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COLLECTANEA HISTORIAE IVRIS CANONICI

XIV.

CVRANTIBVS

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IV.

SIGILLVM CIVITATIS

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BONONIAE MCMLXVII

SUMMARY: In a letter to his vicar, Anastasius of Thessalonica, Leo I insisted that the vicar was called merely *in partem sollicitudinis, non in plenitudinem potestatis*, that is, had not received the full powers which Leo could have granted him. Formerly considered spurious but recently shown to be apparently genuine, Gregory IV's decretal *Divinis praeceptis* appropriated Leo's terminology on behalf of bishop Aldric of Le Mans (833); in judgment of *causae maiores*, Gregory asserted, the European episcopate holds a quasi-delegated jurisdiction, for it is called *in partem sollicitudinis, non in plenitudinem potestatis*, while the papacy reserves to itself full power over such cases. A Pseudo-Isidorian addition to a decretal of pope Vigilius echoes the language and thought of Gregory IV's decretal. By 1065, the *Collection in 74 Titles* had republished Gregory IV's and Pseudo-Vigilius's texts on *plenitudo potestatis* and *pars sollicitudinis*; under Gregory VII, Leo's statement was repeatedly cited. From Gregory VII's reign to Gratian's *Decretum* (which included all three), the three classic statements on *plenitudo potestatis* reappeared frequently in canonical collections. For Manasses of Reims and Ivo of Chartres, Leo's text implied a limitation on the powers of papal legates. Bonizo of Sutri and Ivo of Chartres maintained specifically that metropolitans are called only *in partem sollicitudinis, non in plenitudinem potestatis*. Around 1076, Bernold of Constance interpreted the three classic texts as authority for the assertion that the Roman Pontiff is the universal ordinary, holding *universalis et principalis potestas* over the subjects of bishops as well as over all bishops. In his introduction to C. 9 q. 3, Gratian elaborated even more explicitly the conception of *plenitudo potestatis* as the jurisdiction of the *iudex ordinarius omnium* [*R. L. B.*].

SUMMARIUM: Leo I, in epistola ad Anastasium Thessalonicensem vicarium suum scripta monuit, ut vicarius *in partem sollicitudinis* tantum vocatus esset, *non in plenitudinem potestatis*, videlicet vicarium non recepisse plenam potestatem quam Leo potuit ei conferre. In litteris decretalibus Gregorii IV *Divinis praeceptis*, quae hucusque apocryphae iudicabantur nunc autem satis probabiliter authenticae esse demonstratae sunt, illa Leonis ratio terminorum pro episcopo Aldrico Cenomanensi (a. 833) adhibetur; in iudicandis *causis maioribus* episcopos Europae iurisdictionem quasi-delegatam habere Gregorius affirmat, cum *in partem sollicitudinis non* autem *in plenitudinem potestatis* vocati sint, ipsum vero R. Pontificem sibi plenam potestatem in his causis reservare. Additamentum quoddam, a Pseudo-Isidorianis factum ad decretalem Vigilii Papae, sermonem et mentem decretalis Gregorii IV sapit. Sub a. 1065 *Collectio 74 titulorum* textus Gregorii IV et Pseudo-Vigilii de *plenitudine potestatis* et *parte sollicitudinis* iterum divulgavit. Tempore Gregorii VII sententia Leonis I saepius refertur. A tempore Gregorii VII usque ad *Decretum* Gratiani (in quo omnes tres textus leguntur) hae classicae sententiae de *plenitudine potestatis* iterum atque iterum in collectionibus canonicis apparent. Manasses Rhemensis et Ivo Carnutensis accipiunt textum Leonis quasi limites ponat potestati legatorum SS. Pontificum. Bonizo Sutrinus et Ivo Carnutensis expresse statuunt metropolitas tantummodo *in partem sollicitudinis non* autem *in plenitudinem potestatis* vocatos esse. Anno circiter 1076 Bernoldus Constantiensis tres textus classicos habet tot auctoritates illius sententiae quae tenet Romanos Pontifices ordinarios

esse universales qui *potestatem* habent *universalem et principalem* in omnes subditos episcoporum et in omnes ipsos episcopos. In dicto introductorio quaestionis 3 Causae 9 Gratianus magis adhuc explicite sensum *plenitudinis potestatis* enucleat quatenus iurisdictio *iudicis ordinarii omnium*.

The importance of the term *plenitudo potestatis* needs, at this time, neither defense nor explanation. As scholars generally agree, at least since the later twelfth century this formula served to invoke, express, and justify the papacy's most exalted claims to jurisdiction over the Church and even over the secular world. From its origins under Leo I to its culmination under Innocent III and Innocent IV, the development of *plenitudo potestatis* as term and as concept has received careful study (1). Yet a few obscurities remain, among them the evolution of this formula during the three centuries from Gregory IV to Gratian.

In the hands of thirteenth-century popes and canonists, the expression *plenitudo potestatis* appeared in a bewildering variety of contexts. Despite the diversity of its applications, however, it consistently denoted one or the other of two distinguishable claims (2). Though the decretists had already articulated both conceptions of *plenitudo potestatis* during the last quarter of the twelfth century, Innocent III may better provide examples of these two claims: First, *plenitudo potestatis* could indicate the jurisdiction inherent in the papal office, that is, the Roman Pontiff's "ordinary jurisdiction" over the Church. In Innocent's terminology, it was equivalent to the "fullness of ecclesiastical power" or the "primacy of ordinary power" (*plenitudo ecclesiasticae potestatis* and *principatus ordinariae potestatis*) (3). Innocent maintained that the jurisdiction of all lesser churches and prelates derives from the Roman See, which has called them "to a share of its responsibility" (*in partem suae sollicitudinis*) but has retained its own inexhaustible "fullness of power" (4). Specifically, he identified the papal *plenitudo potestatis* with his own role as the "ordinary judge of all" (*iudex ordinarius singulorum*) (5), stressing the ubiquity and universality of this "fullness of power", a primacy which extends "over all churches and over all prelates of churches, indeed, over all of the faithful" (6). In a second and quite different sense, the expression *plenitudo potestatis* could indicate the papacy's reserve of absolute power apart from the regular exercise of its ordinary jurisdiction. In this sense, *plenitudo potestatis* included the Roman Pontiff's supreme right (as Innocent explained), "above the law, to make dispensations" (7), to remedy any defects in an ecclesiastical election (8), to make a direct appointment to a vacant see (9). That is, sanctioned by this extraordinary prerogative, the pope can act outside of the standard administrative pro-

