

A Controversy between the Augustinian Prior General Nuzzi and the Austrian Priors and Regents in Vienna 1707-1709

The question treated here is a detail in the general history of the Augustinian province of Austria, which the present writer has undertaken in a series of articles ¹⁾. We have chosen the present theme for a separate article since it permits us to treat with more completeness a theme which in our general history can be treated only in passing. In the general history an attempt is made to present briefly the triennium of each provincial with its chief events.

The controversy to which we are here referring exploded during the term of the provincial Paul Wutschnig (1707-1710) ²⁾. The theme lends itself well to development in a single article and give us a useful insight into the functioning of the order's chief superior in contact with one of the numerous provinces and congregations of which it was composed ³⁾.

The Austrian provincial chapter of May 1707

When we recall that no Augustinian general since the fifteenth

*) Abbreviations. AA = *Analecta Augustiniana*, 1-33, Rome 1905ff.; Dd = *Registrum priorum generalium*, in the Augustinian general archives, Rome, 1357ff.; Gavigan, *doct.* = *De doctoribus theologiae O.S.A. in universitate vindobonensi*, in *Augustinianum* 5 (1965) 271-365; idem, *de primo* = *De primo augustiniano rectore provinciae Austriae*, in AA 32 (1969) 255-321; idem, *Disc.* = *The discalced Augustinians in Vienna*, in *Augustiniana* 20 (1970) 495-580; idem, *Übergabe* = *Die Übergabe des Wiener Augustinerklosters an die Barfüsser 1630*, in *Festschrift Franz Loidl*, 2, Wien 1970, 132-154; *Grav* = *Jura, ac gravamina Provinciae nostrae Austriae Reverendissimo Priori Generali submisae exposita*, as explained in note 8.

¹⁾ The first six, already completed, chapters embrace the period from 1646 to 1683, and are now awaiting publication in AA of the years 1973 and 1974.

²⁾ His life is found briefly in Gavigan, *doct.* 313-314.

³⁾ We say « numerous » since we find provincials and vicars from well over thirty provinces and congregations in the general chapter of 1705 : AA 12 (1927-1928) 164-167.

century had set foot in Germany, it is easy to see that unfamiliarity with the customs and mentality of the Germanic parts of the order was a necessary consequence. Hence we are not overly surprised when we come upon a case such as we shall here describe. It represents a situation which in our day of rapid communication and travel should have less reason for existence — and yet to some extent still exists in many parts of the church and the world.

For centuries the Augustinian order had followed the system of nominating local priors in the provincial chapter. For general convents however, which were subject directly to the prior general, the priors were named by the general, as is done even today in the general convents of the order in Rome : Santa Monica and Santa Anna ⁴⁾. The Austrian province, recognized as such in 1646 ⁵⁾, had one general convent, that of Vienna ⁶⁾. In this general convent of Saints Rochus and Sebastian the prior was indeed regularly appointed by the prior general, but the custom had grown up — quite naturally — of consulting the superiors of the province as to who should be chosen as prior of the monastery and who as regent of studies for the internal school of philosophy and theology which the province had founded on the Landstrasse about 1637. We say that the custom had grown up « naturally », since the prior general at this time was always an Italian, who had never seen an Austrian monastery, and hence had to be advised as to whom he should name for the priorship and for the regency in Vienna. Hence a custom of at least fifty years had established itself, and we may say here at the start that custom can easily become established as law under certain conditions. This was the conviction of the Austrian Augustinians who even began their complaints — which we shall describe below — with this sentence : *Hic praesupponitur con-*

⁴⁾ The Roman convent of Sant' Agostino is now under the administration of the Roman province of the order.

⁵⁾ See Gavigan, *de primo* 312-321, where we explain briefly the development of the Austrian vicariate after the separation in 1637 of the three Austrian monasteries from the union with the Bohemian province.

⁶⁾ On the Landstrasse under the title of Saints Rochus and Sebastian, founded in 1636 after the barefoot Augustinians had been introduced in 1630 into the court monastery of St. Augustine in place of the calced Augustinians, who were forced to seek a new foundation outside the city wall. See Gavigan, *Disc.* 508-505, and *Übergabe*, where the story of the introduction of the discaled Augustinians is given at greater length.

suetudinem esse alteram juris speciem, et dici jus non scriptum, tacitis utentium moribus introductum ⁷⁾).

Not only in the two points of the regency and the priorship, but in three other points as well, during the second half of the seventeenth century the same customary law had established itself in the Austrian province, that is, the priors general here regularly followed the directions of the Austrian definitors in the following matters also : 1. permission to « hold a disputation » in a university for obtaining the doctor's degree ; 2. naming members of the order to the degree of magisterium ; 3. naming the presidents of the provincial chapters, which were then held regularly every third year in the Austrian province ⁸⁾. The controversy has interesting material for the modern reader, for whom it well reveals some of the internal problems of the orders at the time of which we write, and since it allows us to follow the development in the nomination by the prior general in the five matters above referred to : priorship and regency in Vienna, doctoral degrees in universities, the magisterium in the order, and presidency of provincial chapters. We shall see later that other points also were introduced into the controversy after the prior general Nuzzi (1705-1711) refused to approve completely certain decisions of the provincial chapter of May 1707. And we must add that the Austrians were definitely piqued when the nomination of Peter Ferro of Fiume as new regent of studies reached Vienna. This case of Ferro was a strange one. He was the very man whom the definitors of Austria had proposed to the prior general in the provincial chapter of May 17, 1707 for the regency of Vienna, to take the place of Paul Wutschnig, newly elected provincial ⁹⁾. Hence when the actual

⁷⁾ See next note.

⁸⁾ These are the points about which the quarrel became acute in 1707 and 1708. They are contained in the ms. of the abbey of Michaelbeuern near Salzburg, which took over the Augustinian monastery in Salzburg in 1836 and therefore possesses today a great part of the valuable provincial archives of the former Augustinian province of Tirol-Salzburg, which was destroyed chiefly by the work of two illuminated despots : Joseph II (sole ruler 1780-1790) who gave the death blow to the Augustinians in Tirol ; and the Prince Bishop of Salzburg, Hieronymus Franz v. Colloredo (1772-1812) who was in some ways more josephinistic than Joseph himself. The signature of the ms. in Michaelbeuern is *Augustiner-Eremiten*, Akten N° 13, and the title is *Jura, ac gravamina Provinciae nostrae Austriae Reverendissimo Priori Generali submissee exposita*. We shall refer to it simply as *Grav*. If we sometimes refer to their authors, for brevity's sake, as « the definitors », we do not intend to include the whole definitory, since they were signed only by four members of the definitory, whose names we shall give below.

⁹⁾ ÖNB 8461.103r.

nomination of Ferro by the prior general reached Vienna, probably towards the end of May, there could be no problem from this quarter: the prior general, informed by private letters that Ferro was the man desired by the Austrian Augustinians as regent of Vienna, named him to the post. But it could not escape the notice — and the indignation — of the Austrians that Nuzzi had already on April 30 named Ferro without awaiting the formal presentation by the Austrian province, which took place on May 17! They sent therefore to the prior general, along with the chapter acts, a written protest that Nuzzi had violated the customs and privileges of the Austrian province by naming a regent whom they had not formally presented¹⁰). The capitular acts and the protest against the nomination of the regent before his proposal¹¹) reached the prior general in Rome either in late June or early July.

Nuzzi's comments on July 9, 1707

Nuzzi could hardly feel pleased about the protest. He proceeded to read the capitular acts carefully. As a result, he decided to take issue with several decisions made by the definitors in the provincial chapter of May 1707¹²). He sent therefore on July 9 a letter to the Austrian definitors, which contained indeed his approbation of the greater part of the chapter's decisions, but with certain restrictions, which we enumerate here¹³). Nuzzi's first complaint, based explicitly upon the constitutions, was that the *iudices causarum* and the *scrutatores* of the provincial chapter had been elected *viva voce*. In the future, they should be elected by secret ballot¹⁴). The election of Paul Wutschnig as provincial was contrary to the constitutions, since he was a public professor in the university of Vienna, and therefore held already

¹⁰) This is clear from the prior general's answer of July 9, to which we shall immediately refer.

