was in their hands at the time was read aloud. Not a word about the right of appeal. It was decided to send trusted men to Constantinople, Alexandria and finally Rome, to bring other copies of the Synod of Nicaea [...]. In the course of the year, they were brought, read aloud; not a hint of this privilege and this special right of the bishop of Rome.³⁶

Hotman was not the first humanist to put this delightful tale in order. He used this magisterial proof of the deception immanent in popish Rome to remind Rufus that the ‘dishonesty, perfidy, impudence’ of his client, the Papal Church, ‘was openly exposed, refuted and condemned by an ecumenical council of two hundred and thirty fathers, among whom was Saint Augustine’ (ibid., p. 47).³⁷ Yet, although Hotman was more precise and offered a smoother narrative, it seems it was Calvin who first made the connection (Calvin [1559] 1961, pp. 1127–28).³⁸ What matters here, however, is that, as he returned to the question of the right of appeal to Rome at the end of the *DSPE* (pp. 102–9), Hotman took up the episode once more. He sought to make the whole duplicitous affair inexcusable and to make reprehensible any attempt to excuse it (which is what Rufus had tried to do). Could not someone argue that Boniface, the pope who sent the legates to the Council of Carthage, was simply mistaken? Here, Hotman became a subtle prosecutor, as he reminded his reader that two popes had actually played a role in this affair (ibid., p. 103):

What was the name of the man who sat in Rome while the laws of the council were being written down? Pope Celestine, as the Council’s epistle to the Roman pontiff shows, where it is also said that Boniface had died in the meantime. What is the point of all this? So that everyone can see the depraved and corrupt audacity not of Boniface alone, but of two Roman pontiffs, who caused a delay of almost a year and a half for the two hundred and seventeen fathers gathered at the Council of Carthage.³⁹

Hotman’s narrative ensures we understand deceitfulness and a clear taste for lies as the main assets inherited by all the popes, the authentic legacy of Peter. Indeed, the vitality of popish evil, its ability to persist over time, is demonstrated by an additional betrayal: that of Gratian (ibid., pp. 53–58)! Already by the middle of the *DSPE* (p. 55), in a comparison with D. 22 [Hotman: 27], 6, the 36th canon of the second Council of Constantinople (often remembered as the Council *in Trullo*), Hotman had pointed out a pro-Roman deformation: Gratian had transformed a clause of the canon so as to deny Constantinople the equality of standing with Rome in matters ecclesiastic that the clause was specially proclaimed to grant.⁴⁰ Later in this passage, Hotman predicted, more than three decades before his letter to Daniel Toussaint, the major frauds that could be uncovered should critical work be directed against Gratian’s *Decree* (ibid., pp. 56–57).⁴¹

Further in his book (ibid., pp. 106–9), Hotman placed side by side the 28th canon of the Council of Carthage, which forbid the overseas appeal of a verdict rendered by the Church of Africa, and its version in the *Decree* of Gratian (C. 2, 6, 35). According to Hotman, the canonist had shamelessly added a line, which created an exception in favor of Rome to a law promulgated specifically against Rome. Calvin was aware of this textual sequence, which was problematic, to say the least, for the papal see. It was Hotman, however, who transformed it into indelible proof designed to strengthen his case against Gratian. Indeed, he turned Calvin’s studied indecision (‘whether out of malice or naïveté I do not know’, Calvin [1559] 1961, p. 1128)⁴² into unequivocal certainty, which he grounded in the undeniable clash between the lies of the Romans and the truth revealed by his own expertise, hence the even more troubling nature, in his eyes, of Rufus’ behavior in this case (*DSPE*, p. 108):

Therefore, I say that this sentence was introduced in a very perfidious way by Gratian, and that you made it disappear; and I also say this, that since overseas

appeals are prevented for no other reason, as you also admitted earlier, than to repel the covetousness and greed of the Roman pontiffs, Gratian is confuted by the obvious crime of lying, because he added the exception which completely overturns the whole law.⁴³