(1) The essay by Jean Rivière, *In partem sollicitudinis: Évolution d'une formule pontificale*, in: *Revue des sciences religieuses* 5 (1925) 210-31, is an invaluable pioneering study. A few of the more recent discussions are: Gerhart B. Ladner, *The Concepts of 'Ecclesia' and 'Christianitas' and Their Relation to the Idea of Papal 'Plenitudo potestatis' from Gregory VII to Boniface VIII*, in: *Sacerdozio e Regno da Gregorio VII a Bonifacio VIII* (*Miscellanea Historiae Pontificiae* 18: Rome 1954) 49-77; Alfred Hof, *Plenitudo potestatis und imitatio imperii zur Zeit Innocenz' III.*, in: *Zeitschrift für Kirchengeschichte* 66 (1954-55) 39-71; Brian Tierney, *Foundations of the Conciliar Theory* (Cambridge 1955) esp. 141-49; John A. Watt, *The Theory of Papal Monarchy in the Thirteenth Century* (New York 1965) esp. 75-105; Id., *The Use of the Term 'Plenitudo potestatis' by Hostiensis*, in: *Proceedings of the Second International Congress of Medieval Canon Law*, eds. S. Kuttner & J. J. Ryan (*Monumenta iuris canonici, Subsidia* 1: Vatican City 1965) 161-87.

(2) The following paragraph owes much to the excellent analyses by Watt (above, n. 1).

(3) *Reg.* 8.22, *PL* 215 576: *Ipsa [Romana ecclesia] enim in eos, quos in partem suae sollicitudinis evocat, sic dispensat onera et honores, ut non minus eam omnium ecclesiarum cura sollicitet, et plenitudo ecclesiasticae potestatis adornet, quam non patitur Petri privilegium minorari.* Also, *Conc. Lat. IV* c. 5 (= *X* 5.33.23). Of course, the familiar texts of Innocent III cited here (nn. 3-9) represent only a few — but, hopefully, a typical selection — of his many statements on the papal *plenitudo potestatis*.

(4) *Reg.* 2.209, *PL* 214 763: *in ea [ecclesia Romana] plenitudo potestatis existit, ad caeteros autem pars aliqua plenitudinis derivatur. Reg.* 1.350, *PL* 214 324: *Sic apostolica sedes... eos [fratres et coepiscopos nostros] in creditae sibi sollicitudinis partem assumpsit, ut nihil sibi substraheret de plenitudine potestatis.*

(5) *Reg.* 2.277, *PL* 214 843.

(6) *Reg.* 2.220, *PL* 214 779: *Ecclesia Romana... et... Romani pontifices ...super ecclesiis omnibus et cunctis ecclesiarum praelatis, imo etiam fidelibus universis, a Domino primatum et magisterium acceperunt; vocatis sic caeteris in partem sollicitudinis, ut apud eos plenitudo resideat potestatis...* Also, *Reg.* 1.495, *PL* 214 458f.

(7) *X* 3.8.4 (1198): *...secundum plenitudinem potestatis de iure possumus supra ius dispensare...*

(8) *X* 1.6.39 (1207): *...electionem... duximus confirmandam, supplentes de plenitudine potestatis, si quis in ea ex eo fuisset defectus, quod quidem interfuerunt electioni eiusdem, qui ex sola participatione in simplicis excommunicationis laqueum inciderunt.*

(9) *Reg.* 8.88, *PL* 215 662: *...ne gregi dominico diu desit cura pastoris, ad providendum eidem ecclesie pastorum idoneum procedemus, secundum officii nostri debitum ex plenitudine potestatis.*

cedures and can even suspend the operation of the canons themselves. Despite the importance of this second sense (10), only the first claim — the *plenitudo potestatis* of the pope as *iudex ordinarius omnium* — will be relevant within this study.

Neither spectacular nor even promising in its origins, the phrase *plenitudo potestatis* made its first appearance in a long letter by Leo the Great to his vicar, bishop Anastasius of Thessalonica. Though the phrase occurs within a neatly turned and forceful sentence, it had little to do with the lofty jurisdictional claims of the thirteenth-century papacy. Indeed, since Leo apparently made use of the expression only once, he could scarcely have designed it to become the keystone in the theoretical structure of papal power. Created for a particular case, this formula had, in Leo's mind, no general application (11).

In his letter to bishop Anastasius, Leo reproved the vicar for excessive severity and reminded him that as papal representative, Anastasius had received Leo's *vices*, that is, a purely delegated form of power:

> For we have granted our office (*vices*) to you in such a way that you are called to a share of the responsibility (*in partem... sollicitudinis*), not to the fullness of power (*non in plenitudinem potestatis*) (12).

Though one might suspect that in the duality *pars sollicitudinis* and *plenitudo potestatis* as elsewhere, Leo's mind reveals a juristic cast (13), the main origins of this diction are clearly Biblical,

(10) In this second sense, *plenitudo potestatis* served as a foundation for papal political claims; see WATT, *Theory*, esp. 97-105. Yet one must beware of oversimplification, for even in the first sense, the *plenitudo potestatis* of the pope as *iudex ordinarius omnium* could easily be stretched to include a clearly political dimension. For example, ALANUS, gl. on *Coll. Alan.* 1.20.1 [1.16.1] v. '*iudicare non intendimus*': *quia ad praesens; de plenitudine tamen sue potestatis posset papa secundum opinionem nostram, qui dicimus quod papa est iudex ordinarius omnium hominum de omni negotio* (A. STICKLER, in: *Sacerdozio e Regno* [*supra*, n. 1] 23).

(11) RIVIÈRE, *op. cit.* (*supra*, n. 1) 213f.

