

# The Resignation of Benedict XVI Between History, Law and Conscience

Stefano Violi

Theological Faculty of Emilia Romagna – Faculty of Theology (Lugano)

## Introduction

“Knowing well the gravity of this act, with full liberty, I declare that I renounce the ministry of the Bishop of Rome, Successor of St. Peter.”

With these words, which in a few seconds traveled around the world, Pope Benedict XVI, on February 11, 2013, before the Cardinals met in consistory, declared his resignation in Latin. The gesture, seemingly unheard of,<sup>1</sup> appears to be in full harmony as much with the history of the Church and its juridical order as with the personal history of the Bishop of Rome or Pope emeritus.<sup>2</sup>

The name Benedict itself, chosen by Cardinal Joseph Ratzinger on April 19, 2005, at the moment of his election to the throne of Peter, already recalled the renunciation of the papacy, effectuated according to some historians, by Benedict V (964).<sup>3</sup> Benedict IX (1045) also resigned the papacy, at least according to the tradition accepted and proposed by St. Peter Damiani in *De Abdicatione E Episcopatus*, a work written to legitimate his renunciation of the dignity of the cardinalate.<sup>4</sup>

From the canonical point of view, the legal institution found its first normative formulation in the *Liber Sextus* promulgated by Boniface VIII, born Benedetto Caitani. To that norm is referred Canon 332, §2 CIC 1983 which repeats, with slight modifications, Canon 221 of the preceding Code, promulgated by Benedict XV in 1917.

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<sup>1</sup>I use the expression [“unheard of”] employed by the cardinals who opposed the attempt to resign by Celestine III around Christmas of 1197, a few days before his death: «Sed omnes cardinales una voce responderunt, quod illum conditionaliter non eligerent, dicentes, quod inauditum erat, quod summus Pontifex se deponeret», Ruggiero di Howden, *Chronica*, ed. Stubbs, London 1871, IV, 32.

<sup>2</sup>“It is evident that a Pope who resigns is no longer Pope, therefore he no longer has any power in the Church and cannot intervene in any affair of government. One may wonder whether he will retain the title Benedict XVI. We think the title Bishop Emeritus of Rome should be attributed to him, as with any other diocesan bishop whose office ceases.” (G. Ghirlanda, *Cessation of the Office of the Roman Pontiff*, in *La Civiltà Cattolica*, 3905 (2013), pp. 445-462 at p. 448. Benedict XVI, disregarding the indication by Ghirlanda, decided instead to be called Pope Emeritus.

<sup>3</sup>Cfr. O. Guyotjeannin, voce *Rinuncia*, in *Dizionario storico del papato*, Milano, 1996, 1263 ss.; P. Grandfield, Papal resignation, in *The Juris*, 38 (1978), pp. 118-123. With some reserve, also A. M. Piazzoni, *Storia delle elezioni pontificie* [History of Pontifical Elections], Casale Monferrato, 2003, pp. 69, 102, 155. Of a different view, V. Gigliotti, *La renuntiatio Papae nella riflessione giuridica medievale* [The Papal Resignation in Medieval Juridical Reflections], in *Rivista di Storia del diritto italiano* [The History of Italian Law], LXXIX (2006), pp. 316 ff.

<sup>4</sup>The holy monk, unwillingly elected Cardinal and Bishop of Ostia in 1057, in adducing precedents to legitimate his own resignation, referred expressly to the *exemplum* of Benedict, who did not hesitate to renounce the office he had received: «Porro autem et B. Benedictum instar magni cujusdam pontificis, possumus ad exemplum imitationis inducere, qui videlicet commissum non ambigitur regimen dimisisse», Opusculum XIX. *De abdicatione episcopatus*, PL 154, p. 441C.

## 1. Historical precedents, doctrinal debates and normative formulations.

As is known, in the first centuries of the Church, accounts of the resignation of a Bishop of Rome are not evidenced in the documentary production sufficiently to permit a deep critico-philological study. An episcopal resignation or deposition tended to be equated with apostasy.<sup>5</sup>

The three cases of resignation most widely received in the medieval literature of the “presumed popes” Clement of Rome, Ciriaco and Marcellino, while today appearing to be untenable, from the 12<sup>th</sup> to the 15<sup>th</sup> century were used as examples or authoritative precedents to argue for the liceity of papal resignations.