¹¹) Which we recall had been made by the Austrians on May 17, seventeen days after Ferro had already been named in distant Rome!

¹²) The definitory at the time of chapter consisted of nine members: the chapter president, Ludwig Koller; the provincial-elect, Paul Wutschnig; the former provincial, Josef Achinger; the four definitors in the strict sense, Fulgenz Kerth, Daniel Schönauer, Leopold Dattenrieder, Sigismund Cetto; the first and second visitators, Fulgenz Schwaiger and Sebastian Rieder; ÖNB 8461.111v.

¹³) A copy of Nuzzi's letter in ÖNB 8461.112r-113r.

¹⁴) *Ibid.* 112r.

a post which could interfere with his duties as provincial. Here however Nuzzi found no great problem and simply stated : « Nonetheless, we approve and ratify this election for the general peace of the province, provided that the newly-elected provincial request from us the needed dispensation » ¹⁵). The next point (for our modern mentality ridiculous but not in 1707 !) touched upon the problem of the precedence of the newly elected provincial procurator, Franz Leithner ¹⁶). The prior general's reaction was as follows : « We declare that the precedence given to the provincial procurator after the visitators can not be admitted, since according to the custom of the province the definitors and visitators enjoy no right of precedence outside of the chapter hall, beyond that which they might possess by reason of degrees or the anteriority of their profession » ¹⁷).

Another point with which the prior general found fault was that the candidates for the order had not been accepted or rejected by the definitory, but they had been left up to the discretion of the provincial. In future, ordered the prior general, this should be done by the definitors, not only in the provincial chapter, but in the intermediate congregation also ¹⁸).

Now came a financial problem which touched off reactions. The provincial chapter of May 1707 had made this decision : not only ten per cent of the inheritances (or dowries) of the novices should be handed over after their profession to the provincial fund for a capital from which only the interest could be employed, but all other revenues also of the province should be given into the same permanent fund ; until such a sum was definitely established, each of the convents should contribute to the common fund according to their possibilities ¹⁹). Nuzzi on July 9 opposed this decision : « The decree of applying ten per cent of the dowries of all novices — whom we order according to our sacred constitutions to be affiliated to a definite convent, and not to the whole province — to the common fund of the province after their profession, we approve indeed, but under those conditions under which it was approved by the most reverend prior general Serani, our predecessor, on July (!) 7, 1704, when he confirmed the provincial

¹⁵) *Ibid.*

¹⁶) *Ibid.* 111v.

¹⁷) *Ibid.* 112r.

¹⁸) *Ibid.*, and cf. *ibid.* 96v.

¹⁹) *Ibid.* 102r.

chapter celebrated in that year ²⁰). To these conditions we add the further command that the common chest of the province be established in our monastery of Vienna, with two keys, one of which will be kept by the prior of Vienna, the other by the provincial procurator who resides there. Further we order each and every father prior to transmit to Vienna both the ten per cent of the dowries of the novices and the belongings of deceased brethren, as well as everything else that comes from the novices' dowries to the above mentioned two custodians of the common provincial chest. These two custodians will give them a written receipt. The penalty shall be privation of office to be incurred ipso facto by the priors who should turn over such funds to any one other than the two above-mentioned custodians. These two custodians shall turn over the complete sum, which is kept in the common provincial chest, only to the definitory, either in provincial chapter or in intermediate congregation, so that it may be applied with more fidelity and utility according to the needs of the province, in accordance with the abovementioned decrees of the most reverend Serani. And from the ten per cent, deposited in the provincial fund, help shall be given in such a way to the common needs of the same province, that it can not be converted into capital, except when something remains after the common expenses have been taken care of. In the meantime, the individual convents shall in no wise be forced to pay extraordinary expenses of the province, beyond the usual collections and ordinary expenses, unless such extraordinary expenses be first made

²⁰) On June (not July) 7, 1704 (cf. ÖNB 8461.95r, and Dd 144.72), Serani had taken exception to the Austrian decision with these restrictions: « The decree of applying ten per cent of the dowries of all novices to the common fund of the province after their profession, we approve; we command however that the distribution and application of funds coming from these dowries be made, not by the provincial alone, but only with the consent of his definitors in provincial chapter, or in intermediate congregation at which times deliberation shall be made about the causes and the convents to which they should be applied. After mature reflection and after considering the needs of each of the convents, decision shall be made about what is to be given and to whom and for what purposes. The money itself however shall be kept faithfully in the common fund. Further, we add this command, that the dowries, or the belongings of deceased brethren, be not administered by the provincial alone, who may make no disposition in this regard without the consent of the definitors in provincial chapter or in intermediate congregation. Until such consultation be held and the required consent be obtained, the funds shall be carefully and scrupulously guarded in a safe place, either in the central chest of the province, or with the convent funds » (ÖNB 8461.95r).

known to us and to our successors and be approved by us or by our successors » ²¹).

This Latin document was written, we must recall, in the year 1707 and in the juridical style of the day, in which excommunicationes latae et ferendae sententiae were liberally sprinkled in letters of popes, bishops, and priors general. Hence the prior general who sent this document through his secretary Giuseppe Marchetti made no violent departure from the curial style or practice of his time. But he had not reckoned with the sensibilities of the Austrian definitory, accustomed to write respectful letters to the prior general, but at the same time determined to insist upon what they considered their rights. Little time would be needed to help Nuzzi see that his predecessors had learned a few lessons in this way ²²).

We have seen in these citations of the prior general's letters in 1704 and 1707 that the controversy included more than the five points contained in the Gravamina which we cited in § 1. The Austrians would not be reluctant to express their dissatisfaction, as we shall see below. But the important point, of the designation without formal presentation of the regent of Vienna, was not admitted by Nuzzi, in his letter of July 9, 1707, as being in any way improper. Here are his own words : « On April 30 of the current year 1707 we appointed as regent of our convent of Vienna the reverend father magister, friar Peter Ferro, without awaiting any presentation by the province, since this pertains to our sole right, to appoint a regent in the above-mentioned convent, independently of any presentation or request » ²³).

If the prior general believed that this short juridical answer would settle the question, he was disappointed, as later events would abundantly prove. Another order of Nuzzi added a certain determination to a decree of the Austrian provincial chapter of 1707 in this way : « The decree that all payments are to be made by the procurator, we approve in such a way that the prior of each convent is completely excluded from making payments, under pain of privation of office, if he presumes to make payments for the convent personally and not through the procurator » ²⁴). It is true that the prior general then

²¹) ÖNB 8461.112rv.

²²) See Gavigan, *de primo* 310-321 for the controversy between the prior general Petrelli and the nascent Augustinian province of Austria, which was won by the latter.

²³) ÖNB 8461.112v.

²⁴) *Ibid.*

finally expressed his approbation of each and every determination of the provincial chapter of 1707, with the exceptions which we have seen. But even here he added an order, which perhaps would have caused little or no trouble under less troubled circumstances, but which now incurred the distinct displeasure of the Austrians, already annoyed by the tone and the contents of Nuzzi's letter. The added order was : « We strictly command the father provincial to publish literally and publicly, at least in the convents of Vienna and Gratz, this confirmation of the capitular acts [of May 1707], for this purpose that the province realize what it is bound to observe » ²⁵).

