

# Sedevacantism Refuted? Some Common Objections

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## Conclave rules, public heresy, notoriety, declarations.

TRADITIONALIST TRACTS posted on the Internet continue to circulate some of the same objections to sedevacantism.

A recent example is the rather optimistically-entitled “Sedevacantism Refuted” by Thomas Sparks, a tertiary of the St. Benedict Center group.

Mr. Sparks’ article is prolix. Nevertheless, he gathers together some of the more commonly-heard arguments against sedevacantism — those based on Pius XII’s legislation for papal elections, the canonical concepts of “public” and “notorious” heresy, a supposed need for official declarations, the famous quote from St. Robert Bellarmine on “resisting” a pope who harms souls, and a few others.

It is worth revisiting these objections now and again. Most can be dealt with summarily, simply by restating a few principles of canon law.

I will begin with one general observation.

Like many who have written against sedevacantism, one fundamental flaw runs through Mr. Sparks’ article: he seems utterly unaware of the distinction between human ecclesiastical (canon) law and divine law, and how this distinction applies to the case of a heretical pope.

Heresy is both a **crime** (*delictum*) against *canon* law and a **sin** (*peccatum*) against *divine* law. The material Mr. Sparks quotes deals with heresy as a *delictum* and with the ecclesiastical censure (excommunication) that the heretic incurs.

This is mostly irrelevant to the case of a heretical pope. Because he is the supreme legislator and therefore not subject to canon law, a pope cannot commit a true *delictum* of heresy or incur an excommunication. He is subject only to the *divine* law.

It is by violating the *divine* law through the *sin* (*peccatum*) of heresy that a heretical pope loses his authority — “having become an unbeliever [*factus infidelis*],” as Cardinal Billot says, “he would **by his own will** be cast outside the body of the Church.” (*De Ecclesia*, 5th ed. [1927] 632.)

The canonist Coronata explains:

“If indeed such a situation would happen, he [the Roman Pontiff] would, **by divine law**, fall from office without any sentence, indeed, without even a declaratory one.” (*Institutiones Iuris Canonici* [1950] 1:316. My emphasis.)

So, all the canonical requirements governing the *delictum* of heresy need not be fulfilled for a heretical pope to lose his authority — his public sin against *divine* law (infidelity) suffices.

Despite this, the heresy of the post-Vatican II popes *does* indeed meet many of the criteria canon law lays down for the canonical *crime* of heresy, as we will see in points 2 and 3 below.

That said, we turn to some of the particular objections Mr. Sparks and others have adduced against sedevacantism.

**1. Papal Election Legislation.** *OBJECTION: The law for papal elections promulgated by Pius XII allows a heretic to be validly elected pope.*

False. Heresy is an impediment of *divine* law to receiving papal authority:

*“Appointment to the Office of the Primacy [i.e. papacy]. 1° What is required by divine law for this appointment... For validity it is also required that the person appointed be a member of the Church. Heretics and apostates (at least public ones) are therefore excluded.”* (Coronata, *Inst. I.C.* 1:312. My emphasis)

Pius XII’s Constitution suspends impediments of *ecclesiastical* law only — censures such as excommunication, etc. (See para. 34: “...aut alius *ecclesiastici* impedimenti praetextu.”) It does not and could not suspend impediments of *divine* law.

The Constitution is therefore irrelevant to a discussion of the *sede vacante* position, properly understood.

**2. Public Heresy.** *OBJECTION: For a pope’s heresy to be “public,” canon law requires that large numbers of people throughout the Church actually recognize a pope’s statements as heretical.*

False.

Such “actual publication [*divulgatio seu notitia actualis*]” the canonist Michels says, is not required — only “the positive danger that publication can easily and proximately take place [*facilis et proximae divulgationis*].” This would occur, for example, “in surroundings necessarily accompanied by publication, such as one committed in a public place or gathering with many persons present, or through a means naturally directed toward publication, such as heresy professed in a public journal.” (*De Delictis et Poenis* [Paris: Desclée 1961] 1:131. My emphasis.)