The demonstration of the *falsitas Gratiani*, a given for Hotman in the rest of the *DSPE* (p. 78),⁴⁴ thus refuted even Rufus, who was as much affected by the evil of deceitful Roman treachery as his predecessors. Why, though, did Hotman insist so much on Gratian's guilt, the hallowed compiler of Western canon law (Noonan 1979), as he slowly finished his dissertation? In my opinion, it was for two reasons. The first was undoubtedly personal, in that such an undertaking constituted a scholarly masterstroke for the young jurisconsult, who wanted to make a name for himself. One remark by Michel Reulos (1954, p. 682) has been little noticed in the major investigations into the forgery of the Decretals of Pseudo-Isidore: the editions of Gratian's *Decree* by Dumoulin (1554) and Antoine Le Conte (1556) were the first to express doubts about the authenticity of the forgeries, a series of texts conspicuously contemporaneous with the criticisms of the Centuriators (see also Metz 1954, pp. 496–507). A close reading of the *DSPE* clearly reveals Hotman did not want to be outdone in this apparently highly topical academic issue: he asserted with some of his medieval forerunners the falsity of the decretals attributed to Pope Clement I (they are older apocrypha that were included in the Isidorean compilation, see Fournier and Le Bras 1931, p. 173) but also attacked other such texts transmitted under the names of Anacletus and Anicetus, also popes of the first and second centuries (*DSPE*, pp. 75–94, esp. 78–88). The sequence ends with an all-out assault on Pseudo-Isidore himself, potentially the sign of a philological approach that was beginning to see the unity of the false compilation: 'These are the precepts of a man [Isidore] who is very elegant and very learned, from whose school, as if from a Trojan horse, the doctors of canon law boast that they have emerged' (ibid., pp. 87–88).⁴⁵

One detail of Hotman's attack on the forgery leads us to the second reason he turned his legal acumen against Gratian. According to Hotman, one of the features that betrayed the fraud was the high degree of organization and institutionalization which the fake texts suggested the Church had already reached in the apostolic age (ibid., p. 82):

As if, at the time of the apostles, the kingdom of Christ had spread so widely that they [= the apostles] had taken it upon themselves to appoint patriarchs those who would be at the same time in charge of many territories, whereas it is quite clear that more than a hundred years after the time of the apostles, Christians were not allowed to celebrate Mass unless they did so by night and in secret.⁴⁶

At first glance, this sentence seems insignificant. It nevertheless reveals an important element in Hotman's reconstruction of the history of the Church. Despite what the title of the *DSPE* might suggest, the Reformed jurisconsult, like most of his contemporaries (Backus 2003, pp. 326–91), said very little about the 'primitive Church', that of the apostles, as opposed to the broader notion of an 'early Church', which encompassed, along with apostolic dispositions, the fathers and the councils. In truth, most Renaissance scholars, like Erasmus, focused solely on the fathers (Backus 1995). As I have shown, the booklet remained above all an investigation into the *institutional history* of the Church. Such a phase of its development as the appointment of patriarchs, however, was already secondary to its authentically primitive form. Here, we find the second reason for Hotman's insistence on the *falsitas Gratiani*. He felt strongly that it was necessary to occupy the field of conciliar history, an essential part of the history of the early Church, but in a particularly insidious, yet efficient, way. He went beyond the dogmatic refusal, shared by Luther and Calvin, to envisage the Council as a potentially definitive solution to the schism. Instead, Hotman subtly ensured, through the numerous historical cases he expounded before his ultimate condemnation of Gratian, that the entire conciliar tradition was tainted with corruption. In the course of his investigations, Hotman presented the whole tradition of councils as too human a process, too preoccupied with matters that went beyond the golden apostolic age, like the legislation and codification of the Church.

It was commonplace in Calvinist thought to oppose the idea of refined institutions for the Church. Hotman's specificity lay in the uniqueness of his argument, which involved an examination of tradition in order to overturn it, an intellectual procedure to which Calvin had already pointed (Calvin [1559] 1961, p. 1166).⁴⁷ In other words, Hotman, as both a jurist and a reformer, proceeded not by relying on dogmatic arguments but by revealing the true history of the Church. He unraveled nothing less than the troubled and desolate spectacle of corruption renewed over the generations, from Pseudo-Clement to Rufus via Gratian. To Hotman, the Roman tradition of the Church as an institution was a long series of lies.