Reaction and insufficient satisfaction

The provincial Paul Wutschnig immediately replied to Nuzzi's letter of July 7 ²⁶), and pointed out to the general that the decrees contained in the letter of July 7 were contrary to the « praiseworthy rights and customs, which had always been observed in our cherishing province of Austria ». Wutschnig pointed out that the decrees were seriously disadvantageous for the province, and that the decrees had been made by Nuzzi in a way to which the Austrians were not accustomed. He requested Nuzzi therefore to revoke his decrees and to leave the Austrian province in possession of its rights.

It was now the turn of the prior general to take a definite stand on the question(s). Instead he wrote a reply on Aug. 13, which completely ignored every point of the controversy, except the minor one of granting the provincial procurator precedence immediately after the definitors ! ²⁷) One must ask what the prior general, « de consilio admodum reverendorum patrum nobis assistentium », really thought he was accomplishing by such an unsatisfactory answer. The Austrians certainly were unimpressed by such a dodging of the issues, and their reaction is briefly explained in the Latin commentary, perhaps written by the provincial secretary of the time, Leopold Zollenstein : « Since by this reply it was again made clear that the most reverend prior general had revoked merely the decision about the precedence of the definitors and visitators (held by long custom) and about that of the

²⁵) *Ibid.* 113r.

²⁶) Unfortunately the text is not given in ÖNB 8461.113r, where it is merely mentioned that Wutschnig wrote in the way we mention.

²⁷) ÖNB 8461.113rv for Nuzzi's reply of Aug. 13, 1707.

provincial procurator (newly introduced), but not the other points which were prejudicial to the province, especially in the question of affiliation to the province of the friars who enter our order; in the question of the keeping of the provincial chest, and of the keys of this chest in the hands of the prior of Vienna and of the provincial procurator, in a way which is insulting to the provincials; in the question of the impractical recourse to Rome for each and every extraordinary expense; in the question of choosing a regent without the usual proposal by the venerable definitory; and in other questions. Once again, the present prior provincial [Paul Wutschnig] and the past provincial also [Joseph Achinger] expressed their protest in private letters to Rome, showing from the archives of the provinces their long-standing rights and customs, which are violated by the decisions of the prior general with regard to the last provincial chapter (of 1707). The provincials therefore insisted that the general's decisions be revoked. No answer was given to these letters [of Wutschnig and Achinger], but the matter was tacitly passed over»²⁸).

Yes, the matter was « tacitly passed over » for the moment. Nuzzi however wrote again to the Austrian provincial that he should publish in at least the convents of Vienna and Gratz the chapter acts of May 1707, *as approved by the general*, that is, with Nuzzi's additions and restrictions. At the same time, Nuzzi wrote to the prior of Vienna, Andreas Dalhammer, with the order to publish the chapter acts in the way indicated, if the provincial should delay more than three days after receiving the general's order to this effect²⁹).

With the first test case, a few months later, another sore spot was irritated. The regency of Peter Ferro, which in any case corresponded to the wishes of the definitory, was silently accepted by the province, in spite of the definitory's protest about his nomination by the prior general before his name had been formally submitted by them. But in May 1708 the prior general made another move, which offended the Austrians in a similar way.

A prior nominated, 1708

This time the priorship of the general convent of Vienna was the bone of contention. All recognized indeed the right of the prior general

²⁸) *Ibid.* 113v-114r.

²⁹) Dd 146.249-251.

to make the definite appointment to this office — but the Austrians, touchy about their customs and hitherto-recognized privileges, had for many years presented to the general for the priorship of Vienna three candidates, of whom he should choose one — usually the first on the Austrians' list. But just as he had done in nominating Ferro as regent of the convent of Vienna in 1707, so now Nuzzi nominated a prior of the same convent — without waiting for the customary presentation of three names by the definitory. Nuzzi's register simply states for May 26, 1708 that he had chosen as new prior of Vienna the magister Ludwig Koller for a term of three years³⁰). The news dropped a bomb amongst the Augustinians of Austria when the nomination reached Vienna towards the end of June. The provincial Wutschnig called together the definitors for a private congregation in Vienna on July 5. They composed a letter to Nuzzi, which began by asking for a dispensation from the obligation of holding an intermediate congregation in that year — a permission which was subsequently granted.

Now came the controversial issue. The definitors debated whether or not they should protest about the nomination of Koller to the priorship of Vienna. They decided not to do so, since he was considered worthy and was acceptable to all³¹). Yet they felt obliged to explain their position, and expressed themselves thus in a letter written on the day of the private congregation, that is, July 5, 1708: « A few days ago the letters patent of your most reverend paternity, by which the father magister Ludwig Koller was promulgated as prior of this convent of Vienna, were read aloud. Although he was accepted and welcomed gladly by all as a person most worthy of this priorship, nonetheless the venerable definitory was displeased by this act, contrary to the very old and praiseworthy custom of this province, of proposing three worthy and capable priests for this post, since from the letters patent for the preceding prior [Andreas Dalhammer, who had been nominated by Nuzzi on Oct. 3, 1705]³²) and from the requests for information sent by your paternity to the provincial³³), this sudden change was not expected. Hence, for the future, we humbly beg your most reverend paternity and the other worthy members of our order who assist you not to deprive us of our right of proposal, and not to refuse to conserve,

³⁰) Dd 147.411.413.

³¹) 8461.113v.

³²) *Ibid.* 96v.

³³) These letters are no longer to be found, to the best of our knowledge.

maintain and encourage us in the other praiseworthy rights and long-standing customs which were always respected up until the present, and which were kindly granted to us by previous most reverend priors general » ³⁴).

The position of the definitors with regard to the nomination of the regents and priors of Vienna had now been made clear to the general by formal letters. But another point was still unsettled : Nuzzi had given no answer to the letters sent by the provincial Wutschnig and the ex-provincial Achinger in 1707, in which both Austrians had requested Nuzzi to recall his decrees about the provincial chapter of that year. Hence the definitors deliberated about this problem also in the private congregation of July 5, 1708. The Latin report reads thus : « The question was proposed, whether this venerable definitory should lodge complaint against those decrees of the most reverend prior general [of July 9, 1707], contained in his confirmatory letters of the past provincial chapter [of May 1707], which are detrimental to the uses and customs of our province? It was decided not to do so, since in private letters of the father magister the actual provincial [Wutschnig] and of the father magister the ex-provincial [Achinger] sufficient protest has already been made. Since Rome keeps silent over this protest and gives no answer, we also should keep silence and continue to insist upon our previous rights and long-standing customs » ³⁵). For the moment therefore both sides remained silent — but both sides held to their own opinion ! Nuzzi simply wrote to the Austrians on Aug. 4, 1708 that they were dispensed, as they had requested, from holding an intermediate congregation in that year ³⁶). No mention was made in Nuzzi's letter of the definitory's protest about his nominating the prior of Vienna without the proposal of three names by the Austrian definitors.

The Gravamina of 1709 about regents and priors

We have just seen how the members of the private congregation of July 5, 1708 had decided to keep silence about certain complaints, but to continue to insist upon their rights. But some at least of the definitory decided to break their silence in 1709. Their expression took

³⁴) ÖNB 8461.114v-115r.

³⁵) *Ibid.* 115v.

³⁶) *Ibid.* 116rv.

the form of a document to which we referred in § 1, and to which the Austrians gave the name of *Jura, ac gravamina provinciae austriacae Reverendissimo Patri Generali submissee exposita* ³⁷⁾. It was signed on March 15, 1709 in the convent of Vienna by : the provincial, Wutschnig; the local prior, Koller; the regent of studies, Ferro; and by the second visitor, Augustin Ferner ³⁸⁾. Why was it not signed by the whole definitory? Possibly either because not all were in agreement with the protest, or because some were not on hand when the document was drawn up in Vienna. One, for example, was in Baden; one in Gratz; and one in Lubiana. Further, we may mention here that the assistant general, Christoph Fromiller, of the Austrian province, was designated by Nuzzi in the following year 1710 to visitate the monastery of Vienna, which indicates that Nuzzi realized on whose side Fromiller stood. And a definite coolness existed between Fromiller and certain high-ranking members of his own province ³⁹⁾.