Heresy proclaimed to the crowds in St. Peter’s Square or published in *Osservatore Romano*, therefore, is public as regards ecclesiastical law, no matter how few people fail to recognize what is said as heretical.

**3. Notorious Heresy.** *OBJECTION: For a pope’s heresy to be “notorious,” moreover, canon law requires that large numbers of people throughout the Church actually recognize a pope’s formal, pertinacious guilt; even then, various excuses from culpability would also excuse a pope from “notorious” heresy.*

False on both counts:

(A) The public notice (*notitia publica*) required for notoriety is also present when the existence of an offence is “established in a public way” (*constat publico modo*).

This occurs, Michels says, when it “is established through authentic public documents... because such documents of their nature are open to inspection by many people, and therefore necessarily bring with them public notice.” (*De Delictis* 1:140)

The authentic public digest for all the documents of the Holy See is the *Acta Apostolicae Sedis*. (See canon 9.) Publishing heretical decrees, pronouncements and encyclicals in the *Acta* would therefore render heresy notorious.

(B) The Code of Canon Law gives seven general causes that exclude moral culpability (and hence “notoriety”) in an offense:

lack of reason, habitual inculpable ignorance, actual inculpable inadvertence or error, involuntary intoxication, physical force, uncontrollable passion preceding an act of the will, and legitimate self defense. (See canon 2199ff.)

In plain English these boil down to: I was crazy, stupid, daydreaming, drunk, strong-armed, angry or defending myself.

Of the many speculative excuses Mr. Sparks and others offer for the heresies of the post-Conciliar popes, the only ones that seem to fit on this list imply some sort of ignorance — the “I-was-stupid” excuse.

But in the case of a pope, would pleading “theological ignorance” save the day?

*“If the delinquent making this claim be a cleric, his plea for mitigation must be dismissed, either as untrue, or else as indicating ignorance which is affected, or at least crass and supine... His ecclesiastical training in the seminary, with its moral and dogmatic theology, its ecclesiastical history, not to mention its canon law, all insure that the Church’s attitude towards heresy was imparted to him.” (McDevitt, *The Delict of Heresy*, CU Canon Law Studies 77 [Washington: 1932]48. My emphasis)*

Paul VI and John Paul II were both bishops who had earned Roman doctorates. Does this make for a convincing “I-was-stupid” defense?

**4. Need for a Declaration.** *OBJECTION: Before a heretical pope would lose his authority, the cardinals would first need to make a declaration.*

False, for four reasons:

(A) Most traditionalist writers, including Mr. Sparks, confuse two things: actual *loss of authority* by a heretical pope and the *legal declaration* canon law would require before the cardinals (or, according to some, an imperfect general council) could elect his successor.

If a heretical pope continued to function *de facto* as if he were still the Successor of Peter, the electors would then have to declare that the papal office was vacant *de jure* before they could validly elect anyone else. (See canon 151 for the general principle applicable to all ecclesiastical offices.)

This, it seems, explains why a few canonists spoke about the need for a declaration.

(B) In *Cum ex Apostolatus Officio* (1559), Paul IV decreed that no declaration was necessary for a heretical pope to lose his office; it would occur automatically. (See para. 6: “eo ipso, absque aliqua desuper facienda declaratione.”)

(C) Nearly all theologians who treated the question after *Cum ex Apostolatus* (including St. Robert Bellarmine) taught that a heretical pope would lose his authority without any declaration. (See the texts I reproduce in *Traditionalists, Infallibility and the Pope*.)

(D) But raising the issue in the present circumstances is a red herring anyway. Should we expect modernist cardinals to depose a modernist pope by declaring him a modernist heretic?

**5. Bellarmine and “Resistance.”** *OBJECTION: Bellarmine, Cajetan and other theologians teach that a pope can “somewhat” destroy the Church; he remains a true pope, but Catholics are permitted to resist him. Based on this principle, traditionalists can “resist” the post-Vatican II popes, while continuing to recognize them as true*

popes.

False — and a major misreading of Bellarmine.