(12) *Ep.* 14 c. 1, *PL* 54 671: *...Vices enim nostras ita tuae credidimus charitati, ut in partem sis vocatus sollicitudinis, non in plenitudinem potestatis...* In general, see RIVIÈRE, *op. cit.* 210-14, and ERICH CASPAR, *Geschichte des Papsttums von den Anfängen bis zur Höhe der Weltherrschaft* I (Tübingen 1930) 454f, 429, 435 n. 5. On the relations between the 5th-century popes and the bishops of Thessalonica, consult PIERRE BATIFFOL, *Le Catholicisme des origines à St. Léon* IV: *Le siège apostolique* 395-451 (2nd ed. Paris 1924) 245-54, and CASPAR, *op. cit.* I, 308-13, 373f, 452-57, 603f, 611f.

(13) WALTER ULLMANN, *Leo I and the Theme of Papal Primacy*, in: *The Journal of Theological Studies* 11 (1960) 25-51 at 33ff.

and especially Pauline (14). The word *sollicitudo* was, in Leo's diction, a favorite term for the special responsibility of the papal office, indicating (like St. Paul's phrase, *sollicitudo omnium ecclesiarum*) his parental concern for the welfare of other churches (15). But Leo also used *sollicitudo* to express the preeminent position of the higher prelates (16), and he considered it particularly appropriate for the delegated jurisdiction of papal vicars (17). Naturally, Anastasius's jurisdiction as vicar was delegated, whereas his power as bishop was, in the later technical sense, " ordinary " power, inherent in the episcopal office; thus, from its very beginning, the phrase *plenitudo potestatis* was associated with delegated power. In other words, according to Leo's conception, the vicar should remember that his own " share of the responsibility " was constantly subject to papal control and supervision, and should consider himself a mere executive instrument of the pope. Indeed, Leo had already instructed Anastasius that any appeals or " more serious cases " (*causae graviores*) were explicitly reserved to papal judgment (18). Within Leo's letter, of course, and in some later citations of its text, one can discern an element of policy: the determination to prevent the pope's immediate subordinates from growing too powerful and independent.

Because the subsequent history of *plenitudo potestatis* has been so dramatic, one cannot always easily disencumber the original meaning of the formula. Obviously, Leo I did not design this formula in order to distinguish the authority of the Roman Pontiff from that of other bishops. Yet it is commonly assumed that in distinguishing *plenitudo potestatis* from *pars sollicitudinis*, Leo was contrasting his own unlimited jurisdiction

(14) *Ps.* 23.1: *Domini est terra et plenitudo eius, orbis terrarum et universi qui habitant in eo;* similarly, *Ps.* 49.12, 88.12, and 1 *Cor.* 10.26. Also, *Col.* 2.9f: *in ipso* [*Christo*] *inhabitat omnis plenitudo divinitatis corporaliter, ... qui est caput omnis principatus et potestatis.* Cf. 2 *Cor.* 11.28: *instantia mea cotidiana, sollicitudo omnium ecclesiarum.* For other Pauline uses of *plenitudo*, cf. also *Rom.* 13.10; *Eph.* 3.19, 4.13; *Col.* 2.2; *Heb.* 10.22. In general, ULLMANN, *op. cit.* 40.

(15) *Ep.* 5 c. 2, 10 c. 2, 171 c. 2, *Sermo* 3 c. 4, *PL* 54 615, 630, 1216, 147.

(16) *Ep.* 14 c. 11, 119 c. 3, *Sermo* 5 c. 2, *PL* 54 676, 1042, 153.

(17) *Ep.* 83 c. 1, *PL* 54 919: *fratres meos..., qui sollicitudinis meae partes possint implere, direxi...* Cf. also *Ep.* 14 pr., 112 c. 2, 116 c. 2, *PL* 54 668, 1024, 1037.

(18) *Ep.* 6 c. 5, 5 c. 6, *PL* 54 619, 616.

with the limited jurisdiction of his vicar (19). In general, however, Leo did not view *sollicitudo* as a form of power inferior to *potestas*, and he applied both terms to his own competence (20). In any case, Anastasius needed no reminder that in the relation between a vicar and the Roman Pontiff, the latter indisputably held the fullness of power. In short, Leo's rebuke was intended simply to stress that Anastasius had received only a "share" of the papal *sollicitudo*, that is, had been entrusted with only a limited commission, instead of with the unlimited "fullness of power" which Leo could have conferred upon him. Indeed, in the eleventh century, Leo's famous statement to Anastasius was sometimes correctly interpreted in this sense (21). Correspondingly, in the twelfth and thirteenth centuries, when papal grants of legatine power mentioned the bestowal of *plenitudo potestatis*, they remained true to the idea underlying Leo's original formulation (22).

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Transmitted by canonical collections, Leo I's letter to Anastasius was readily accessible throughout the Early Middle Ages (23). In 833, however, the expression *plenitudo potestatis* reappeared in a decretal from Gregory IV to the bishops of "Gaul, Europe, Germany, and... all provinces" (24). Though the virtually unanimous verdict of scholars has pronounced this letter a forgery, a recent study has scrupulously re-examined the evidence and forcefully presented the case for its authenticity (25). Designed

(19) Cf., however, Ullmann, *op. cit.* 36, 40, 44-46.

(20) Above, n. 15, and *Sermo* 4 c. 3, 83 c. 2, *PL* 54 151f, 430.

(21) Below, nn. 44-45, 49.

(22) Not only *plenitudo potestatis* but also cognate expressions like *plenaria potestas* and *plena potestas* were used in reference to legatine or proctorial powers. See Ladner, *op. cit.* (*supra*, n. 1) 63f; Ullmann, *Medieval Papalism* (London 1949) 153 (cf. S. Kuttner & E. Rathbone, *Traditio* 7 [1949-51] 319); Gaines Post, *Studies in Medieval Legal Thought* (Princeton 1964) 104.

(23) For example, in the *Dionysiana* (*PL* 67 291-96); in the *Quesnelliana* (*PL* 56 743; see also below, n. 44); and in the *Hispana* (P. Hinschius, *Decretales Pseudo-Isidorianae* [Leipzig 1863] 618). Below, n. 28.

(24) *Monumenta Germaniae historica* (hereafter: *MGH*), *Epistolae* V 72-81 no. 14, dated at Colmar, 8 July 833.