The complaining definitors lost no time in their document with superfluous introductions. They began with the principle that custom is an admitted type of law, and enumerated the five points which we have already mentioned in § 1 — and with regard to which the prior general Nuzzi had violated the (customary) law. For each of these five points they enumerated historical proofs from the earlier history of their province, and hence unwittingly furnished modern historians with valuable source material for the history of the Austrian province in the second half of the seventeenth century. We shall look briefly at each of the five points.

REGENTS. The Austrians stated that ever since the union of the provinces of Austria and Styro-Carinthia in 1633 the regents had been proposed in the provincial chapter, and then by private letters of recommendation, after which they had been automatically appointed by the priors general. This was historically illustrated by the nomination of Mark Forstall as regent of Gratz in 1653; of Augustine de Burgo as regent of Vienna in 1656; of Balthasar de Burgo as regent of Gratz in 1659; of Edmund Lally as regent of Vienna in 1665; of Gelasius Pfraum as regent of Vienna in 1671, 1674 and 1677; of Ferdinand Hartisch as regent of Vienna in 1677 « by private presentation made to the prior general »; of Pfraum as regent of Vienna in 1679 or 1680 and

³⁷⁾ Found, as stated in note 8, in Michaelbeuern.

³⁸⁾ *Grav.* 7r.

³⁹⁾ F. Rennhofer, *Die Augustiner-Eremiten in Wien*, Würzburg 1956, 223-234.

in 1682; of Edmund Unruhe as regent of Vienna in 1683, « presented through a private letter by the province »; of Christoph Fromiller as regent of Vienna in 1686 and 1689; of Ludwig Koller as regent of Vienna in 1692; of Fulgenz Kerth as regent of Vienna in 1695 and 1698; of Paul Wutschnig as regent of Vienna in 1701 and 1704. Then came the provincial chapter of 1707, about which the protesting definitors say : « In the last chapter, in 1707, father magister Peter Ferro was proposed. This nominee, although he had already received letters patent [of the prior general] for the post of regent, confirmed himself prudently to the praiseworthy custom of the province, from which he was unwilling to depart, and hence did not show the letters patent publicly; and before he was proposed to the most reverend prior general by the definitory in the provincial chapter, he refrained from making the letters patent public » ⁴⁰). This last sentence gives us a slight look behind the scenes for the year 1707 and offers a welcome confirmation of the list of regents previously drawn up by us ⁴¹). And it actually does sustain the assertion of the protesting members of the definitory that the priors general had regularly awaited the presentation of a candidate by the Austrian definitory before designating the regent of studies in Vienna. Another interesting light is cast upon this story by what the Austrians relate from their archives about an event of the year 1694. The prior general Antonio Pacini had written on February 6, 1694 to Ferdinand Hartisch, the prior of Vienna, with this proposition; he (Pacini) would be very pleased to satisfy the wish of padre maestro Giulio Bandini, regent of the studium of Parma, who desired to become regent in Vienna ⁴²). The Austrians could justly argue from this letter that Pacini knew the custom of the Austrians of presenting their candidate for the regency, and that Pacini was unwilling to violate this custom or further insist. Pacini was as a matter of fact tactfully informed that the regent of Vienna was regularly a Viennese priest incorporated in the university of Vienna ⁴³).

Debate about the constitutions

Certainly an obvious objection had to be answered : what did

⁴⁰) *Grav.* Irv.

⁴¹) In chapter VI, § 11 of our general history of the Austrian province.

⁴²) *Grav.* Iv.

⁴³) *Ibid.*

the constitutions of the order say about the right of the prior general to name regents of general convents? The constitutions answered ⁴⁴⁾ that the prior general had the right to name both head and members of the general convents of the order. But let us not forget that the first one to sign the *Gravamina* was none other than the provincial Wutschnig, who was professor of moral theology (more correctly canon law) on the university of Vienna. Wutschnig found the solution of the problem in the decrees of the order's general chapter in 1685, *de gubernatione*, n. 17. We translate from the Latin Wutschnig's (correct) summary of its content: « that officials, preachers, and the priors also of general convents (excepting the general convent in Rome) be elected by secret vote; and if it should happen that none of those who were proposed be elected, the provision is turned over to the most reverend prior general, but not in favor of one of those already proposed » ⁴⁵⁾. From this legislation of the general chapter, the highest authority in the order, Wutschnig argued in this way: « As therefore members, yes even the priors of general convents are not named by the most reverend prior general, but are elected by secret vote, so too, notwithstanding the constitutions, part 3, ch. 4, § 5, n. 5: 'regents and members of the above-mentioned general convents in Italy shall be appointed by the most reverend prior general' ⁴⁶⁾, may not the regents be at least proposed for confirmation to the most reverend prior general, especially in a general convent north of the Alps? » ⁴⁷⁾. So much for the juridical problem of the regent's appointment.

⁴⁴⁾ Part 3, ch. 5, n. 20 of the edition of 1686, page 195.

⁴⁵⁾ *Grav.* lv. The full text of the general chapter's decree reads as follows: *Concionatoris in conventibus generalibus pro cursu quadragesimali duo saltem Patres a Reverendissimo Patre nominentur, salva tamen libera electione Reverendissimi Patris in Ecclesia, et Conventu S. Augustini de Urbe; si vero neminem ex his eligi contingat, aut electus morte, vel alio impedimento detentus, munus obire non potuerit, ad praedictum Patrem Generalem electio libera devolvatur... Confirmatur etiam ... ut Officiales in Conventibus generalibus, etiam pro secundo Anno ballottulari debeant, et quod cessante officio Prioris, etiam cesset officium ipsorum, ita tamen, ut ad novos Officiales eligendos ipsi cum ceteris valeant suffragium ferre. Praeterea ... decernitur, quod salva integra auctoritate Reverendissimi P. Generalis quoad Conventum Romanum, tres Patres iuxta solitum, in Priores Conventuum generalium ad eodem Reverendissimo Patre Capitulo Conventus proponantur; et si contigerit nullum eorum canonice electum esse, provisio devolvatur ad Reverendissimum Patrem, non tamen in persona ex tribus nominatis; AA 12 (1927-1928) 34.*

⁴⁶⁾ In the edition quoted in note 44, on pages 179-180.

⁴⁷⁾ *Grav.* lv-2r.

PRIORS. Next came the problem of the priorship of Vienna. Here again, the *Gravamina* argued, from the time of the union with Styro-Carinthia in 1653, the prior general had always cooperated with the Austrian province : « With regard to the second point, the priorship of Vienna, that it is the right of the Austrian province, and has always [since 1653] been its custom, to propose to the most reverend prior general deserving fathers of the province for their designation as prior in the general convent of Vienna » ⁴⁸⁾. Here again the historical sequence is given, by which the custom grew up. Thus, in the provincial chapter of 1653, when the hitherto prior of Vienna, Alfons Staimos, was elected provincial, and the term of his priorship was not yet run out, the definitors chose provisorily as vicar general of Vienna Columban Sifferlinger, whom they then proposed to the prior general for nomination to the priorship. The prior general Filippo Visconti accepted, and on June 21, 1653 nominated as prior of Vienna the man desired by the Austrians, Sifferlinger. In addition, Visconti on Aug. 2, 1653 confirmed the chapter acts, which included the provisional designation of Sifferlinger as vicar-prior ⁴⁹⁾. From this time on, argued the *Gravamina*, from chapter to chapter, and even outside of chapter time, when the priorship of Vienna was vacant, the Austrian province wrote to the prior general, either in the chapter acts or privately through the provincial and/or definitors, to propose « this one or that one, or one of those who were mentioned, for the priorship of Vienna, to be designated by the general » ⁵⁰⁾.