Greater historical reliability seems to be present with the resignations of Popes Pontian (231-235), Cornelius (251-253) and Liberius (352-366).<sup>6</sup> According to more recent historiography the resignation of Pontian, deported to Sardinia and condemned *ad metalla* [to work in the mines] during the persecution by Maximinus Thrax [the Roman emperor, Maximinus I]), constitutes the first documented resignation in the history of the Church.<sup>7</sup>

For further testimonies regarding renunciations of the papacy, it will be necessary to wait until the 11<sup>th</sup> century. From the end of the 4<sup>th</sup> century to the 10<sup>th</sup> century, the sources evidence resignation from the episcopate for the motive of *zelum melioris vitae* [the desire to lead a religious life] or because of *malitia plebis* [serious opposition from the faithful].<sup>8</sup> Requesting that Pope Nicholas accept his resignation from the episcopate, St. Peter Damian adduced as the principal cause old age, an age more suited to the contemplative than the active life.<sup>9</sup>

Meriting particular mention is the attempted resignation by Celestine III, by then near death, which took place at the end of 1197, to which the Cardinals refused their consent.

Innocent III, his successor, in a discourse on the consecration of the pontiff, invoking the topic of the *sprituale coniugum* [spiritual espousal] between the Supreme Pontiff and the Church of Rome, declared the link indissoluble unless it be on account of death; continuing the nuptial metaphor, he declared the divorce illicit, be it accomplished

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<sup>5</sup>On the presentation of true or presumed resignations from the papacy, I follow V. Gigliotti, *La Renuntiatio Papae nella riflessione giuridica medievale* [The Papal *renuntiatio* in medieval juridical reflection], op. cit., pp. 301 ff, to which I refer here for in-depth analysis.

<sup>6</sup>V. Gigliotti, *La Renuntiatio Papae*, op. cit., p. 310.

<sup>7</sup>A. M. Piazzoni, *Storia delle elezioni pontificie*, op. cit., p. 22.

<sup>8</sup>Doubtful cases are those of Martin I (654-655), Benedict V (964), John XVIII (1009?), Benedict IX, Gregory VI, Gregory VI. On this point cf. V. Gigliotti, *La Renuntiatio Papae*, op. cit., pp. 314-315; 321-326.

<sup>9</sup>Thus the opening words of the written supplication addressed to Nicholas II: «Orat pontificem summum, suppliciterque obsecrat, ut sibi episcopatus onus deponere permittat: causas praecipuas affert, quod senior sit, et idcirco quieti magis quam laboribus idoneus; quod illud laboriosum munus non sponte, sed coactus susceperit, et denique quod propter sua peccata, ut ipse inquit, indignus sit qui in tam excelso honoris et dignitatis fastigio sedeat. Licere autem, si ita tempus aut ratio postulet, episcopatu se abdicare, plurimis sanctorum virorum et exemplis et auctoritatibus comprobatur. In fine Deum precatur, ut eam pontifici mentem det, qua suis votis satisfaciatur»; Pier Damiani, *Opusculum XIX. De abdicatione episcopatus*, PL 145, p. 423A.

voluntarily (*renuntiatio*) or induced involuntarily (*depositio*), [the latter being] admissible only in the case of heresy.<sup>10</sup>

The position stated by Innocent III will constitute one of the principal articles in the debate concerning *renuntiatio* [resignation]. In fact, at the end of the 12<sup>th</sup> century there begins the canonical reflection on resignation. The few and sketchy sources regarding papal resignation led to the adoption of a model of resignation taken from the case of a bishop.<sup>11</sup>

The basic elements will be found in decretal doctrine in the case of resignation and in the *defectus superioris* [lack of a superior] or in the impossibility of submitting a resignation to a hierarchical superior. Baziano, in a gloss attributed to him and reported in one of the first *apparatuses* (collection of texts) of the Gratian decretals, recognized as a valid grounds for a legitimate resignation the desire to embrace the religious life (*religionem migrare*), infirmity (*egritudine*) and old age (*senectute*). Uguccione of Pisa added to the cited causes the phrase: *si expediret; alias peccaret*.<sup>12</sup> resignation will be recognized as the right of a pope only in the measure in which the good of the Church derives from it. The introduction of the principle *bonum commune Ecclesiae* [common good of the Church] transfers the question of renunciation from the plane of objective law to that of the internal forum of the conscience.<sup>13</sup>