(25) Walter Goffart, *Gregory IV for Aldric of Le Mans* (833): *A Genuine or Spurious Decretal?* in: *Mediaeval Studies* 28 (1966) 22-38, with an extensive survey of earlier scholarship. Though Goffart does not claim to have proven the decretal's authenticity beyond any reasonable doubt, henceforth the burden of proof will rest on those who would maintain its spuriousness.

as a defense of bishop Aldric of Le Mans, the decretal states that after a "hearing" by his metropolitan, the accused bishop could appeal to Rome, and that the appeal would suspend all actions and judgments against him, leaving him in full possession of his see till the settlement of the case by the pope or papal legate (26). Then Gregory justified this assertion as a general principle of law:

> concerning one who has recourse to the protection of the Holy Roman Church and beseeches its help, nothing should be decided before it has been commanded by that same Church. The Roman Church has bestowed its office on other churches in such a way that they are called to a share of the responsibility, not to the fullness of power (27).

In general, Gregory's decretal is a mosaic of quotations. Obviously at this specific point, however, Gregory has appropriated the wording of Leo's letter to Anastasius (28), and has thus, for the first time, removed the expressions *plenitudo potestatis* and *pars sollicitudinis* from their original setting.

Despite his close adherence to the diction of Leo's letter, Gregory radically altered the sense of Leo's formulation (29). Like Leo, Gregory was applying the technical language of delegated power (*vices*), but where Leo spoke personally, using the first person plural and the second person singular, Gregory spoke impersonally of "the Roman Church" and of "other

(26) On Aldric's difficulties in 833, see Goffart, *op. cit.* 22, 30-36, and his equally recent study of *The Le Mans Forgeries* (Cambridge 1966).

(27) *MGH, Epistolae* V 74 no. 14: *...nihil prius de eo, qui ad sinum sanctae Romane confugit ecclesiae eiusque inplorat auxilium, decernatur, quam ab eiusdem ecclesie fuerit praeceptum auctoritate, quae vices suas ita aliis inpertivit ecclesiis, ut in partem sint vocate sollicitudinis, non in plenitudinem potestatis...*

(28) Shortly before the composition of the decretal for Aldric, abbot Wala of Corbie apparently presented to Gregory a collection of canonical texts (*nonnulla sanctorum patrum auctoritate firmata, predecessorumque suorum conscripta*), justifying papal authority and jurisdiction; Paschasius Radbertus, *Epitaphium Arsenii* 2.16, ed. E. Dümmler (*Abh. der königlichen Akademie der Wissenschaften zu Berlin* [1900] no. 2) 84, and Goffart, *Mediaeval Studies* 28 (1966) 24f. Such a collection could easily have furnished the immediate source for the text of Leo's letter.

(29) On Gregory IV's letter in general, see the excellent analysis by Rivière, *op. cit.* (*supra*, n. 1) 214-17, who denies, however, the radicalism of Gregory's doctrine (pp. 216f).

churches " (30). Moreover, unlike Leo, Gregory claimed that the Roman Church has conferred its " office " on the entire episcopate of Latin Christendom, rather than on a single papal vicar. The trial of a bishop was, of course, considered one of the " major cases ", and as early as the fifth century, these *maiores causae* had been traditionally reserved to the Roman Pontiff (31). To claim jurisdiction over the *maiores causae* was therefore no novelty, and in this context, *plenitudo potestatis* was simply a new term for an old papal prerogative. By excluding bishops from the power of final judgment over " major cases ", Gregory argued that bishops hold this higher form of jurisdiction only in a partial, limited, and delegated sense, whereas he implied that the Roman Church alone holds the " fullness of power " over " major cases ".

Gregory IV's decretal served as source and model for a spurious paragraph fabricated by Pseudo-Isidore and added to a genuine decretal of pope Vigilius (32). Because Pseudo-Vigilius mentioned *plenitudo potestatis* and *pars sollicitudinis* against the background of a broad ecclesiological or even theological discussion, he enhanced the importance, clarity, and applicability of these expressions. As Pseudo-Vigilius explained, " no right-minded person is unaware that all churches took their beginnings " from the Holy Roman Church, which " holds the primacy of all churches ". Having stated his view of the Roman See as the " foundation " and origin of other churches, Pseudo-Vigilius could easily maintain the derivative nature of their judicial authority. All appeals by bishops and all " major questions " involving higher prelates must be referred to Rome, " as though to the head ". This supremacy of the Roman See is a consequence of the fact that in such judgments and decisions, Rome has granted to all other churches a partial and delegated jurisdiction (*reliquis ecclesiis vices suas credidit largiendas*), a mere " share of the responsibility ", but has retained the " fullness of power " (33). Here, because Pseudo-Vigilius was not discussing a

(30) Cf. above, n. 12.

(31) *MGH*, *Epistolae* V 74f no. 14 (and esp. 75 n. 1).

(32) Hinschius, *Decr. Ps.-Isid.* 712; see, again, Rivière, *op. cit.* 217f.

(33) Hinschius, *Decr. Ps.-Isid.* 712: *ecclesia Romana fundamentum et sors [est] ecclesiarum, a qua omnes ecclesias principium sumpsisse nemo recte credentium ignorat... Quamobrem sancta Romana ecclesia... primatum tenet omnium ecclesiarum, ad quam tam summa episcoporum negotia et iudicia atque querellas quam et maiores ecclesiarum quaestiones, quasi ad capud semper referenda sunt... Ipsa namque ecclesia quae prima est ita reliquis ecclesiis vices suas credidit largiendas, ut in parte sint vocatae sollicitudinis, non in plenitudine potestatis, unde omnium appellantium apostolicam sedem episcoporum iudicia et cunctarum maiorum negotia causarum eidem sanctae sedi reservata esse liquet...*

specific case, he was free to phrase Gregory IV's idea in more general terms than Gregory himself had used, but Pseudo-Vigilius did not otherwise depart fundamentally from Gregory's precedent.

Thus, in the ninth century, *plenitudo potestatis* indicated the Roman Pontiff's supreme jurisdiction over " major cases ", whereas the *pars sollicitudinis* of other bishops was a mere effluence of this papal jurisdiction. Both for Gregory IV and for Pseudo-Vigilius, this legal doctrine still falls short of the assertion that the normal judicial competence of bishops — indeed, their ordinary jurisdiction — is only a " share of the responsibility ", is entrusted by the pope, and is essentially derivative from the papal " fullness of power ". In short, with these expressions Gregory and Pseudo-Vigilius were not discussing the general question of relations between the papal and episcopal jurisdictions (34).