Just as for the regency, so here also, further historical examples were found and cited. Thus, when the prior Gregor Tittel had died in 1679, the definitors proposed and recommended Ferdinand Hartisch as his successor. Even for the long priorship of Hartisch this custom was followed : « although he then directed as prior for twenty years, like a second founder, the monastery which he built [after the destruction by the Turks in 1683]; still, from triennium to triennium either by chapter acts or by private letters, he was proposed to the prior general by the provincial and definitors for a continued priorship in Vienna ... and he was always confirmed by the prior general in this office without any contradiction » ⁵¹⁾. For a short time Hartisch had

⁴⁸⁾ *Ibid.* 2r.

⁴⁹⁾ *Ibid.*

⁵⁰⁾ *Ibid.*

⁵¹⁾ *Ibid.*

interrupted his priorship when the provincial chapter of 1682 had elected him provincial. On this occasion also the provincial chapter proposed Johannes Bonus Hauswirth to the prior general as prior of Vienna, and the general immediately confirmed Hauswirth in this office ⁵²). When Hartisch died in 1699, the provincial Koller convoked the definitory which proposed three Austrian Augustinians for the now vacant priorship. The prior general chose one of them, Josef Achinger. Again, in 1702, the definitory proposed three candidates from whom the prior general Serani chose Christoph Fromiller as prior of Vienna ⁵³). Only in 1705 did a more complicated case arise. The prior of Vienna, Fromiller, was elected in late May during the general chapter assistant general for Germany, and hence the priorship of Vienna remained vacant. Four of the « patres graviores » of the Austrian province were at the time in Rome : the president of the last provincial chapter, Fromiller; the provincial, Josef Achinger; the ex-provincial, Fulgenz Kerth; and the first definitor and regent of Vienna, Paul Wutschnig. These four Austrians made a written proposal of three candidates for the priorship of Vienna : in the first place, Andreas Dalhammer, ex-provincial; then Anton Reitter, prior of Korneuburg; and finally Caesarius Posch, provincial secretary. The prior general was quite satisfied with this procedure and wished to appoint the first candidate, Dalhammer, but doubted whether he would accept, since he was so closely connected with Bruck an der Leitha. Hence he left the nomination as prior until the time of the next intermediate congregation, and simply appointed a vicar prior for Vienna until the time of the intermediate congregation : Sigismund Cetto. The Austrians returned in late June or early July to Vienna from the general chapter, and saw that Cetto could hardly have a long term as vicar prior, since the intermediate congregation was scheduled for Sept. 3 of the same year in Baden. Hence they did not hand over to Cetto until two days before the intermediate congregation the nomination from the prior general. (Was Fromiller responsible for this decision? or all four of those Austrians who had gone to the general chapter in Rome?) At any event the definitors proposed in the intermediate congregation the same three names proposed in Rome in June of that year, with a special recommendation of Andreas Dalhammer. The general promptly

⁵²) *Ibid.*

⁵³) *Ibid.* 2rv.

named Dalhammer to this post in October shortly after receiving the proposal of the definitory. On Nov. 1, 1705 Dalhammer was publicly proclaimed as prior of the convent of Vienna for the next three years ⁵⁴). His term should therefore have lasted until Nov. 1, 1708. Hence the Austrian definitors believed in early 1708 that they still had ample time to make their usual threefold proposal for the priorship of the period Nov. 1708 - Nov. 1711. The prior general even helped to strengthen this conviction by a letter to the Austrian provincial early in 1708, in which he asked for information about candidates for the priorship of Vienna. Unfortunately we do not know what names the provincial sent to the prior general. But we do know that no formal presentation was made by the definitors, who believed that Dalhammer still had several months more as prior, and therefore felt no need for hurry. It fell consequently like a bombshell when the prior general on May 26, 1708 nominated Ludwig Koller as the new prior of Vienna for three years ⁵⁵). Hence Dalhammer's term ended before his three years were finished, and the definitors found themselves before a very disagreeable *fait accompli*, which brought unpleasant memories of the nomination of Ferro to the regency of Vienna in the previous year 1707 without formal presentation by the definitory. Just as with the person of Ferro for the regency, so the definitors were completely satisfied with the person of Koller as prior of Vienna, but the passing over of their long-admitted right of presentation led them to write : « Except for this last designation of the prior of Vienna [of Koller in 1708], the provincial and his definitors from the beginning of the province [1653] by custom, indult and confirmation by the most reverend prior general possessed this right of proposing one or more priests as prior of Vienna for nomination by the prior general » ⁵⁶).

Naturally the definitors added here the same decree of the general chapter of 1685 which backed up their right to present three candidates to the prior general for the priorship of general convents ⁵⁷) in spite of the statement of the constitutions ⁵⁸) that the prior general should provide for head and members of general convents. The definitors pointed out that their method of procedure was not opposed to the

⁵⁴) *Ibid.* 2v.

⁵⁵) Dd 147. 411-413.

⁵⁶) *Graz.* 3r.

⁵⁷) See note 45, where we cite the complete Latin text of 1685.

⁵⁸) Part 3, ch. 5, n. 20, in the edition of 1686, pages 195-197.

decree of the general chapter of 1685, even though for an excellent reason their system was the inverse of the system in Italy : for in the Italian general convents the prior general proposed, from Italians living in the same land and of whom he knew more than about their confreres beyond the Alps, three candidates from whom the general convents could elect one, whereas in Austria the definitors who naturally knew the Austrian subjects better than the prior general possibly could, had habitually submitted to him three names from whom he elected one. This was the system confirmed by the custom of the priors general themselves, as the Austrians had abundantly proved. If this were not so, they pointed out, the general convent of Vienna would be in a far worse juridical position than a general convent in Italy where the right of electing the prior was explicitly recognized. And the requirement of holding a secret election for naming superiors of a religious community, fixed by the Council of Trent ⁵⁹⁾, the Augustinian constitutions ⁶⁰⁾, and by papal approbation, had been adopted by the general chapter of 1685 in the decree already quoted.

It was to be expected that the definitors would deal with this problem also : why did the definitors, and not the general convent itself of Vienna present the three candidates for its priorship ? Their answer was that the disposition of all the members of this convent belonged by the constant custom of the province to the definitors, and hence it was required « for the necessary union, correspondence and harmony between the province and the convent of Vienna, to mix sons of the province and of other convents with the community of Vienna », and therefore « the whole community of Vienna depends, in provincial chapter from the definitory, and outside of such chapters from the provincial, who has the authority to assign members here ». This dependence extends to naming the members of the community or changing them to other houses, to degrees, offices, studies, receiving sacred orders, care of souls, regular discipline, the observance of provincial decrees, in each and every case, just as in other monasteries of the province. « Therefore it was completely reasonable for the province to introduce the custom, and for the prior general to admit it, that some provision, at least that of presentation, with regard to the prior be made » ⁶¹⁾.

⁵⁹⁾ Sess. 26, cap. 6.

⁶⁰⁾ Part 3, ch. 2, n. 2, in the edition of 1686, page 144.

⁶¹⁾ *Graz.* 3rv.

Minor Gravamina of 1709

We recall that not only the question of regents and priors, but three other points also were included in the complaints drawn up in 1709 against the violation of the Austrian rights and customs. We shall deal with them more briefly, just as the « contestatory » definitors of Austria did in their document of March 15, 1709.