The Decretals of Gregory IX do not touch upon the theme of papal resignation, limiting themselves to the discipline, in Chapter IX of Book I, of episcopal resignation. This, according to the decretal *Licet quibusdam* of Innocent III, is not acceptable when the requester can still exercise the episcopacy with usefulness.<sup>14</sup> In the decree *Nisi cum predem* the cases in which episcopal renunciation is admissible are weakness of body, awareness of a sin, irregularity, hostility of the people, a grave scandal, and lack of the necessary knowledge.<sup>15</sup> Old age, understood as a cause of *debilitas corporis*, together with sickness, constitutes one of the principal legitimizations for resignations.<sup>16</sup> On the other hand, not considered legitimate are the desire to flee the eminent position connected with the episcopal office, the aspiration of eluding the honor and functions proper to the

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<sup>10</sup> «Sacramentum autem inter Romanum pontificem et Romanam Ecclesiam tam firmum et stabile perseverat, ut non nisi per mortem unquam ab invicem separentur; quia mortuo viro mulier, secundum Apostolum, “soluta est a lege viri (Rom. VII)”. Vir autem iste alligatus uxori, solutionem non quaerit, non cedit, non deponitur; nam “suo domino aut stat, aut cadit (Rom. XIV)”. – “Qui autem iudicat, Dominus est (I Cor. IV)”. Propter causam vero fornicationis Ecclesia Romana posset dimittere Romanum pontificem. Fornicationem non dico carnalem, sed spiritualement; quia non est carnale, sed spirituale onjugium, id est propter infidelitatis errorem», Innocent III, Sermones de diversis [various sermons], III, PL 217, pp. 664D-665A.

<sup>11</sup>Cfr. V. Gigliotti, *La Renuntiatio Papae*, cit., p. 330.

<sup>12</sup>«Sed numquid papa hodie posse se ipsum deponere uel abrenunciare et intrare monasterium? Credo quod sic, si expediret; alias peccaret. Et nunc eo uiuente substitueretur», Uguccione da Pisa, *Summa Decretorum*, glossa tuo ore a D. 21 c. 7.

<sup>13</sup>Cfr. V. Gigliotti, *La Renuntiatio Papae*, cit., p. 332.

<sup>14</sup>«Quando potest episcopus praeesse pariter prodesse, non debet cedendi licentiam postulare, aut etiam obtinere» (X.3.31.18).

<sup>15</sup>«Intueri te itaque, venerabilis frater noster in Christo, volumus, quod haec sunt illa, per quae cedendi episcopus officio pastoralis licentiam potest postulare: conscientia criminis, debilitas corporis, defectus scientiae, malitia plebis, grave scandalum, irregularitasque personae» (X.1.9.10).

<sup>16</sup>«Alia vero causa est debilitas corporis, propter quam aliquis potest petere ab onere sollicitudinis pastoralis absolvi, quae videlicet vel ex infirmitate, vel ex senectute procedit; nec tamen omnis, sed illa solummodo, per quam impotens redditur ad exsequendum officium pastorale» (X. 1.9.10).

bishop, the desire to escape from persecution not yet underway but only threatened and the *zelum melioris vitae* [envy or coveting of a better life].<sup>17</sup>

St. Thomas, intervening in the debate, required for the legitimacy of the resignation that one can no longer govern the diocese without grave prejudice to the *salus animarum* of the faithful.<sup>18</sup>

The interpretative extension of the *Liber Extra* provided for bishops will be extended to the papal resignation with Pope Celestine V who, in 1294, on the occasion of his renunciation of the pontificate—as reflected in the norm *Quoniam aliqui* of his successor Boniface VIII—established that the Roman pontiff could freely resign.