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Soon after the middle of the eleventh century, as a consequence of the new burst of energy arising from the Reform movement and inspiring the study of canon law, the three classic statements on *plenitudo potestatis* were rediscovered. Leading canonists of the later eleventh century — specifically, Anselm of Lucca and Deusdedit — composed both political treatises and canonical collections, with the same canonical texts appearing in both genres (35). Indeed, one might well ask whether Bonizo of Sutri's *Book on the Christian Life* is a canonical collection (since it quotes many canons extensively and systematically, without comment) or a polemical treatise (since long sections

(34) Rivière, *op. cit.* 217f.

(35) It is probable that in addition to the treatises which he wrote, Bernold of Constance also compiled an appendix to the *Coll. in 74 Titles* (discussed below, n. 38); Johanne Autenrieth, *Bernold von Konstanz und die erweiterte 74-Titelsammlung*, in: *Deutsches Archiv* 14 (1958) 375-94.

are devoted to the exposition of Bonizo's own views) (36). Moreover, the canonical collections were arsenals from which other publicists drew authoritative texts to support their arguments (37). In this sense, it is impossible to draw a precise boundary between the revival of canon law and the growth of political theory during the Age of Reform. Hence, though the formula *plenitudo potestatis* first reappeared in a canonical collection, it was quickly appropriated for polemical treatises. Nonetheless, throughout this period, the concept of papal *plenitudo potestatis* enjoyed little autonomy, for the continuing existence of the idea depended primarily upon the transmission of the well-known passages from Leo the Great, Gregory IV, and Pseudo-Vigilius. The idea was linked to these familiar texts, and although the texts themselves were cited repeatedly, the "fullness of power" was seldom explicitly discussed apart from them. The next task, therefore, is to begin tracing the transmission of these passages, and to examine the contexts in which they appear.

Before 1065, the Reform Papacy made its first attempt to compile an entirely new canonical collection: the *Collection in 74 Titles* (38). Drawing most of its chapters from Pseudo-Isi-

(36) *Liber de vita Christiana*, ed. E. PERELS (*Texte zur Geschichte des römischen und kanonischen Rechts im Mittelalter* 1: Berlin 1930). On Bonizo, see URSULA LEWALD, *An der Schwelle der Scholastik* (Weimar 1938), who has, incidentally, made the first serious attempt (pp. 40-43) to study the development of the concept *plenitudo potestatis* during the Age of Reform.

(37) To mention only one example, Placidus of Nonantula drew directly from Deusdedit's collection; see P. FOURNIER, *Mémoires de l'Académie des inscriptions et belles-lettres* 41 (1920) 363.

(38) Also called the *Diuersorum patrum sententie*. See, in general, the standard reference work by ALFONS STICKLER, *Historia iuris canonici latini* I: *Historia fontium* (Turin 1950) 167-70, who places the collection early in the reign of Gregory VII. There is now no support for the thesis defended in numerous studies by A. MICHEL, dating the collection in the early 1050's and ascribing it to Humbert of Silva Candida; see esp. *Die Sentenzen des Kardinals Humbert: Das erste Rechtsbuch der päpstlichen Reform* (*MGH*, Schriften 7: Leipzig 1943), and *Die folgenschweren Ideen des Kardinals Humbert und ihr Einfluss auf Gregor VII.*, in: *Studi Gregoriani* 1 (1947) 65-92. Nevertheless, as FRIEDRICH KEMPF has recently pointed out (in: H. JEDIN, ed., *Handbuch der Kirchengeschichte* III: *Die mittelalterliche Kirche* [Freiburg 1966-67] 486f), one must take account of the convincing demonstration presented forty years ago by L. LEVILLAIN, *Études sur l'Abbaye de Saint-Denis à l'époque mérovingienne* (III), in: *Bibliothèque de l'École des chartes* 87 (1926) 20-97 and 245-346, arguing (pp. 294-324) that the *Coll. in 74 Titles* was used at Saint-Denis in 1065 as the source for a canonical collection (preserved in Paris, Bibl. Nat. nouv. acq. lat. 326). The questions of date and authorship will soon be reexamined by J. T. GILCHRIST in the *prolegomena* to his edition of the *Coll. in 74 Titles*.

dore, the *Collection in 74 Titles* devoted its first two sections to a series of texts "On the Primacy of the Roman Church", and under this heading appeared the discussions of *plenitudo potestatis* and *pars sollicitudinis* by Pseudo-Vigilius and Gregory IV. Thereby, for the first time, these two statements were published side by side (39). Though the compiler neither summarized nor explicated the two texts, he clearly recognized their similarity and their potential value for the reformers' program. Because the *Collection in 74 Titles* exerted so powerful an influence, both directly and indirectly, on the polemical writings as well as the canonical collections published after the accession of Gregory VII, it played a key role in the diffusion of the concept *plenitudo potestatis*. Indeed, Gregory VII himself, though he never actually mentioned the papal *plenitudo potestatis*, was apparently familiar with the duality *plenitudo potestatis* and *pars sollicitudinis*. Since he referred only to the delegated *vicem* and the *pars sollicitudinis* of papal legates, he was evidently following Leo the Great's text, rather than the two ninth-century versions (40). In fact, the compiler of the *Collection in 74 Titles* had not included Leo's assertion about the *plenitudo potestatis* (41). Writing under Gregory VII, however, Bernold of Constance saw the kinship of Leo's letter with the other two decretals defending the papal "fullness of power", but in stressing the perfect accord of the three letters, Bernold chose to ignore the essential difference between Leo's concept of *plenitudo potestatis* and the idea embedded in the other two decretals (42). In his canonical collection, cardinal Atto quoted Leo's remark on the *plenitudo*

(39) Tit. 1, "*De primatu Romane ecclesie*", cc. 12 (Ps.-Vigilius), 13 (Gregory IV). As GOFFART has remarked (*Mediaeval Studies* 28 [1966] 25f), the compiler could readily have found a text of Gregory IV's decretal in Italy.