Countless traditionalist writers (Mr. Sparks included) mindlessly recycle a quote from St. Robert Bellarmine that is usually rendered as follows:

“Just as it is licit to resist a Pontiff who attacks the body, so also is it licit to resist him who attacks souls or destroys the civil order or above all, tries to destroy the Church. I say that it is licit to resist him by not doing what he orders and by impeding the execution of his will. It is not licit, however, to judge him, to punish him, or to depose him, for these are acts proper to a superior.” (*De Romano Pontifice*, II.29.)

This, we are told, supports the notion that the traditionalist movement can “resist” the false doctrines, evil laws and sacrilegious worship that Paul VI and his successors promulgated, but still continue to “recognize” them as true Vicars of Christ. (This strange idea is also attributed to other theologians such as Cajetan.)

The same passage — we are also told — shoots down the principle behind sedevacantism (that a heretical pope automatically loses his office) because sedevacantists “judge” and “depose” the pope.

But these conclusions are simply another example of low intellectual standards in traditionalist polemics. Anyone who consults the original sources for the Bellarmine passage and who understands a few fundamental distinctions in canon law can easily see that:

(a) Bellarmine is talking about a morally *evil* pope who gives morally evil *commands* — not one who, like the post-Vatican II popes, teaches doctrinal error or imposes evil laws.

(b) The context of the statement is a debate over the errors of Gallicanism, not the case of a heretical pope.

(c) Bellarmine is justifying “resistance” by *kings and prelates*, not by individual Catholics.

(d) Bellarmine teaches in the *next* chapter of his work (30) that a heretical pope automatically loses his authority.

A brief comment on each of these points is in order.

(A) **Evil Commands, not Laws.** Traditionalists do indeed “resist” the false doctrines (e.g., on ecumenism) and evil laws (e.g. the New Mass) promulgated by the post-Conciliar popes.

But in the famous quote Bellarmine addresses another case entirely: he has been asked about a pope who unjustly attacks someone, disturbs the public order, or “tries to kill souls by his bad example.” (*animas malo suo exemplo nitatur occidere.*) In his reply he says “it is licit to resist him by not doing what he orders.” (*...licet, inquam, ei resistere, non faciendo quod jubet.*)

This language describes a pope who gives bad *example* or evil *commands*, rather than — as would be the case with Paul VI or his successors — a pope who teaches *doctrinal error* or imposes *evil laws*. This is clear from chapter 27 of Cardinal Cajetan’s *De Comparatione Auctoritatis Papae et Concilii*, which Bellarmine then immediately cites to support his position.

First, in his title for chapter 27 Cajetan says he is going to discuss a type of papal offense “other than heresy.” (*ex alio crimine quam haeresis.*) Heresy, he says, completely alters a pope’s status as a Christian (*mutavit christianitatis statum*). It is the

“greater crime” (*majus crimen*). The others are “lesser crimes” (*criminibus minoribus*) that are “not equal to it” (*cetera non sunt paria*, [ed. Rome: Angelicum 1936] 409).

Neither Bellarmine nor Cajetan, therefore, are referring to “resisting” a pope’s doctrinal errors while continuing still to consider him a true pope.

Second, throughout *De Comparatione*, Cajetan provides specific examples of the papal misdeeds that *do* justify this resistance on the part of subjects: “promoting the wicked, oppressing the good, behaving as a tyrant, encouraging vices, blasphemies, avarices, etc.” (356), “if he oppresses the Church, if he slays souls [by bad example]” (357), “dissipating [the Church’s] goods” (359), “if he manifestly acts against the common good of charity towards the Church Militant” (360), tyranny, oppression, unjust aggression (411), “publicly destroying the Church,” selling ecclesiastical benefices, and bartering offices (412).

All these involve evil commands (*praecepta*) — but evil commands are not the same as evil laws (*leges*). A *command* is particular and transitory; *law* is general and is stable. (For an explanation, see R. Naz, “Précepte,” *Dictionnaire de Droit Canonique*, [Paris: Letouzey 1935-65] 7:116–17.)

Bellarmino and Cajetan’s argument justifies only resisting a pope’s evil commands (to sell a benefice, say). It does not support the notion that a pope, while still retaining authority from Jesus Christ, can (for example) impose a sacrilegious, Protestantized Mass on the whole Church, whose members can then “resist” him, while continuing to recognize him as a true pope.