7. Conclusions: *De statu primitivae Ecclesiae* and *Antitribonian*

A much better-known work by Hotman touched upon canon law, albeit in passing, his *Antitribonian*. In this text, first printed in 1603, yet written, according to its titlepage, in 1567 at the behest of the chancellor Michel de L'Hospital (1503/1507–1573), Hotman argued in favor of a revolution in the teaching of law in France. In his eyes, it was time to put an end to the strenuous study of the *Corpus juris civilis*, to leave behind the chaos of customs and feudal law, and to cease all submission to the power of Rome, ancient and modern alike. The French must make way for codification, coordinated by the royal administration and implemented by a commission of expert and enlightened men. Here, the corpus of canon law was criticized by Hotman only as part of his effort to delegitimize Roman law, itself identified with the scapegoat now classical for humanist jurisconsults, Tribonian (e.g., Menini 2020), the public servant charged by Justinian with compiling and systematizing the corpus of Roman law (Honoré 1978). Indeed, in *Antitribonian*, it was no longer just Rome and its representatives that were corrupt but even the law they produced. Its official compilation, ordered by the emperor, triumphed in the West only because of such treachery (Hotman [1603] 2021, pp. 168–71, slightly modified):

For seeing that among these books of Justinian's and principally in his *Novellae* there were to be found a vast number of laws and ordinances concerning the subject of religion, its government, discipline and practice, together with the status of the Bishops or of the Clergy, to the point of regulating the pronouncement of the main words of the liturgy and the administration of the sacraments: the Popes of Rome who about three hundred years earlier had taken over the relevant right and government were not happy with this. Therefore, Pope Eugenius III charged a monk called Gratian of the order of St Benedict to make on the model and in imitation of Justinian's *Pandects* a collection of certain passages collected and extracted partly from the Councils, partly from the writings of the Doctors of the Church, and in part also from the letters of certain Popes. Modifying the whole work to serve the magnification, growth and authority of the Roman see, he called his book the volume of *Decreta* which (as he himself testifies) he published in the year 1150. But subsequently there came along other Popes who (as was said in former times) added some others and made decretals, and little by little [produced] a body of Canon law to counterbalance Justinian's civil law, in as much (so they say) as the laws of the Church ought to be of greater weight and authority than those of secular Princes. Following this, it is incredible how the study of Justinian's books progressed.

Perhaps under the influence of L'Hospital, Hotman changed the basis of his rejection of the validity of canon law. The latter must be removed from the statutes not because of its deceptive character, of the *falsitas Gratiani*, but on account of its principally usurpatory nature. In other words, it did not matter whether canon law was a fake body of law which existed next to other traditions (e.g., Roman law, feudal law, etc.) and pretended to be genuine and legitimate. Rather, it was a historical fact that, for whatever reasons, it had been taken up as a model by the whole of Western Christendom and, in that capacity, had corrupted the whole juridical order, shaping it in every respect to further not the French people's but the pope's interests. That is why, in *Antitribonian*, the conciliar question

was completely absent and the problem of the authenticity of the legal texts remained subsidiary. The historical identity which Hotman had previously attached to canon law, that of a corrupt development serving the Roman Antichrist, was not an essential part of his argument anymore. Indeed, Hotman only used the example of canon law in *Antitribonian* (p. 182)⁴⁸ to manifest a principle that was later to be attached to his name, as he took it up again in his famous *Francogallia* (1573), viz. that it is harmful to adopt a foreign law, and here quite uniquely, Roman civil law (Thireau 1999).