(40) *Reg.* 5.2, ed. E. CASPAR (*MGH, Epistolae selectae* 2: Berlin 1920-23) 350: *...talem sibi reverentiam exhibeatis, qualem ex constitutione sanctorum patrum his exhiberi oportet, quos sancta et apostolica sedes in partem sue sollicitudinis assumendos quibusque vicem Romani pontificis committendam esse previdet;* also, *Reg.* 7.1, *ed. cit.* 460. Cf. MICHEL, *Sentenzen* 134, who asserts that Gregory VII's wording derives from Pseudo-Vigilius and Gregory IV by way of the *Coll. in 74 Titles*.

(41) Through Pseudo-Isidore, the compiler knew the text of Leo's letter to Anastasius (HINSCHIUS, *Decr. Ps.-Isid.* 618-20), but he may possibly have recognized that Leo's statement on *plenitudo potestatis* applied only to relations between pope and vicar, and that the underlying principle therefore offered little solid support for the doctrine of papal primacy.

(42) Below, n. 67; but cf. Bernold's gloss on Leo's text (below, n. 44).

potestatis, but since Atto cited the letter as addressed " To the bishop of Thessalonica ", and did not allude to Anastasius's vicarial powers, Leo's assertion could easily seem applicable to the relation between the papacy and the entire episcopate (43).

During the later eleventh century, though the original sense of Leo's statement on the *plenitudo potestatis* was undoubtedly often forgotten, it certainly never disappeared. In a manuscript of the *Quesnelliana*, for example, Bernold of Constance glossed Leo's letter with the comment, " Note that a vicar is called to a share of the responsibility, not to the fullness of power " (44). On another occasion, Leo's remark was invoked with all the force of its original meaning: In 1077, after Gregory VII's legate, bishop Hugh of Die, had deposed and excommunicated archbishop Manasses of Reims for failure to appear at the synod of Autun, Manasses defended himself with the help of Leo's formula. Protesting Hugh's verdict and appealing to the pope, Manasses insisted that Hugh had overstepped his competence, since as legate, Hugh had received only a limited commission, *ut in partem sit vocatus sollicitudinis, non in plenitudinem potestatis* (45).

Still, the original sense of Leo's formula was not recalled solely in scholarly glosses, or in ingenious defenses by worldly prelates trying to escape the rigor of Gregorian justice. Even distinguished and reform-minded churchmen might need the support of Leo's text. In 1197, Hugh (who had, by then, become archbishop of Lyons) reproached Ivo of Chartres for failure to secure Hugh's permission before participating in the consecration of the bishop of Orléans. Such permission, Hugh maintained, was indispensable because of his own legatine office (*propter officium legationis*) (46). To justify this rebuke, Hugh cited a

(43) *Capitulare* (= *Breviarium canonum*), ed. Angelo Mai, *Scriptorum veterum nova collectio* VI, 2 (Rome 1832) 78: *Ad thessalonicensem episcopum. Vices nostras ita tuae credimus pietati, ut in parte sis vocatus sollicitudinis, non in plenitudine potestatis.*

(44) J. Autenrieth, *Die Domschule von Konstanz zur Zeit des Investiturstreits* (n. p. 1956) 50: *Nota uicarium in partem sollicitudinis non in plenitudinem potestatis uocatum esse.*

(45) H. Sudendorf, *Registrum oder merkwürdige Urkunden für die deutsche Geschichte* I (Jena 1849) 13 no. 9; Otto Meyer, *Reims und Rom unter Gregor VII.*, in: *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kan. Abt.* 28 (1939) 427-29.

(46) The wording of Hugh's charge can be readily inferred from Ivo's reply to it (given below, n. 49).

statement in the long letter from Leo the Great to bishop Anastasius, requiring Anastasius's consent before any metropolitan within the vicar's jurisdictional sphere could consecrate a bishop (47). Of course, Ivo was familiar with the text cited by Hugh, but in his *Decretum*, Ivo had explained this requirement as a general prerogative of primates (48). In his reply to Hugh's charge, however, Ivo simply pointed out that Anastasius had received this prerogative in his capacity as Leo's " legate ", that is, because of " a personal privilege, not a general law ". No flattery was intended when Ivo then added, " According to the same Leo, a legate's office is a part of the apostolic responsibility, not the fullness of power ". Moreover, Ivo continued, a legate " sometimes receives more, sometimes less, depending upon the will of the one who is granting it ". But since Ivo had not known the precise extent of Hugh's powers, he had not been aware that Hugh's permission was necessary. " It is not my intention ", he wrote in ironic apology, " to act obstinately against the privilege of your legateship — or against whatever exaltation Divine Providence may wish to give you " (49).

As legate, Hugh of Lyons effectively represented the most militant policies of the Reform Papacy, but, of course, even a prelate who held a high conception of papal primacy might occasionally resist the jurisdiction imposed upon him by the

(47) Leo I, *Ep.* 14 c. 6, *PL* 54 673.

(48) *Decretum* 5.348 rubr., *PL* 161 428: *Ut personam consecrandi episcopi primas quoque sua auctoritate confirmet;* Gratian also incorporated Leo's text (D. 65 c. 4), and his rubric followed Ivo's interpretation of it. If Hugh had based this reproach on his position as *primas* over Ivo's metropolitan (Sens), Ivo would — by his own interpretation of Leo's text — have had no counter-argument. On Hugh's *primatus*, see Horst Fuhrmann, *Studien zur Geschichte mittelalterlicher Patriarchate* (II. Teil), *Zeitschr. der Sav.-Stift. für Rechtsgesch., Kan. Abt.* 40 (1954) 70-84.