(B) **Anti-Gallicanism.** Traditionalist writers have further distorted the passage because they quote it out of context.

It appears in Bellarmine’s discussion of an issue completely unrelated to any faced by present-day traditionalists: the Protestant and Gallican arguments that the Church or the pope should be subject to a king or a general council. The passage comprises merely *one sentence* in a chapter that covers two-and-a-half, two-column quarto pages of fine print devoted to this topic. (See *De Controversiis* [Naples: Giuliano 1854] 1:413-18).

Specifically the passage is taken from Bellarmine’s reply to the following argument:

“*Argument 7.* Any person is permitted to kill the pope if he is unjustly attacked by him. Therefore, even more so is it permitted for kings or a council to depose the pope if he disturbs the state, or if he tries to kill souls by his bad example.” (*op. cit.* 1:417)

This was the position of the Gallicans, who placed the authority of a general council above that of a pope.

It is absurd to claim that one sentence in Bellarmine’s reply to *this* argument somehow justifies across-the-board “resistance” to the post-Vatican II errors.

The absurdity becomes all the more evident when you notice that immediately after this one sentence Bellarmine cites Cajetan’s *De Comparatione* — all 184 octavo pages of which were written to refute the errors of Gallicanism and Conciliarism.

(C) **Not Individual “Resistance.”** In context, furthermore, the quote from Bellarmine does not justify “resistance” to popes by *individuals* — as some traditionalists seem to think — but re-

sistance by *kings* or *general councils*

The Gallican position that Bellarmine refuted maintained that it is permitted “for *kings* or a *council*” (*licebit regibus vel concilio*) to depose a pope. Nothing about individual priests or laymen there.

Once again this meaning is clear from Cajetan’s chapter 27.

“Secular princes and the prelates of the Church [*principes mundi et praelati Ecclesiae*],” he says, have many ways available for arranging “resistance or an obstruction to an abuse of power [*resistentiam, impedimentumque abusus potestatis*].” (412).

It is therefore impossible to maintain that Bellarmine and Cajetan were addressing the issue of an *individual* Catholic resisting the pope.

(D) **Bellarmino and a Heretical Pope.** And finally, in the chapter that follows the famous quote (30), Bellarmine explicitly treats the question: “Whether a heretical pope can be deposed.” (*An papa haereticus deponi possit.*)

Bellarmino refutes answers given by various theologians, including Cajetan, who maintained that a heretical pope would need to be deposed. He bases his own answer on the following principle:

“Heretics are outside the Church even before their excommunication, and, deprived of all jurisdiction, are condemned by their own judgement, as St. Paul teaches in Titus 3.” (*op.cit.* 1:419)

The saint concludes:

“The fifth opinion therefore is the true one. A pope who is a manifest heretic automatically (*per se*) ceases to be pope and head, just as he ceases automatically to be a Christian and a member of the Church. Wherefore, he can be judged and punished by the Church. This is the teaching of all the ancient Fathers who teach that manifest heretics immediately lose all jurisdiction.”

Bellarmino’s writings, then, *support* rather than refute the principle behind the sedevacantist position: a heretical pope is self-deposing.

In sum: It is utterly indefensible to claim that the famous passage in Bellarmine “refutes sedvacantism,” and at the same time justifies “resistance” to a true pope who somehow promulgates false doctrines and evil laws. Such a fanciful interpretation of Bellarmine is based on ignorance of both the meaning of the text and its context.

**6. Papal Heresy; “Truth” of the Sacraments:** *OBJECTION: Various popes have stated that a pope can teach heresy, and one even stated that “many popes were heretics.” According to Bellarmine, moreover, a pope can even enact legislation “against the truth of the sacraments.” In both cases, he remains a true pope.*

These two arguments against sedevacantism are less common than the five preceding ones, but they, too, are nevertheless false.

(A) To support the first argument, Mr. Sparks offers quotes from Popes Pius IX, Adrian VI and Adrian II stating that a pope can teach heresy. The only citation he provides for this material, however, is to “Viollet, *Papal Infallibility and the Syllabus*, 1908.”