DOCTORS AND MAGISTERIUM. With regard to the right to name candidates for the doctoral degree in a university faculty and for the magisterium in the order, the Austrians simply pointed out what they considered to be their good record. This justified in their eyes the exercise they had made in presenting candidates for the theological doctorate and for the magisterium. Here are their own somewhat self-complacent words : « With regard to the third and fourth points, suffice it to say that in the province are seven incorporated doctors in theology, who have been promoted through study and teaching, not by holding sermons » ⁶²). Of these seven, six already held the magisterium in the order. Now, the Austrians explained in their *Gravamina*, all of these holders of degrees had obtained the doctorate or magisterium by presenting their twofold request : first to the definitory for permission to take the university examinations ; and then secondly to the definitory so that the latter would present the request to the prior general. And now comes a sentence which brings a smile to the face of the present writer, whose chapter on studies — the sixth in the general history of the Austrian province — presents a picture quite different from that expressed by the following words : « With regard to our deceased confreres, the most worthy doctors and magistri, outstanding for their wisdom and learning, the history of the province states that they reached the doctorate and the magisterium in the same way » ⁶³).

⁶²) That is, doctors of theology, incorporated in the university of Vienna to the *collegium doctorum* of the theological faculty, with right of vote in the faculty meetings. This meant that they had taken the prescribed examinations for obtaining the theological doctorate from a university, differently from the *magistri de pulpito*, who, without holding the university doctorate, had preached in one of the chief pulpits of the province during ten years « with applause and to the profit of their hearers », and so had obtained the magisterium from the prior general; cf. ÖNB 8466.156r-157v, and 243rv, for a written and a printed copy of the decree of the prior general Girolamo Valvassori about this point on June 27, 1667. See Chapter VI, § 9 of our general history of the Austrian province, where we treat of this point at some length.

⁶³) *Graz*. 3v. Our sixth chapter of the general history, especially § 9, tells a different

PRESIDENTS OF PROVINCIAL CHAPTERS. The fifth point where the feelings of the Austrians were wounded was the custom of presenting to the prior general three candidates for the presidency of each provincial chapter, one of whom was chosen by the prior general, while the other two were mentioned as substitutes for the event that the first choice should be impossible — for instance, if the first-named died suddenly, as sometimes happened. Here again the Austrians appealed to the testimony of history : « The fifth point is proved by the testimony of five living ex-provincials ⁶⁴), who followed the examples of their predecessors, as historical documents prove, after consulting the more serious (!) fathers of the definitory, who then by a private letter proposed three deserving fathers of the province for the presidency of each provincial chapter, and the most reverend prior general regularly followed their suggestion and named them to the presidency of the chapters » ⁶⁵). At all events this system had operated until the provincial chapter of 1707, when a human interest story occurs, not without definite modern parallels.

For the year 1707 also the definitors had submitted three names to the prior general Nuzzi. It is further certain that Nuzzi on February 5, 1707 sent the so-called « letters patent » (= « open » letters) to the definitory, naming three Austrians, according to the usual custom, for the post of president of the provincial chapter stated for May of that year. The names contained in the general's letter of February 5 were : Ludwig Koller, Peter Ferro, and Franz Leithner, in the order of precedence here given ⁶⁶). As a matter of fact, Koller actually presided over the provincial chapter in May, so that one could well believe that everything had run according to schedule. But the *Gravamina* open the door a bit tantalizingly, so that we are informed that something unusual and unpleasant took place behind the scenes. The definitors

story, since we believe that our investigation of this point leaves a very definite impression of mediocrity of studies in the Austrian province, which mediocrity however was by no means confined to the Augustinian holders of the doctorate and/or the magisterium.

⁶⁴) Andreas Dalhammer 1692-1695; Christoph Fromiller 1695-1698; Ludwig Koller 1698-1701; Fulgenz Kerth 1701-1704; Josef Achinger 1704-1707.

⁶⁵) *Grav.* 3v. One could rightly question if the choice of the « more serious (*graviores*) fathers was always free from not very praiseworthy motives, but in every human group such weaknesses are very difficult to avoid. History offers us many examples where the so-called « *sanior pars* » prevailed over the remainder. Each time the delicate question arises : who determined which was the *sanior pars*, and how ?

⁶⁶) Copy in ÖNB 8466.281rv.

naturally expected that the letters patent would merely contain the three names which the definitory had previously proposed, as had always been done for preceding chapters. Instead, they found out to their consternation that two of the names proposed by them had been rejected — or passed over, which practically meant simply rejected! This caused a great disgust and unrest in the province, which still remained in 1709, when the contestatory definitors wrote the *Gravamina*. Although we do not know which were the two names rejected, we do know the opinion of the definitors, namely that this was due to « someone's suggestion ». And this was not the end of the complaint!

Contrary to usual practice, the « open » letters had been sent sealed, and therefore the three names of the possible president of the coming provincial chapter were not known to the definitors. Now comes the strikingly modern note : the definitors found out from the younger priests, the clerical students and the laybrothers what three names were contained in the sealed « open » letters, long before they were made public! The venerable definitory naturally found this to be an outrage, which brought the provincial and his counsellors into embarrassment, caused them to lose prestige, and made them the laughing stock of the younger members of the community! ⁶⁷⁾ Did we not say above that this story has a strikingly modern note?

The definitors now express as a guiding principle at the end of the first part of the *Gravamina* that the laudable customs of the Austrian province with regard to the choice of priors and regents of Vienna, of the candidates for higher degrees and of presidents of provincial chapters had been a strong factor in promoting harmony in the province and in avoiding problems for the prior general ⁶⁸⁾. It is easy to see the implication that the violation of these laudable customs had produced problems for the province and for the prior general. The second part of the *Gravamina* would further develop the last point!

Criticism of Nuzzi's letter of July 9, 1707

This brings us to the second point of the *Gravamina*, which hitherto had dealt chiefly with the five customs and/or rights of the Austrian province, which the prior general Nuzzi had not respected. Now the Austrians begin a detailed criticism of the letter by which

⁶⁷⁾ *Graz*. 3v.

⁶⁸⁾ *Ibid.*

Nuzzi on July 9, 1707 had indeed approved the greater part of the acts of the Austrian provincial chapter of May 1707, but with several important restrictions, which we have translated from the Latin and incorporated into § 2 of our present study. Here we shall present the Austrians' reply to each of the points of Nuzzi's letter. The Austrians themselves entitled this part of their reply « *Gravamina provinciae Austriae super decreta reverendissimi prioris generalis in confirmatione capituli provincialis 1707 celebrati emanata* »⁶⁹).

The first point, namely that *iudices causarum* and *scrutatores* should be in future chosen by secret ballot, not by viva voce acceptance, caused little difficulty. The contestatory definitors felt constrained to show by a bit of juridical juggling that the viva voce system had been previously accepted by the priors general and was not contrary to the constitutions; still the Austrians submitted to the general's wish in this unimportant matter.

The second problem, touching upon the precedence of the definitors and of the procurator of the province, had already been decided by the prior general in a letter of Aug. 13, 1707, in which he had admitted the Austrian viewpoint⁷⁰). Hence the difficulty no longer existed.

The third point was more serious. Nuzzi had refused to accept the decision of the Austrian provincial chapter of 1707 to affiliate all novices to the province, instead of affiliating them to individual convents⁷¹). The prior general Serani had on June 18, 1701 suspended, not refused, his approbation of the decision with these words : « We suspend the confirmation of the eighth decree [of the provincial chapter of 1701, namely that all novices should be sons of the province]. Since it is directly against the constitutions of the order, the reasons for changing them are to be cited »⁷². Nuzzi however had gone further in 1707, since he had roundly ordered that all novices be affiliated to individual convents and not to the whole province. Here the Austrians showed once again their capacity to read the constitutions of the order carefully and then produce a juridical argument. They pointed

⁶⁹) The reply occupies from folio 4r to 7r of the same manuscript from which we have hitherto cited the general Gravamina, that is Michealbeuern, *Augustiner-Eremiten*, Akten N° 13.

⁷⁰) We have treated of this point in §2.