(49) *Ep.* 59, *Correspondance* I, ed. J. Leclercq (Paris 1949) 234-36 (*PL* 162 69f): *Quod vero scripsistis propter officium legationis vobis iniunctae prius ad notitiam vestram hoc fuisse referendum, ut tunc eum demum consecraremus, cum quod vobis bene placeret agnosceremus, quoniam sic praeceperit papa Leo Anastasio Thessalonicensi episcopo, legato suo, personale hoc intelligimus fuisse privilegium, non generale decretum, maxime cum, secundum eumdem Leonem, ' legationis officium pars sit apostolicae sollicitudinis, non plenitudo potestatis '. Quae etiam pars modo plus, modo minus recipit pro arbitrio committentis. Sed quia modo per vos demum cognovi quod nec dicto nec scripto alicuius ante didiceram, non est meum studium contra privilegium legationis vestrae vel quantamcumque sublimitatem divina dispensatio vobis dare voluerit contentiose agere...*

papal legatine system (50). In the hands of ecclesiastical princes as different in character as Manasses of Reims and Ivo of Chartres, Leo I's statement on *plenitudo potestatis* and *pars sollicitudinis* provided a juridical basis for this resistance. Within his canonical collections, in fact, Ivo inappropriately summarized Gregory IV's and Pseudo-Vigilius's excerpts on *plenitudo potestatis* as though they referred, like Leo's statement, to the relations between pope and legate. " Vicars of the Roman See ", he wrote, " should not have the fullness of apostolic power " (51). Undoubtedly, many prelates would have agreed with this principle.

Relying heavily on the *Collection in 74 Titles*, Anselm of Lucca's collection incorporated Gregory IV's and Pseudo-Vigilius's texts on the papal *plenitudo potestatis*, but Anselm placed them in Book II, " On the Freedom of Appeal ", rather than in the more general category of Book I, " On the Power and Primacy of the Roman Church ". In the brief epitome which he placed at the head of the Pseudo-Vigilian chapter, Anselm explained that this passage reserves to the Apostolic See the judgment of all appeals by bishops or other high prelates and of all cases involving such prelates (52). Anselm provided a longer summary of the excerpt from Gregory IV's letter:

> That nothing should be decided about someone who has had recourse to the protection of the Holy Roman Church, until orders have been given by that Church, which has bestowed its office on other churches in such a way that they are called to a share of the responsibility, not to the fullness of power (53).

Here, Anselm has added nothing to the ninth-century concept of *plenitudo potestatis*, but because he phrased his abstract in

(50) On the legatine system, see Theodor Schieffer, *Die päpstlichen Legaten in Frankreich vom Vertrage von Meersen* (870) *bis zum Schisma von 1130* (*Historische Studien* 263: Berlin 1935); O. Meyer, *op. cit.* (*supra*, *n.* 45) esp. 420-36.

(51) *Decretum* 5.11 (Gregory IV) rubr., *PL* 161 326: *Quod vicarii Romanae sedis non habeant plenitudinem apostolicae potestatis;* for Ivo's other interpretation of Gregory IV's text, see below, n. 65. Also, *Tripartita* 1.52.2 (Ps.-Vigilius) rubr.: *Quod uicarii apostolice sedis non habeant plenitudinem potestatis eius* (Paris, Bibl. Nat. MS lat. 3858B fol. 42ra; 3858 fol. 68v).

(52) *Collectio canonum* 2.18 rubr., ed. F. Thaner (Innsbruck 1906-15) 83: *Quod omnium appellationum et episcoporum et cunctorum maiorum negotia apostolicae sedi debent reservari.*

(53) *Id.* 2.17 rubr., *ed. cit.* 83: *Ut de eo qui ad sinum sanctae Romanae ecclesiae confugit, nihil ante decernatur, donec ab ipsa precipiatur, quae vices suas ita aliis impertivit ecclesiis, ut sint in partem vocatae sollicitudinis non in plenitudinem potestatis.*

broad terms, its wording could be interpreted as a defense of *any* appellant's right of recourse to the Roman See, and not merely as an assertion of the right of bishops to appeal to Rome. Along similar lines, the collection of cardinal Deusdedit summarized the Pseudo-Vigilian text as a simple statement " That the Roman Church has bestowed its office, not the fullness of power, on all churches " (54). Thereafter, from Gregory VII's reign to Gratian's *Decretum*, the key passages by Leo I, Gregory IV, and Pseudo-Vigilius were frequently quoted and cited: The *Collection in Two Books* republished the texts of Gregory IV and Pseudo-Vigilius (55). Ivo of Chartres included all three texts in his canonical collections (56). Manegold of Lautenbach reproduced the relevant passage from Pseudo-Vigilius's letter (56a), and Bonizo of Sutri quoted Leo's statement on *plenitudo potestatis* three times (57). In the collections of the early twelfth century, the excerpts from Gregory IV and Pseudo-Vigilius continued to reappear (58).

As the classic texts discussing *plenitudo potestatis* and *pars sollicitudinis* became more familiar, theorists of the Reform movement gained an increasing awareness of their meaning and possible value. In their own writings, publicists and canonists began to improvise more freely with these terms, and to exploit them in their attempts to chart the coordinates of an enlarged papal prerogative. For example, the contrast between " the fullness of power " and " the share of the responsibility " was invoked to justify the growth of effective papal primacy at the

(54) *Coll. can.* 1.139 (113), ed. V. Wolf von Glanvell, *Die Kanonessammlung des Kardinals Deusdedit* (Paderborn 1905) 94; and see Deusdedit's summary of this chapter (*ed. cit.* p. 7): *Quod [Romana ecclesia] omnibus ecclesiis largita est suam uicem, non potestatis plenitudinem.*

(55) Jean Bernhard, *La Collection en deux livres* (*Cod. Vat. lat.* 3832) I (Strasbourg 1962) 77-79.

(56) Above, n. 51; below, n. 65.

(56a) *Ad Gebehardum liber* c. 7, *MGH*, *Libelli de lite* I 323; note the rubric of c. 7: *De privilegiis sedis apostolice ac decretis omni reverentia servandis.*

(57) Below, nn. 62f.