In fact, it is difficult to identify any remnants of the scholarly developments of the *DSPE* in *Antitribonian*. Investigating the historical reality of canon law had, at first, gradually led Hotman to positions which opened the way to an extremely reduced ecclesiology, where the Church would have almost no legislative role at all. On the contrary, the study of the intertwined developments of civil and canon law left Hotman with the feeling that some kind of *tabula rasa* was needed, out of which a new legal order of ‘peace’ and ‘concord’ could rise (Hotman [1603] 2021, p. 216).⁴⁹ It seems that Hotman’s denunciation of the *falsitas Gratiani* concealed what he had left unthought: what other Church is there than the Church of Rome? Throughout the *DSPE*, Hotman’s fascination with the councils is obvious. He tirelessly alleged them against Rufus, even though the jurisconsult had admitted from the very first pages that he did not consider them to be a supreme authority, a dignity he conferred only on Scripture. Perhaps his idealized version of the Late Antique Church, where metropolitans were of equal dignity and schisms were only a side story, became more to him than just a model useful for polemics. Certainly, he presented this Church as capable of council work, that is, as united and universal, as Catholic in the old sense of the term. This dreamy vision, he most clearly did not try to reconstruct it within the framework of Reformed ecclesiology. More than half a century ago, Pierre Mesnard (1955) highlighted Hotman’s ‘complex of Tribonian’ (*complexe de Tribonien*) that is his ambiguous relationship to Roman law. After studying it historically, he had both hollowed out its normative power—Roman law could not be some kind of *ratio scripta*—and seen in it a kind of archetype for the reformation and unification of French law. Perhaps, in the end, there existed for Hotman some analogous ‘complex of Gratian’: maybe it was not just death that prevented him from writing and publishing the *Meditationes in jus canonicum* that Reuber expected of him?

Funding: This research was funded by the Swiss National Science Foundation (SNSF), grant number P000PH_211846.

Data Availability Statement: Data are contained within the article.

Acknowledgments: Earlier drafts of this text were presented as part of my intermediate doctoral exams in Geneva and Warwick. I would like to thank my two thesis supervisors, Paul-Alexis Mellet (Geneva) and Ingrid De Smet (Warwick), for their comments, advice and encouragement, as well as the commissioned readers: Paul Botley (Warwick), Penny Roberts (Warwick) and Frédéric Tinguely (Geneva). I would also like to express my gratitude to Frédéric Gabriel for help in finding references and materials. Finally, I am indebted to Bruce Gordon (Yale) for numerous stylistic corrections.

Conflicts of Interest: The author declares no conflict of interest.

Notes

- ¹ Ep. CLXIV, Jobst Reuber to François Hotman (24 March 1588): ‘Existimarem autem Juniori Principi nostro, vel hosce libros Observationum, vel quod mallet, Meditationes tuas in Jus Canonicum dedicandas esse’.
- ² Ep. CXLVII, François Hotman to Daniel Toussaint (8 May 1587): ‘Habeo contra jus Canonicum notas innumerabiles, quibus Antichristi Romani partim stuporem in Civilis Juris scientia, partim imposturas, fraudes, falsitates incredibiles patefecerim. Concilia Graeca et Latina recentiora cum illa Gratiani farragine contuli. Dici non potest, quantas imposturas animadverterim: ut mihi non dubium sit, quin orbem terrarum posthac pudeat, tam foeda Purpuratae meretricis menstrua, tandiu in tanta caecitate pro divinis oraculis coluisse’.
- ³ Luther refers to Peter Crabbe’s 1538 edition of the conciliar decisions, enlarged in 1551, see Franses (1931).
- ⁴ Compare with the interest shown by Catholic theologians (Quentin 1900, pp. 7–28).
- ⁵ To this day, Merlin’s publication is still the only complete edition of the pseudo-Isidorean (Fuhrmann 1972–1974, vol. 1, p. 131).

⁶ See the parallel history of the official edition of the *Decree of Gratian* (Sommar 2009).

⁷ ‘Id quod ex libro Notarum juris civilis vestustissimo, Balduino mihique Lutetiae domi suae probavit vir summa humanitate praeditus Ioannes Tillettus’.

⁸ ‘Quare si quando Deus Optimus Maximus sui populi delictis clementer ignoscet, ecclesiaeque nutanti opitularus, summos quosque sui gregis pastores convocatos tanquam in aciem adversus inimicum producet ad Satanae castra expugnanda, nihil addubito, primas illius militiae partes tibi delatum iri, ut qui singulari doctrinae et pietati auctoritatem adjunxeris gravissimam’.

⁹ ‘Ubi si animus erit, ecclesiae opitulari, eiusque dissidium concordia potius sarcire, quam convitiis exasperare, haud video quid tandem huic rei magis congruat, quam apostolorum et veteris ecclesiae decreta, tot sanctissimorum martyrum sanguine et morte sancita. Quae hoc volumine complexus, ideo sub tuo nomine publice legenda propono, ut hinc viri boni laboranti religioni subveniant, et frustratis Satanae studiis, quibus hoc saeculo res christiana gravissime adfligitur, in Dei ecclesia pacem et concordiam constituent’.