Perhaps Mr. Sparks is unaware that, during the reign of St. Pius X, this work was placed on the Index of Forbidden Books. (Decree, 5 April 1906. See R. Naz, "Viollet, Paul-Marie," *Dict. Droit. Can.*, 7:1511)

(B) To support the second argument, Mr. Sparks assures us that "the famous theologian Juan Cardinal de Torquemada O.P. (+1468) quoted the great doctor of the papacy, St. Robert Bellarmine, telling us that a pope can 'command against (...) the truth of the sacraments.'" (Original emphasis and ellipsis.)

Well, I doubt it. Torquemada died 74 years before Bellarmine was born.

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To sum up the foregoing:

(1) It is by his public sin against divine law, rather than a crime (*delictum*) against canon law, that a heretical pope loses his authority.

(2) Pius XII's legislation for papal elections suspends impediments of ecclesiastical law only; it does not suspend the divine law, which excludes heretics from being validly appointed to the papal office.

(3) The heresies of the post-Conciliar popes would in fact qualify as public and notorious according to the norms of canon law.

(4) A heretical pope would lose his authority without the strict need for some legal declaration; should he continue to act as if he were pope, however, electors would need to declare the papal office legally vacant before they could proceed to a new election.

(5) St. Robert Bellarmine's famous statement on "resistance" does not, as many traditionalists think, justify "resisting" Paul VI and his successors while simultaneously regarding them as true popes.

Traditionalist controversialists who have raised objections like the ones addressed above share the same fundamental assumption: that the Supreme Pontiff, while retaining authority from Jesus Christ Himself, can teach doctrinal errors (even for decades), impose evil laws and promulgate a sacrilegious rite of the Mass. He can endlessly spew spiritual poisons far and wide, which the individual Catholic is then left to "resist" as he sees fit.

Such a system renders papal authority meaningless and attacks the infallibility and indefectibility of the Church.

Sedevacantism, on the other hand, preserves the Catholic teaching on the authority of the pope and on indefectibility and infallibility of Christ's Church, because it treats the doctrinal errors and evil laws that proceeded from Paul VI and his successors as proof that these men did not in fact possess the authority of the Catholic Church.

For while a pope can indeed defect from the faith, the true Church by Christ's promise never can.

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## Bibliography

BELLARMINE, Robert. *De Romano Pontifice*. In *De Controversiis Christianae Fidei*. Naples: Giuliano 1836. 2 vols.

BILLOT, L. *Tractatus de Ecclesia Christi*. 5<sup>a</sup> ed. Rome: Gregorian 1927. 2 vols.

CAJETAN, Thomas de Vio Cardinal. *De Comparatione Auctoritatis Papae et Concilii, cum Apologia ejusdem Tractatus*. Scripta Theologia vol 1. Rome: Angelicum

1936.

CEKADA, A. *Traditionalists, Infallibility and the Pope*. Cincinnati 1995. Available from St. Gertrude the Great Church, 4900 Rialto Rd., West Chester OH 45069.

Code of Canon Law. 1917.

CORONATA, M. *Institutiones Juris Canonici*. 4th ed. Turin: Marietti 1950. 3 vols.

MCDEVITT, G. *The Delict of Heresy*. CU Canon Law Studies 77. Washington: 1932.

MICHELIS, G. *De Delictis et Poenis*. Paris: Desclée 1961. 3 vols.

NAZ, R., "Précepte," in R. Naz, ed., *Dictionnaire de Droit Canonique*. Paris: Letouzey 1935-65. 7 vols. 7:116-21.

— "Violet, Paul-Marie," in *Dict. Droit. Can.*, 7:1511-12.

PAUL IV. Bull *Cum ex Apostolatus Officio*, 15 February 1559.

PIUS XII. Constitution *Vacantis Apostolicae Sedis*, 8 December 1945.

SPARKS, T. (Br. Benedict Mary MICM Tert.). "Sedevacantism Refuted." At [www.romancatholicism.org](http://www.romancatholicism.org).