⁷¹) ÖNB 8461.77v.

⁷²) *Ibid.* 83v.

out that the constitutions did not order that all novices be affiliated to individual convents but none of them to the province. In fact, the constitutions ⁷³⁾ presupposed the existence of novices of whom some were affiliated to an individual convent, others to their province, and others to the whole order. Nuzzi therefore had not properly interpreted the constitutions to which appeal had been made. From the constitutions, which admitted that some novices were affiliated to the province, no argument could be made against such an affiliation ! ⁷⁴⁾

Another difficulty for the province which would arise if no novices could be affiliated to the province was the following financial problem : in such a case, as sad experience had proved, the inheritances of the novices were turned over to the convent to which they were affiliated. Such funds were used exclusively for individual convents according to the (not always enlightened) decision of the local prior, with the result that the capital soon disappeared, instead of being put into a large central fund at interest, for the good of the individual convents and of the whole province.

Still another viewpoint, of easily understood importance, was the following, which the Austrians alleged to explain their desire to make all novices sons of the province and not of an individual convent : « Novices who bring a good dowry are always sought by the individual convents, whereas those novices who are financially poor are turned over to the province. Furthermore, to what individual convent shall the financially poor novices, who have nothing but their talents, be affiliated, since no convent wishes to accept them ? This was our intention in desiring to affiliate all novices to the province : that we also might reach the happy and well-organized condition of the provinces of Bavaria and of Tirol-Salzburg, where all novices are sons of the province and where by the lumping together of all dowries and other acquisitions a capital is reached from which profit is derived not only for the needs of the province, but for the particular needs of the individual convents also, while the capital sum remains intact. The most reverend prior general should take this into consideration for our ultramontane province also ... so that the same right which has been granted to the above-named provinces [Bavaria and Tirol-

⁷³⁾ Part 2, ch. 4, n. 25; and part 2, ch. 15, n. 13; part 2, ch. 15, n. 15; pages 74, 125, and 126 of the edition of 1686.

⁷⁴⁾ *Grav.* 4rv.

Salzburg], namely that all novices be affiliated to the province, be granted to our province also » ⁷⁵).

Now comes the fourth point of Nuzzi's restrictions to the decrees of the Austrian provincial chapter of 1707. The Austrians found this point insulting, and said so in so many words. This refers to Nuzzi's order of July 9, 1707 to locate the central money chest in the monastery of Vienna under two keys, one of which was to be under the care of the prior of Vienna, the other under the care of the provincial procurator. Further, Nuzzi had ordered that all the money so deposited should be turned over to the definitory in provincial chapter or in the intermediate congregation. Now we cite directly the words of the Austrians in referring to Nuzzi's order : « He [Nuzzi] added this insulting reason : 'so that the money may be applied with more fidelity according to the needs of the province' » ⁷⁶). The Austrians plainly stated that this order was most offensive to the provincials, definitors, and to the whole province of the present and of the future ! ⁷⁷) To this order they opposed the decree of the provincial chapter of 1653, approved by the prior general Filippo Visconti, which disposed that « all inheritances of the brethren should be put in the common provincial fund under the charge of the provincial ... of which the provincial and his definitory must render account in the intermediate congregation ; but the provincial shall need the definitory's consent to dispose of this fund, and he shall see to it that some of it be applied to the most needy convents » ⁷⁸). This system had been continued by later provincial chapters of 1668, 1701, and 1704 ⁷⁹). Hence, the contestatory definitors in 1709 failed to see why Nuzzi should place two custodians over the provincial fund as though he suspected the definitory of planning to embezzle it, or of being incapable of administering it ⁸⁰).

Coupled with this fourth complaint about the two keys and the two custodians, to whom the provincial and definitory should be responsible, was the added order of Nuzzi that the ten per cent of the dowries, the inheritances and the belongings of deceased brethren should be sent to the two above-named custodians of the provincial

⁷⁵) *Ibid.* 4v.

⁷⁶) ÖNB 8451.112rv; *Grav.* 4v.

⁷⁷) *Grav.* 4v.

⁷⁸) *Ibid.* 4v-5r; ÖNB 8466.35rv.

⁷⁹) *Grav.* 5r.

⁸⁰) *Ibid.*, 5v.

chest, « and to no other, under pain of privation of office » ⁸¹. This implies, claim the Austrians, that the prior general suspects the provincial and his definitors with regard to the funds here spoken of, but not with regard to the other funds which could and should be handed over to them. Yet another delicious taste of the Austrians' disgust appears in these words : « Furthermore, if in every convent, not the prior, the head of the convent, is excluded from the custody and the keys of the money-chest, but rather the procurator, who is dependent on the prior and the depositaries, we fail to see how with regard to the whole province the provincial is excluded from keeping the key to the provincial fund, but the procurator may have this charge » ⁸²).

The *Gravamina* give us interesting extracts from « a private letter » of Nuzzi to the Austrian provincial Wutschnig, which today seems lost. Nuzzi had stated in this letter : « The custody of the keys of the provincial fund was given to the prior of Vienna and to the provincial procurator, since these two priests by reason of their office must remain in Vienna. The provincials were excluded from this function, not because they are considered to be thieves or dishonest administrators, but because their office compels them to wander (*vagari*) very often through the province » ⁸³). But the Austrians refused to grant that this excuse removed the insulting implications for the provincial and his definitory. And the word employed, « wander », to express the journeys of the provincial when he visited the widely-spread houses of the province ! In such a case, they assert, then all provincials of every province who visitate the houses of their province « wander about » ! And yet, only the Austrian provincial was forbidden to hold the key to the provincial money-chest ! Hence, the Austrian provincial and his definitors felt that they were still left under the ugly suspicion of thievery or infidelity, even after the explanatory private letter of Nuzzi ⁸⁴).

Blame placed on the prior general's advisors

After these unpleasant words, the Austrians suddenly change their tone. Having expressed to Nuzzi how annoyed they are by his letters and decrees, they state their conviction that Nuzzi of himself

⁸¹) *Ibid.*

⁸²) *Ibid.*

⁸³) *Ibid.*, where the apparently lost letter of Nuzzi is so cited.

⁸⁴) *Ibid.*

would never have sent such decrees to the Austrian province, towards which they are convinced of his benevolence. They realize that Nuzzi so acted under the influence of a calumnious representation of the province, made to him by one or two enemies. Such calumniators should look into their own conscience, and prove the charges which they have brought, not merely relate them! ⁸⁵⁾

Again in a more serene tone, the Austrians explain that they themselves in the provincial chapter of 1707 had tried to do exactly what Nuzzi claimed that he wished : to help the poorer convents from the common fund. Hence they had decreed in the chapter of 1707 to form a strong central capital from whose interest many common expenses could be paid — once the capital was brought together and let out at interest : « one must first pay the expenses for building a house, if he wishes to dwell in it permanently without paying rent » ⁸⁶⁾. Why then did Nuzzi try to insist that nothing be demanded of the convents of the province for its extraordinary expenses, unless the prior general himself or his successors should permit it? Does this not seem to imply that Austrian provincials and their definitors were so childishly ignorant of their own province, and so careless about its welfare, that they would place impossible taxes upon their own houses? And the constitutions themselves gave the provincial the right to impose extraordinary contributions in his province! ⁸⁷⁾ Are the Austrian provincial and his definitory really so unintelligent that they need the advice and consent of the prior general about extraordinary expenses in their own province? Up until this time the Austrian province had never been so low in the estimation of the Roman superiors of the order that the long and difficult recourse to Rome had been imposed upon it — until 1707! And this imposition stood in contrast to the above-cited constitutions! Who would have recourse to Rome and wait for the necessary permission in the event of a sudden emergency, if the provincial chest did not have the necessary funds? The Austrians could only wonder that the « goodness of the prior general, by the report of one person », was willing to take upon himself such troubles, which he could easily leave to the conscience and prudence of the provincial for his own province ⁸⁸⁾.