¹⁰ Hotman published other writings under this name, such as his Latin translation of Calvin’s *Avertissement contre l’astrologie judiciaire* (Calvin 1549). Perhaps this change in name was intended to mark the conversion and rejection of a family he reviled for being firmly rooted in the most militant Catholicism (not to mention the fact that they repudiated Hotman anyway)?

¹¹ There is no trace of a ‘Raymond Le Roux’ in Michel Popoff’s *Prosopographie des gens du Parlement de Paris* (Popoff 1996, pp. 858–59). Rufus wrote two texts: one against Dumoulin (Rufus 1553) and one against Hotman (Rufus 1555). Even though both books bear a very similar title, the second is not a reprint of the first, as its text is structured around the more academic mechanism of allegation/response (*dicis/respondeo*). On these texts, see now Amalou (2024), pp. 76–77, 349–50.

¹² ‘Et cum integrum prope biennium in isto libro moliendo consumpserit [Rufus]: tamen non est veritus ita exordiri, “Cum nuper Molinaeus edidisset commentationes suas, etc.” quasi ille unum aut alterum ab hinc mensem eas promulgasset. Tametsi cum iste tantopere verborum interpretatione delectetur, vereor prope ne nobis hic litem de vocis istius *nuper* significatione moveat: et ex Cicerone demonstret, etiam ad multo longioris temporis memoriam accommodari’ (my italics).

¹³ ‘Ejus [Rufi] nos calumnias quindecim hisce proximis diebus in hoc parvum volumen coactas patefecimus, et cuivis spectandas hoc brevi libello proposuimus’.

¹⁴ ‘Si quantum apud homines, in quibus aliquid est reliqui pudoris ac verecundiae satis esset, dicendum fuit, abunde causa dicta est. Sed quia negotium nobis est cum homine, quem satis constat ad hanc defendendam causam non ipsius bonitate, sed sacerdotii alicujus spe adductum, descendisse: non commitemus, ut suas a nobis argutias et frigidas jejunasque captiones non certis exquisitisque rationibus convictas esse conqueratur’.

¹⁵ ‘Extant XIII concilia veteris Ecclesiae, Graecis et Latinis mandata literis, Nicaenum, Ancyranum, Neocaesariense, Ephesinum, et caetera, quorum volo arbitrato ac judicio nostra haec controversia disceptetur’.

¹⁶ *DSPE*, p. 6: ‘Omnes enim illae [=contentiones de religione] minimo labore, errore nullo explicantur, adhibita ea regula, quam Deus nobis propterea tradidit. Ea autem perpauca et minime obscuris literis continetur, quas Sacras appellamus. Quibus tu si de hac nostra dissensione iudicandi auctoritatem tribuis, celeriter conciliati, amici et concordēs discedemus’.

¹⁷ ‘Caput Ecclesiae est membrum illud, quod universum corpus Christianorum vi sua vitali animat, alit, auget ad vitam beatam et immortalem’.

¹⁸ ‘Ecclesia, est populus convocatus audiens concionatorem, nimirum Christum, de quo praeceptum est Matth. III, HUNC AUDITE’.

¹⁹ ‘Neque tamen ejus omnia fraudulenter et malitiose conficta persecuti sumus: partim quod hoc specimen satis ad conjecturam de reliquis faciendam esse putavimus: partim quod ejus reliquum volumen puerilibus et nugatoriis declamationibus refertum est, quas satius esse judicavimus pueris in scholis nostris vexandas, et miseris modis tractandas relinquere. Quid Ecclesiae Christi commoditatis allaturi simus, Deus novit. Illud affirmare possumus, quod ipse crebris sermonibus usurpat, clamores nostros non nisi ab iis quibus erunt aures patefactae divinitus, exauditum iri’.