The reactions were immediate. Ubertino of Casale called the resignation of Celestine V *horrenda novitas* [a horrendous novelty]. On the other hand, pronouncing himself in favor of its legitimacy was Godfrey of Fontaines (d. 1306). The theological master at the Sorbonne, applying the Aristotelian-Thomistic principle of *causa finalis* [final cause or end] held that the resignation, if well founded, is not only licit but even obligatory, with the end of avoiding a grave damage to the Church.<sup>19</sup> Egidio Romano (1243-1316) holds that where the Pope deems himself unable to govern, he performs a meritorious work if the renunciation will do no harm to the public good.<sup>20</sup> According to Giovanni Quidort (d. 1306), the affirmation of the papal primacy takes the form of a *cura animarum* [care of souls] that subordinates *potestas* [power] to *servitium* [service]; the papal power is more *ministerium* [ministry] than *dominium* [dominion].<sup>21</sup> Peter of Auvergne (1350-1420) based the legitimacy of the resignation on the same divine command that concerns the accomplishment, according to reason, of all that is clearly necessary for the *salus* and at the same time prohibits that which is contrary to it.<sup>22</sup>

From the normative point of view, the discipline concerning papal resignation found its express codification in the norm *Quoniam aliqui*, inserted by Boniface VIII in Book I, Chapter VII of the *Liber Sextus*.<sup>23</sup>

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<sup>17</sup>Cfr. V. Gigliotti, *La Renuntiatio Papae*, cit., pp. 334-335.

<sup>18</sup>«Sed si salutem aliorum procurare non possit, conveniens est ut suae saluti intendat», Tommaso d'Aquino, *Summa Theologicae*, II-II, q. 185, art. V, t. 4.

<sup>19</sup>Cfr. V. Gigliotti, *La Renuntiatio Papae*, cit., p. 359.

<sup>20</sup>«Sed si videret se insufficientem ad gubernandam Ecclesiam, et quia nollet, quod bonum publicum sub ipso langueret, si hoc modo cederet, multum mereretur. In potestate quidem sua est cedere, cum vult. Et si cedat, tenebit eius cessio. Sed caveat, quo animo id faciat», Egidio Romano, *De renuntiatione papae*, VI.

<sup>21</sup>Cfr. V. Gigliotti, *La Renuntiatio Papae*, cit., p. 362.

<sup>22</sup>«Racionabile enim est deum precipere quidquid secundum rationem evidenter necessaria ad salutem et prohibere omne contrarium. Hoc eciam ordinatum aut suppositum quod possibile est per dominum Celestinum, quod scilicet summus pontifex cedere possit in casu et ideo hoc simpliciter est tenendum», Pietro di Auvergne, *Quaestio XV del Quodlibet*, I.

<sup>23</sup>«Quoniam aliqui curiosi disceptantes de his, quae non multum expediunt, et plura sapere, quam oporteat, contra doctrinam Apostoli, temere appetentes, in dubitationem sollicitam, an Romanus Pontifex (maxime cum se insufficientem agnoscit ad regendam uniuersalem Ecclesiam, et summi Pontificatus onera supportanda) renunciare ualeat Papatui, eiusque oneri, et honori, deducere minus prouide uidebantur: Caelestinus Papa quintus praedecessor noster, dum eiusdem ecclesiae regimini praesidebat, uolens super hoc haesitationis cuiuslibet materiam amputare, deliberatione habita cum suis fratribus Ecclesiae Romanae Cardinalibus (de quorum numero tunc eramus) de nostro, et ipsorum omnium concordi consilio et assensu, auctoritate Apostolica statuit, et decreuit: Romanum Pontificem posse libere resignare. Nos igitur ne statutum huiusmodi per temporis cursum obliuioni dari, aut dubitationem eandem in reciduiam disceptationem ulterius deduci contingat: ipsum inter constitutiones alias, ad perpetuam rei memoriam, de fratrum nostrorum consilio duximus redigendum».

The norm will then be codified in Canon 221 of the Pisan-Benedictine Code of 1917<sup>24</sup> and, without substantial changes in can. 332 §2 of CIC 1983, which states thus: “in the case in which the Roman pontiff resigns his office there is required for validity that the resignation be freely made and duly manifested, but it is not necessary that it be accepted by anyone.”<sup>25</sup> In comparison with *Quoniam Aliqui* and can. 221 of 1917, which speak of resignation without further additions, can. 332 §2 specifies *muneris* [office].