⁸⁵⁾ *Ibid.* 5v-6r.

⁸⁶⁾ *Ibid.* 6r.

⁸⁷⁾ Part 3, ch. 15, nota b, page 307 in the edition of 1686.

⁸⁸⁾ *Graz.* 6v.

Finally, the Austrians felt obliged to criticize the final words of Nuzzi's decree of July 9, 1707, where he ordered the publication of the entire decrees of the prior general in at least the convents of Vienna and Gratz. Against this order stood the constant practice of the province, which hitherto had simply left up to the province and his definitors the carrying out of the prior general's orders. Now however, by this ignominious order, the venerable definitory was subjected to derision! This was apparent when the decrees of the prior general were published: « In the convents, when the decrees were read, the religious listened with respectful silence, but behind our backs with mockery, not to say contempt, since they noted that by this 'confirmation' [of the decrees of the provincial chapter of 1707, with all the restrictions and refusal to accept some of them], not only were the rights and praiseworthy customs of the province abrogated, but that the superiors of the province were despised and mocked, as being childish and unjust! What was there in the 'confirmation', which concerned the younger religious, the students and the laybrothers, that with such strictness the publication before them was ordered? »⁸⁹⁾ This produced no good effect, but rather much harm, state the indignant definitors.

« These therefore are the complaints which the undersigned⁹⁰⁾ respectfully submit », about the passing over of our rights and privileges. No threats are made for the event that the prior general be unwilling to rectify these supposed wrongs, rather the Austrians promise that they will practice patience. They merely allow themselves a final reference to the calumniators who were responsible for the prior general's decrees about their provincial chapter of 1707 by their « sinister tales and false information. May God spare them! Amen »⁹¹⁾.

⁸⁹⁾ *Ibid.* 6v-7r.

⁹⁰⁾ We recall here from § 5 who the signers were, and that they were four in number. We cannot fully explain why only four out of a possible nine members of the definitory now signed the protest. We have indeed our opinions on the matter, but the evidence is insufficient to make a certain judgment. One thing however does seem certain: the absence of a name does not mean necessarily that the person in question was unwilling to sign the *Gravamina*. Cf. the first part of § 5. Further we must recall that seven definitors had signed the first formal protest sent to Nuzzi on July 5, 1708; ÖNB 8461.115r-116r.

⁹¹⁾ *Graz.* 7r.

Result of the controversy

To satisfy the reader's natural curiosity, we can state here that the prior general found it wise not to insist further upon his standpoint. Although no document known to us states this explicitly, the Austrian customs and privileges were recognized in the later choice of priors, regents and chapter presidents, as well as in the granting of permission to obtain the doctorate or the magisterium. The Austrians themselves gave up the idea of making all novices sons of the province, so that until the end of the Austrian province in 1812 some friars were affiliated to individual convents. The problem was still unsettled on Sept. 5, 1711 when the complete Austrian definitory continued its protest about nominating the prior and regent of Vienna without presentation. The new prior general Summantico had on June 1 of that year named the unpopular Christoph Fromiller as prior of Vienna, and Friedrich Stainpock as regent on the same date ⁹²). The Austrians felt justified in protesting against these nominations, since the general definitory of the order had in the general chapter of 1711 turned over the controversy to the new prior general and his curia after the Austrians expressed their protest on May 27. Nonetheless Summantico had named a prior and a regent for Vienna without presentation by the Austrian definitory ⁹³). Since the curia had turned this problem over to the prior general unanimously, the prior general himself answered the Austrians on Oct. 4 of the same year ⁹⁴), repeating for the majority of points, but not completely, the positions of Nuzzi his predecessor: novices should be affiliated to particular convents, not to the whole province; for the provincial chest to be set up in Vienna three keys should be kept, one by the local prior, one by the provincial procurator, and one by the provincial; priors should turn over 8% instead of 10% as formerly stated, from novices' dowries and the belongings of departed brethren also to the keepers of the keys; the funds in the common chest should be used for common expenses, so that the individual convents should not be obliged to make extraordinary contributions. So far as the appointment of a regent or of a prior for the general

⁹²) See ÖNB 8466.297rv for the nomination of Fromiller; Dd 151.129-130 for that of Stainpock.

⁹³) ÖNB 8461.126rv.

⁹⁴) Dd 151.280-285 and ÖNB 8466.300r-301r for the complete text, which we merely summarize here.

convent of Vienna was concerned, Summantico claimed that this right unquestionably belonged to the prior general without any presentation by the province! Further, he added, the registers of the order — surely this meant the Dd series — proved that the right to name the prior without previous presentation had been practiced for at least forty years. Evidently the letters of presentation from the Austrians had already disappeared, or were not found by those to whom the prior general had assigned this task.

One might think at the first glance that this answer of Summantico merely served to harden the positions of both sides. Yet we see that several gleams of readiness for compromise appear in his answer of Oct. 4, 1711. And we can be sure that the Austrian Augustinians informed him by subsequent letters that it was simply not true that previous priors general had named regents and priors in Vienna without hearing the mind of at least the so-called *patres graviores* of the province. This was easy to do, as the text of the *Gravamina* shows, since the provincial archives of the Austrians at this time, especially after the meticulous labors of the provincial Achinger, were in very good condition. And Summantico himself, only one week after his answer of Oct. 4, 1711, wrote somewhat placatingly on Oct. 11 to the Austrians that his intention in relieving Ferro of the regency had not been to deprive him of a position, but rather to appoint a successor after Ferro had already held the post for almost five years ⁹⁵).

Even in 1713, when the Austrians held on July 24 a private definitorial congregation, the provincial Sigismund Cetto informed the definitory that the prior general Summantico had asked this question: had the past provincial Caesarius Posch put into execution the orders for the proper rule of the province made by Nuzzi [on July 9, 1707], and subsequently confirmed by the new prior general? The definitors gave this answer: Nuzzi's decree had been observed, but with the following exceptions: the central money chest had never been fully set up in the province; hence the key to it had never been given to the prior of Vienna; further, ten percent of all revenues and the belongings of deceased brethren were kept by the provincial procurator ⁹⁶). The solution was a compromise, partially explainable by local conditions — and partially left unexplained.

⁹⁵) ÖNB 8461.127r, where however Summantico shows his displeasure at Ferro's complaint about his being relieved of the regency, which the prior general claimed, tended to show disrespect of his authority.

⁹⁶) ÖNB 8461.135v.

But later provincial chapters showed that the provincial chest had been definitely set up by 1717 ⁹⁷). Further, the friendly tone of the provincial chapter of 1722 in asking the prior general to appoint a good new regent for Vienna, now that the former regent Hugolin Wanderer had been transferred by the chapter as prior to Gratz, shows that the prior general had at least tacitly consented to leave the problem up to the Austrians beyond the Alps, as they desired ⁹⁸). It is true that far later, on June 30, 1764 a change was introduced by the prior general F. X. Vazquez, who appointed the Italian Agostino Gervasio as prefect of studies in Vienna, to whom even the regent was bound to show obedience in matters pertaining to studies ⁹⁹). This was done in accordance with the Austrian Augustinians, who wished to cooperate with the prior general's plan of elevating studies in the order. But of this and of other later developments we hope to treat in later studies ¹⁰⁰).

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⁹⁷) *Ibid.* 158rv.

⁹⁸) *Ibid.* 184v.

⁹⁹) Dd 207.45rv; Gavigan, *2oct.* 346-347.

¹⁰⁰) The forthcoming study of the general archivist of the Augustinian order, Dr. Fernando Rojo, will shed great light upon the complicated history of the important Peruvian, F. X. Vazquez, prior general of the Augustinians from 1751 until 1784.