²⁰ ‘Auctores quibus in hoc libello uti sumus. Libri sacri. XIII antiquissima Ecclesiae concilia Graecis et Latinis conscripta literis. Irenaeus. Tertullianus. Cyprianus. Chrysostomus. Hieronymus. Eusebius. Socrates auctor hist. Eccles. Gregorius Nazan. Eutropius. Paulus diaconus. Codex et novellae Justiniani. Rufinus. Codicis Theodosiani libri XVI’.

²¹ ‘Quam ipsam descriptionem reperio etiam in constitutione quadam Theodosiani codicis, eius qui beneficio Joannis Tili viri clarissimi nuper in lucem editus fuit’. The exact reference, accompanied by a quotation, follows in the next sentence.

²² ‘Est in tomo conciliorum primo perscriptum Milevitanum concilium’.

²³ ‘Ego qui quantum ex paupertate Latinae linguae laborem non ignoro, pueris in ludo Corderii vexanda et exagitanda relinquam’. Hotman presents Rufus’ Latin as good teaching material at another instance, see note 19.

²⁴ ‘Quid est hoc Rufe? Tibine adhuc illa Jurisperitorum vexata et nobilis disputatio de divinis et individuis ignota est? Quid? Servitutes cujusmodi sint ignoras? An viae, itineris, actus, aquae ductus plures in solidum domini esse non possunt? Versarisne hospes ac peregrinus in istis locis, tyrunculis ipsis tritis ac pervulgatis?’.

²⁵ A good reflection of the intellectual instability produced by the humanistic study of Roman law can be found in Dumoulin’s quite often dogmatic and traditional reactions to the philological discoveries of Alciat and Agustín in the 1530s and 1550s (Troje 1971, pp. 29–41).