## ***2. Conscientia mea iterum atque iterum coram Deo explorata...***

“Dear brothers, I have convoked this consistory not only for the three canonizations, but also to communicate to you a decision of great importance for the life of the Church after having examined my conscience at length before God...”<sup>26</sup>

At the vertex of a bimillennial juridical path, the resignation of Benedict XVI stands also as a sublime affirmation of the unquestionable primacy of conscience, a trait that distinguishes Benedict as a fully European man. In fact, in the original Latin the historic phrase of resignation opens with a solemn call to *conscientia* [conscience], the ultimate and unchallengeable subject of Benedict’s grave decision: *Conscientia mea iterum atque iterum coram Deo explorata...* The extraordinary confirmation of the theological and existential path of the last great European theologian of the twentieth century, the call to conscience constitutes the ultimate foundation of his choice. A *conscientia* formed through years of assiduous study of Socrates, Thomas More, Newman, “guides for the conscience,”<sup>27</sup> according to a definition given by Cardinal Ratzinger in the course of his famous lecture.

A conscience to be understood as opening oneself to the voice of truth and its demands.<sup>28</sup> The comment by Ratzinger on the Thomas More affair already preannounced features of the future biography: “for him conscience was not in any way an expression of subjective hardheadedness or stubborn heroism. He placed himself among the number of those anguished martyrs who, only after many hesitations and questions, constrained themselves to obey the conscience: to obey that truth which must stand higher than any social demand or any form of personal preference. There are highlighted two criteria to discern the presence of an authentic voice of conscience: it does not coincide with one’s desires or tastes; it does not identify with what is socially beneficial, with the consent of a group, with the needs of a political or social power.”<sup>29</sup>

Precisely this prolonged confrontation with the conscience examined before God, so intense, brought him to the gravest decision to resign.

The reflection on a step so grave was without question stimulated by the long and debilitating illness of John Paul II with consequences in all areas for the concrete management and governance of the Church. On April 19, 2005, Cardinal Joseph

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<sup>24</sup>«Si contingat ut Romanus Pontifex renuntiet, ad eiusdem renuntiationis validitatem non est necessaria Cardinalium aliorumve acceptatio».

<sup>25</sup>«Si contingat ut Romanus Pontifex muneri suo renuntiet, ad validitatem requiritur ut renuntiatio libere fiat et ite manifestetur, non vero ut a quopiam acceptetur».

<sup>26</sup>Benedetto XVI, *Declaratio*, 10 febbraio 2013.

<sup>27</sup>J. Ratzinger, *Coscienza e verità*, in Id., *La Chiesa: una comunità sempre in cammino*, Cinisello Balsamo 2008, pp. 139-169, qui 150.

<sup>28</sup>Ibid., p. 157.

<sup>29</sup>Ibid., p. 154.

Ratzinger, from the collaborator of John Paul II, became his successor. From that moment, the conclusions from the reflection begun during the illness of his predecessor would have involved his own destiny.

### 3. Affirmation of the Right-Duty to Resign

Benedict XVI had already manifested in a way his convictions in the matter of resignation in the book-interview with Peter Seewald, *Light of the World*, published by the Vatican publishing house Libreria Editrice Vaticana in November 2010. To the question by the journalist, “Have you ever thought of resigning?” Benedict XVI responded: “When the danger is great one cannot flee. That is because this is certainly not the moment to resign. It is precisely in moments like this that it is necessary to resist and overcome the difficult situation. That is my thought. One can resign in a moment of serenity. Or when one simply cannot do it any longer. But one cannot flee precisely in a moment of danger and say, ‘Let another handle it.’” Pressed by the journalist: “Therefore it is conceivable a situation in which you would hold it opportune that the Pope resign?”, he repeated: “When a pope reaches a clear awareness of no longer being able spiritually, mentally or physically to carry out the task entrusted to him, he then has the right and in some circumstances even the duty to resign.”<sup>30</sup>

On that occasion Benedict XVI had clearly spoken not of a mere faculty exercisable arbitrarily but inescapable duty of conscience where the Pope has reached a clear awareness that he is no longer able to carry out the task entrusted to him.