- 26 'Nam ad me quidem quod attinet, ego Deum hominesque testor, me in ista Pontificis Romani accusatione, ita integre, itaque caste versatum, ut literam quae a me calumniandi causa adscripta sit, ne unam quidem omnes simul sycophantae reperire possint'. Such oaths to truths are not rare among humanist jurists, e.g., that of Étienne Pasquier in the Introduction to his *Recherches de la France* (Pasquier 1996, vol. 1, pp. 252–53).
- 27 'Itaque tum primum quasi Triumviratus ille Caesaris, Lepidi, et Antonii renovatus est, et in Ecclesiam Christianam introductus: ut Alexandrinus Africam, Romanus Occidentem, Constantinopolitanus partem Europae et Asiam prope totam obtineret, praeter perpaucas Ecclesias, quae Hierosolymitano, dicis causa relictæ sunt, propter urbis auctoritatem et amplitudinem. Qua de causa ipse quoque in hunc ordinem est cooptatus. Itaque Quatuorviri tum primum regendae Ecclesiae constituti sunt, qui sensim Patriarcharum et Archiepiscoporum nomen, quod omnibus (ut dixi) Metropolitibus antea commune fuerat, sibi proprium ac peculiare fecerunt'.
- 28 'Manifesto ergo intelligimus, Romae non alia de causa τὰ πρεσβεῖα τῆς τιμῆς, id est primum honoris gradum delatum esse, nisi quod in ea sedem ac domicilium suum Imperatores habebant: Senatusque is qui terrarum orbem gubernabat, in ea collocatus esset'.
- 29 'Jam etsi infinitas prope regiones Pontifices Romani sub imperium ditionemque suam subiectas obtinerent, semper tamen aliquid moliti sunt, ut in alienam possessionem irruendi speciosam aliquam causam nascerentur. Nihil autem neque commodius, neque opportunius fore visum est, quam si quos Episcopos aliae provinciae sacerdotio abdicarent, eos Episcopos ipsi in suam pristinam dignitatem restituere conarentur'.
- 30 Hotman's retelling of the events avoids the matter of orthodoxy, as is made clear by Annick Martin's investigations (Martin 1996, pp. 341–447).
- 31 'Qui CC annis ab Ecclesiae Christianae initio, Chartaginensem Ecclesiam administravit'.
- 32 There were in fact several councils of Carthage at the turn of the fourth and fifth centuries (including the Council of Milevis already mentioned). Hotman always presents them as a single entity, since tradition quickly brought their proceedings together. For the sake of simplicity, we have followed his usage here.
- 33 'Fateor tum primum id institutum esse: fateor a sene rogatum deliro et impio. Varumtamen institutum est eo concilio, cuius rata est auctoritas. Vide nunc Rufe, quid huic ego tuae objectioni respondeam. Omitto enim quod concilium istud non fuit oecumenicum, id est universale: ut non tantum eius apud nos, quantum aliorum valere debeat auctoritas'.
- 34 'Hoc dico, Si maxime concilium istud universale fuisset, tamen proxime insequenti concilio, eoque universali istud totum de appellatione ad Romanum Episcopum, abrogatum esse. Quod est istud concilium? Cartaginense: in quo ducenti decem et septem sancti Patres interfuerunt, ut titulus ostendit. In his Beatus Aurelius Augustinus, Hipponensis Episcopus'.
- 35 'Et quod Episcopi Romani causam funditus evertit'.
- 36 'Ad hoc sacrosanctum concilium tres certi homines, Faustinus, Philippus, Asellus, ab Episcopo Romano cum his mandatis missi sunt: ut jus a Nicaena synodo suae sedi tributum, nimirum ut ad eam undique provocaretur, conservandum curaret. Daniel scriba iussus est de scripto mandatum istud recitare. Recitatum est caput quintum integrum Sardicensis concilii, quod Episcopus Romanus in suo mandato fraudulenter, impie ac malitiose pro Nicaeno synodo supposuerat. Omnes qui tum aderant Episcopi et Archiepiscopi negare id se unquam in synodo Nicaena comperisse. Recitatur exemplar Nicaenae synodi, quod tum erat in manibus. Nullum de appellatione verbum. Decretum fit, ut certi homines Constantinopolim, Alexandriam, Romam denique mitterentur, qui alia exemplaria Nicaenae synodi asportarent: sed maxime Constantinopolim, ubi auctoritas ipsa, id est ἀρχέτυπος Nicaeni concilii asservabatur. Anno vertente allata sunt, recitata, nulla de isto Episcopi Romani privilegio ac praecipuo jure suspicio'.
- 37 'Videmus igitur, Rufe, nunc clientis tui improbitatem, perfidiam, impudentiam, aperte ab oecumenico concilio ducentorum triginta Patrum (in quibus etiam Beatus Augustinus interfuit) patefactam, convictam et condemnatam'.
- 38 'In Africa there was a long debate over the matter; for after those who appealed across the sea had been excommunicated in the Council of Milevis, at which Augustine was present, the Roman pontiff attempted to get the decree revised. He sent legates to make it appear that he had been given this as a privilege by the Council of Nicaea. The legates brought forth the acts of the Council of Nicaea which they had taken from the archives of their own church. The Africans resisted, denying that the Roman bishop ought to be believed when pleading his own cause. Accordingly, they said that they would send to Constantinople, and to other cities of Greece, where less suspect copies were available. It was found that no such thing as the Romans had pretended was written in these. Thus was the decree ratified which denied to the Roman pontiff the supreme jurisdiction. In this infamous affair the shamelessness of the Roman pontiff himself appeared; for when by fraud he substituted the Synod of Serdica for that of Nicaea, he was caught red-handed in a manifest falsehood'.
- 39 'Is vero, quo Romae sedente leges concilii perscriptae sunt, quo nomine vocabatur? Celestinus Papa, ut epistola concilii ad Romanum Pontificem declarat: ubi etiam narratur Bonifacium interea mortuum. Quorsum haec? Ut perspicua omnibus esset possit, non unius Bonifacii, sed duorum Pontificum Romanorum perdita et profligata audacia, qui unius prope, dimidiatique anni moram ducentis decem et septem patribus Carthagine in concilio coactis injecerunt, dum et exemplaria undique terrarum petita expectantur, et de ipsorum privilegiis summis contentionibus Legatorum Romanorum opera et malitia disceptatur'.
- 40 Compare Hotman's Latin translation of the canon (*DSPE*, pp. 55–56) with Gratian's text (*ibid.*, p. 56): 'Renovantes quae a CL sanctis Patribus, qui in hac a Deo servata et regia urbe convenerunt, et DCXXX qui Calchedone congregati fuere, sancita

sunt, definimus, ut Constantinopolis sedes pari fruatur honoris primatu, atque sedes antiquioris Romae: et in Ecclesiasticis negotiis aequae atque illa magnificetur: cum sit post illam secunda, post quam Alexandrinorum megalopolis, et post hanc Hierosolymarum; Renovantes [...] sancti Constantinopolitani decreta concilii, petimus, ut Constantinopolitana sedes, similia privilegia quae inferior Roma habet, accipiat, non tamen in Ecclesiasticis rebus magnificetur ut illa, sed haec secunda post illam existens, prius quam Alexandrina sedes numeretur, deinde Antiochena, et post eam Hierosolymitana’.

- 41 ‘Nos totum illud tam ingens volumen Gratiani, quod Decretum appellatur, similibus falsitatibus atque corruptionibus refertum esse testamur, et si quando otium suppediet, nos planum facturos profitemur’.
- 42 ‘Thus Gratian, whether out of malice or naïveté I do not know, in referring to that decree, “That those who appeal across the sea be cut off from communion,” adds the exception, “Unless perchance they should appeal to the Roman see.”’ On Calvin’s ‘soft’ treatment of traditional canonical authorities, like Gratian, see [Leveleux-Teixeira \(2012\)](#).
- 43 ‘Istum igitur versum, et a Gratiano perfidiosissime sublatum esse dico, et abs te suppressum: et hoc amplius, quum isto capite non alia de causa transmarinae appellationes prohibeantur, nisi ut libi et cupiditas Romanorum Pontificum refutetur, sicuti etiam modo confessus es: Gratianum falsi manifesto crimine convictum esse, quod eam exceptionem adscripsit, quae legem totam funditus evertit’.
- 44 ‘Praeterea paulo supra falsitatem Gratiani demonstravimus: et Romanum in Constantinopolitano concilio Patriarcham primum nominari ostendimus’.
- 45 ‘Haec sunt hominis elegantissimi et eruditissimi placita, ex cuius ludo quasi ex equo Trojano omnes se Canonici juris doctores, profectos gloriantur’.
- 46 ‘Quasi vero tam late Apostolorum aetate regnum Christi propagatum fuerit: ut in creandis Patriarchis, qui multis simul regionibus praeessent, occupati fuerint, quum satis constet amplius centum annos post Apostolorum aetatem, Christianis non nisi nocturnos et clandestinos coetus celebrare licuisse’.
- 47 ‘For as we have been amply equipped by the Word of the Lord for the full proof of our teaching and for the overthrow of all popery, and consequently there is no great need to require anything additional, so, if the matter should require it, the ancient councils would in large measure provide us enough evidence for both these’.
- 48 ‘Yet, for the sake of our prime concern which is to discourse on Justinian’s books, I will add this word. Just as gardeners think their roses, wallflowers and carnations smell much better if they plant garlic and onions under them, in as much as the bitterness and sharpness which is in them will be purged and consumed: likewise when the filth of the Canon law and the cavilling scribblers is linked with Justinian’s books it has hitherto been the object of all the envy and ill-will of legal proceedings and lawsuits, as if this alone were the cause: while the books of the Pandects have remained higher than ever in value, honour and reputation. However, all things considered this topic does not directly serve our purpose. For our intention is not to expose the external vices and corruptions which have sprung from elsewhere in the practice of the laws, but only to expose the interior vice which seems to lie in the very nature of Tribonian’s books and their application’.
- 49 ‘Once these two or three volumes had been thus composed, and the young having been required to spend their time until the age of twenty or twenty-two years on familiarising themselves with good literature and human sciences and above all moral philosophy, they should be sent for one or two years to some school or university in which some notable Jurisconsults would debate and discourse on the equity of the laws; and then a little later should devote themselves to its practice and exercise, so that by these means and instruction they would be guided, led and directed, just as we said above to have been the ancient custom of the Romans. Thereby young men would have leisure to apply themselves intermittently to some other study, such as to holy scripture or to philosophy, and to histories, and always to render account of the result and outcome at the end of their study, not (like most legal practitioners) to propagate and multiply lawsuits, but for the peace, concord and tranquillity of their citizens, and to the honour and glory of God, whom I beg so to direct the young people of our France that we may have occasion to praise him for it and to bless his holy Name’.

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