This duty is founded on the nature of the *sacra potestas* [sacred power] itself in the Church, on its ends and the limits of its exercise. Writing to Pope Eugene III, Saint Bernard of Clairvaux reminded him: *praesidium ut prodes* [you lead in order to serve], “you are head in order to be useful.” The formula was explained thus: “You preside in order to provide, to be consulted, to assist, to serve. You are the head in order to be useful: you are the head as the wise and faithful servant that the Lord has established for His family. Why? To provide food at the opportune time (Mt. 24:45). For this, to dispense not to command.”<sup>31</sup>

In the thinking of the Fathers of the Church, the definitive trait of the pastor is not so much that of being the head as being useful.<sup>32</sup> To be the head becomes, then, the

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<sup>30</sup>Benedetto XVI, *Luce del mondo. Il Papa, la Chiesa e i segni dei tempi. Una conversazione con Peter Seewald* [Light of the World: the Pope, the Church, and the Signs of the Times: A Conversation with Peter Seewald], Città del Vaticano 2010, pp. 52-53.

<sup>31</sup>«Ita et tu praesidium ut provideas, ut consulas, ut procures, ut serves. Praesidium ut prodes; praesidium ut fidelis servus et prudens, quem constituit Dominus super familiam suam. Ad quid? Ut des illis escam in tempore (Matth. XXIV, 45); hoc est, ut dispenses, non imperes», Bernard of Clairvaux, *De consideratione III*, 1, p. 2.

<sup>32</sup>The patristic formula, indicating the diaconal nature of power in the Church, is found in innumerable works of the Fathers. As Augustine affirms in *City of God*, XIX, 19, p. 19: «Non esse episcopum qui praesidium dilexerit, non praesidium curat». San Cesario di Arles dirà nel Sermo 230, 1: «Qui populo Dei non tam praesidium, quam praesidium desierit». In *Pastoral Rule II*, p. 6, writes Gregorio Magno: «Unde cuncti qui prosunt, non in se potestatem ordinis sed aequalitatem pensare condicionis; nec praesidium se hominibus gaudeant, sed praesidium». In Sermon XVII, 4, given to the bishops in the Lateran, Gregory rebukes those pastors who behave more as masters than as fathers (*pastores qui dominos se potius quam patres exhibent*), thus harming those one has instead the duty to help (*et quibus praesidium debuerant, nocent*).

instrument of being useful; the principle of legitimacy in the Church is founded, therefore, in its spiritual utility and advantage for the community.

From the knowledge of the diaconal-ministerial foundation of the *munus* [office] and of the *potestas* [power] it follows, then, that where the pastor finds himself in the impossibility of *being useful* to the people, there is diminished the legitimating cause of his being head. Thus, Ivo of Chartres, writing to Urban II, affirmed: “Since I see myself as being head, but not being useful, I often think of giving up pastoral care...”<sup>33</sup> Along these lines, following in the footsteps, already cited, of Godfrey of Fontaines, Peter of Auvergne, Egidio Romano and John of Quidort, there will be Benedict XVI: “In these last months I have felt my energies declining, and I have asked God insistently in prayer to grant me His light and to help me make the right decision, not for my own good, but for the good of the Church. I have taken this step with full awareness of its gravity and even its novelty, but with profound interior serenity. Loving the Church means also having the courage to make difficult, painful decisions, always looking to the good of the Church and not of oneself.”<sup>34</sup>

### 3.1 “Because of old age.”

The expression *ingravescente aetate*, used by Benedict XVI, expressly recalls the conciliar decree *Christus Dominus*, which, in n. 21, invites bishops to resign spontaneously on their own or following requests for resignation, when advanced age (*ob ingravescentem aetatem*) or other grave reason impedes them from carrying out their mission.<sup>35</sup> In the same tenor appears to be the prayer directed by the Council Fathers to parish priests in n. 31.<sup>36</sup>

Paul VI, giving effect to the votes of the Council Fathers, will, with his *Motu Proprio Ecclesiae Sanctae* of August 6, 1966, invite bishops and pastors to resign from the governance of dioceses and parishes “not later than age 75”; with his *Motu Proprio Ingravescentem aetatem*, he will apply the same rule to cardinals, inviting them to present their resignations from office at age 75, establishing besides loss of the right to vote for the election of the Roman Pontiff, and consequently of the right to enter the Conclave, at age 80. Precisely the decline of his powers on account of old age will be put forth by Benedict XVI as the grounds for his resignation.

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<sup>33</sup>«Unde video me praesesse, sed nulli fere proessee, saepe delibero renuntiare curae pastoralis, et ad pristinam quietem redire», Ivo of Chartres, *Epistle* 25.

<sup>34</sup>Benedetto XVI, *Udienza generale* del 27 febbraio 2013.

<sup>35</sup>«Cum igitur pastorale Episcoporum munus tanti sit momenti tantaeque gravitatis, Episcopi dioecesani aliique in iure ipsis aequiparati, si, ob ingravescentem aetatem aliamve gravem causam, implendo suo officio minus apti evaserint, enixe rogantur ut, vel sua ipsi sponte vel a competenti Auctoritate invitati, renuntiationem ab officio exhibeant. Competens autem Auctoritas, si illam acceptaverit, et de congruenti renuntiantium sustentatione et de peculiaribus iuribus iisdem recognoscendis providebit».

<sup>36</sup>«Parochi autem, qui ob ingravescentem aetatem aliamve gravem causam, ab officio rite et fructuose adimplendo impediuntur, enixe rogantur ut sua ipsi sponte, aut ab Episcopo invitati, officii renuntiationem faciant».

### 3.2 The innovative formula of resignation introduced by Benedict XVI.

Turning now to the formula used to state the resignation, two data emerge from the *declaratio*: in the first place, the lack of any reference to can. 332 § 2; in the second place a lexical choice different from that of the norm of *Quoniam alicui* of Boniface VIII, which speaks of resignation from the papacy (*renuntiare papatui*), and from the wording of the Code, which provides for the *renuntiatio muneris* (renunciation of office). The *declaratio* [by Benedict XVI] in fact affirms the *renuntiatio ministerio* [renunciation of ministry]. The novelty of Benedict XVI's formula can be grasped in all its magnitude by reconstructing the argumentative joints of the text.

After having recalled the primacy of conscience, Benedict affirms: "my strengths, due to an advanced age, are no longer suited to an adequate exercise of the Petrine ministry."<sup>37</sup> The awareness of conscience concerns the supervening unfitness to administer rightly the Petrine office (*munus*). Through this formulation (*vires meas... non iam aptas esse ad munus Petrinum aequae administrandum*), the office (*munus*) is distinguished from its administration. His powers appear unfit for the administration [exercise] of the *munus* [office], not for the *munus* itself.

The inadequacy of the administration of an office being recognized, the resignation would appear to be a duty. What is opposed [in Benedict's declaration] to a resignation so understood, however, is the eminently spiritual essence of the Petrine *munus*. In fact, reading the resignation under the optics of modern efficiency the sacred ministry is equated to the delegated administrator of a "Church society" which, when he is no longer capable, submits his mandate to the "shareholders"; the resignation, still considered according to modern optics, would exit the Pope from the public sphere to allow him to return to his privacy. Such logic is difficult to reconcile with the spiritual essence of the Petrine ministry, as witnessed by John Paul II until death. It was precisely the *exemplum* or authoritative precedent of Blessed John Paul II who despite the incapacity to govern, did not renounce his office, that represented the deeper spiritual objection to resignation.

In reality, his own spiritual understanding of the *munus* allows Benedict XVI to establish the legitimacy of his resignation without denying the choice of his predecessor. "I am well aware that this ministry (*munus*), due to its essential spiritual nature, must be carried out (*exequendum*) not only with words and deeds, but no less with prayer and suffering."<sup>38</sup>

In the cited passage Benedict XVI proposes two fundamental distinctions in the order of the Petrine *munus*: in the first place he distinguishes *munus* [office] from *executio muneris* [execution of office], evoking the Gratian distinction between the *potestas officii* [power of office] and its *executio* [execution]<sup>39</sup> and taking up anew the distinction between *munus* and its administration; in the second place, he distinguishes between the different activities which accompany the *executio*, between an administrative-ministerial *executio* (*agendo* and *loquendo* [acting and speaking]) and a more spiritual one (*orando* and *patiendo* [praying and suffering or endurance]).

<sup>37</sup>Benedetto XVI, *Declaratio*, 10 febbraio 2013.

<sup>38</sup>Benedetto XVI, *Declaratio*, 10 febbraio 2013.

<sup>39</sup>Cfr. *Decretum Gratiani*, c. 24, q. 1, dict. post. c. 37.



The *executio* of the Petrine office is carried out, then, not only with actions and words but also, not in a lesser degree, with prayer and suffering. To the administrative-ministerial fulfillment, which consists in actions and in teachings, is added a more spiritual fulfillment, consisting in suffering and prayer.

In the light of these considerations, there appears as legitimate and meritorious the choice of John Paul II to fulfill the *munus* entrusted to him with prayer and suffering and with the illness that debilitated the functions of government in the strict sense, that is the administrative-ministerial.

In respect to the time of John Paul II, however, historical circumstances are changed: “In today’s world, subject to so many rapid changes and shaken by questions of deep relevance for the life of faith, in order to govern the bark of Saint Peter and proclaim the Gospel, both strength of mind and body are necessary, strength which in the last few months, has deteriorated in me to the extent that I have had to recognize my incapacity to adequately fulfill the ministry entrusted to me.”

The reference to present circumstances (*nostris temporis*) with the changes occurring now rendered a different choice obligatory for Benedict XVI. Vigor of body and soul are necessary to govern and to proclaim the Gospel. Seeing his own incapacity to administer the goods of the ministry entrusted to him, he declared his renunciation from the *ministerium*. Not from the papacy, according to the dictate of the norm of Boniface VII; not from the *munus* according to the dictate of can. 332 § 2, but from the *ministerium*, or, as he will specify in his last audience, from “the active exercise of the ministry.”<sup>40</sup>

On the day of his election to the pontificate he had devoted in a new way his whole life to the good of the Church once and for always; the decision to renounce the active exercise of the ministry did not revoke this: “I do not return to private life, to a life of travel, meetings, receptions, conferences, and so on. I am not abandoning the cross, but remaining in a new way at the side of the crucified Lord. I no longer bear the power of office for the governance of the Church, but in the service of prayer I remain, so to speak, in the enclosure of Saint Peter”<sup>41</sup>; to dedicate life to prayer and meditation “does not mean abandoning the Church; indeed, if God asks me this it is precisely so that I may continue to serve her with the same dedication and the same love with which I have tried to do so until now, but in a way more suited to my age and strengths.”<sup>42</sup>

The service to the Church continues with the same love and the same dedication, although outside the exercise of power. The object of the irrevocable resignation, in fact, is the *executio muneris* (execution of the office) by speaking and acting (*agendo et loquendo*) not the *munus* [office] entrusted to him once and forever.

## Conclusions

On February 11, 2013, in full harmony with the tradition of the Church, Benedict XVI declared his renunciation of the Petrine ministry. Concerning the dictate of the canon, however, he declared his renunciation not of the office but of its administration. A renunciation limited to the active exercise of the *munus* constitutes the absolute novelty

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<sup>40</sup>Benedetto XVI, Udienza generale del 27 febbraio 2013.

<sup>41</sup>Ibid.

<sup>42</sup>Benedetto XVI, Angelus del 24 febbraio 2013.

of the resignation of Benedict XVI. At the juridical base of his decision is not, then, canon 233 §2 which governs a renunciation of office different from that pronounced by Benedict XVI. The theologico-juridical foundation is the *plenitudo potestas* sanctioned by can. 331. Precisely in the bundle of these inherent powers is included as well the exclusive power or rather the faculty of freely and irrevocably renouncing all of the powers themselves without renouncing the *munus*.

Taking cognizance that his strengths were no longer fitted to the administration of the *munus* entrusted to him, with a free act Benedict XVI has exercised the fullness of power by depriving himself of all of the power inherent to his office, for the good of the Church, without however abandoning his service to the Church; this continues through the exercise of the most eminently spiritual dimension inherent to the *munus* entrusted to him, which he did not intend to renounce.

The supreme act of self-abnegation for the good of the Church constitutes in reality the supreme act of power put in place by the Pope *emeritus*, as well as the last solemn act of his Magisterium.

The spiritual *munus*, in being fully carried out, can comport with a renunciation of its administration; this does not in any way determine renunciation of the mission inherent to the office, but constitutes its truest accomplishment. With this gesture of renunciation, Benedict XVI has rather incarnated the most elevated form of power in the Church, according to the example of Him who, having all power in His hands, laid aside His garments<sup>43</sup>, not in this way divesting Himself, but rather bringing to completion His office of service to men, that is, our salvation.

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<sup>43</sup>Cfr. John 13:2-4, but also Phil. 2:5-7: “Who being in the form of God, thought it not robbery to be equal with God: But emptied himself, taking the form of a servant, being made in the likeness of men, and in habit found as a man.”