(58) *Coll. of Turin in Seven Books* (P. Fournier & G. Le Bras, *Histoire des collections canoniques en Occident* II [Paris 1932] 164), Ps.-Vigilius and Gregory IV; *Polycarpus* 1.8.9 (E. Friedberg, apparatus ad C. 2 q. 6 c. 11), Gregory IV; *First Coll. of Châlons* 12.20 (P. Fournier, *Bibliothèque de l'École des chartes* 58 [1897] 633), Ps.-Vigilius.

expense of the metropolitan's power and autonomy. In a discussion of ecclesiastical vestments, Bonizo of Sutri mentioned the distinctive *insignia* which the papacy conferred on archbishops and on a few bishops: the *pallium* (59). To indicate the derivative character of any distinction enjoyed by these prelates, Bonizo explained that the *pallium* is granted exceptionally (*dispensatorie*) by the Roman Pontiff, and that it signifies the rights of a special preeminence (*magisterii iura*) — a limited preeminence, however, since these prelates " are called to a share of the responsibility, not to the fullness of power " (60). In the early thirteenth century, Bonizo's statement found a striking echo in a decretal of Innocent III, who identified his own *pallium* with the papal *plenitudo ecclesiasticae potestatis* and associated the *pallium* of other prelates with their *pars sollicitudinis* (61). When Bonizo placed the familiar excerpt from Leo I's letter to Anastasius among a series of texts relevant to the theme of papal primacy, he viewed Leo's formula simply as a grant of the pope's *vices* to an archbishop (rather than to Anastasius in the capacity of papal vicar), and asserted that the archbishop is thus " called to a share of the responsibility, not to plenary power " (62). On another occasion, Bonizo forcefully reiterated this interpretation of Leo's letter: The archbishop of Bremen had denied that a papal legate could preside over a council in

(59) On the *pallium*, see H. E. Feine, *Kirchliche Rechtsgeschichte* I: *Die katholische Kirche* (2nd ed. Weimar 1954) 108ff, 207ff, 321ff.

(60) *Liber de vita Christiana* 3.108, ed. Perels 108: *Pallii enim dignitas non aliis conceditur episcopis nisi his, quibus magisterii iura dispensatorie a R^o^manis tradita sunt pontificibus, ita dumtaxat, ut in partem vocati sint sollicitudinis, non in plenitudinem potestatis.* Not long after Bonizo wrote (1089-95), Paschal II stated: *In pallio... plenitudo conceditur pontificalis officii, quia... ante acceptum pallium metropolitanis minime licet aut consecrare episcopos, aut synodum celebrare* (passage included in *Comp. I* 1.4.21, but omitted in *X* 1.6.4). Thereafter, the phrase *plenitudo pontificalis officii* became a technical term for the powers conferred with the *pallium;* see my forthcoming book, *The Bishop-Elect* (Princeton 1968) ch. 6.

(61) *X* 1.8.4 (1204): *...solus Romanus pontifex... pallio semper utitur et ubique, quoniam assumptus est in plenitudinem ecclesiasticae potestatis, quae per pallium significatur; alii autem eo nec semper, nec ubique, sed in ecclesia sua... certis debent uti diebus, quoniam vocati sunt in partem sollicitudinis, non in plenitudinem potestatis.*

(62) *Liber de vita Christiana* 4.80, and (shorter version) 3.30, ed. Perels 146, 81. See esp. Bonizo's rubric for 4.80: *Quod sic papa vices suas committit archiepiscopo, ut in partem sit vocatus sollicitudinis, non in plenariam potestatem.* Anticipating 12th-century usage, Bonizo regarded the expression *plenaria potestas* as interchangeable with *plenitudo potestatis;* see Ladner, *op. cit.* (*supra*, n. 1) 63f, and Post, *op. cit.* (*supra*, n. 22) 86-89, 93, 96-100, 104.

Germany, since, as he asserted, the archbishop of Mainz holds a permanent legatine commission. Against this position, Bonizo cited Leo's letter to Anastasius and misquoted it significantly:

> For the pope has entrusted his duties *to all archbishops* in such a way that they are called to a share of the responsibility, not to the fullness of power (63).

Once again, Bonizo has transformed Leo's statement to buttress his conviction that the archiepiscopal office is held in trust from the papacy, and that it is subject to constant papal supervision.

In its original form, Leo's text gave little support to this position, but Gregory IV's doctrine was, of course, better adapted to Bonizo's view. It is not surprising, therefore, that in his conflict with his own metropolitan, archbishop Richer of Sens, Ivo of Chartres quoted Gregory's remarks on the *plenitudo potestatis*, unmistakably (though implicitly) ascribing the *pars sollicitudinis* to the archbishop (64). Moreover, in his *Decretum*, Ivo summarized Gregory IV's doctrine as an assertion

> That primates and metropolitans are called by the Roman Church to a share of the responsibility, not to the fullness of power (65).

With this rubric, Ivo suggests that Gregory's statement implied a general limitation on the judicial authority of metropolitans and primates, rather than of the entire episcopate.

In these eleventh-century applications of the concept *plenitudo potestatis*, little was added to the meanings of that expression. During the ninth century, the idea of papal *plenitudo potestatis* expressly curbed the right of metropolitans and other bishops to try an accused bishop. Correspondingly, sometimes the elev-

(63) *Liber ad amicum* c. 7, *MGH*, *Libelli de lite* I 602: *...per Lemarum Bremensem archiepiscopum... concilium interruptum est. Is enim dicebat ex antiquis privilegiis Maguntino concessum esse episcopo in Germanie partibus vicem habere Romani pontificis, ideoque non licere Romanis legatis sinodum in eius legatione celebrare, non bene recogitans illud primi Leonis capitulum Thessalonico episcopo missum, in quo ita legitur: ' Sic enim committit papa omnibus archiepiscopis vices suas, ut in partem sint vocati sollicitudinis, non in plenitudinem potestatis '. Quid plura? Huius rei gratia Lemarius archiepiscopus a legatis Romanis a sacerdotali officio suspensus est...*

(64) *Ep.* 8, *Correspondance* I, ed. Leclercq 32 (*PL* 162 19f); O. Meyer, *op. cit.* (*supra*, n. 45) 422 n. 2.

(65) *Decretum* 5.349 rubr., *PL* 161 428: *Quod primates et metropolitani a Romana ecclesia sint vocati in partem sollicitudinis, non in plenitudinem potestatis.*

enth-century uses of the term *plenitudo potestatis* referred to the Roman pontiff's unique judicial competence in " major cases " and in actions involving appellant bishops or other high prelates; sometimes the expression focussed more narrowly on the pope's jurisdiction over metropolitans; and sometimes one denied that papal legates held the *plenitudo potestatis*. Concerned with the relation between papacy and episcopate, however, the usual conception of papal *plenitudo potestatis* did not explicitly limit the bishop's jurisdiction over the lower clergy subject to him. Important and exceptional, therefore, were the conclusions which Bernold of Constance drew from the idea of papal *plenitudo potestatis*. Writing about 1076, Bernold attacked the doctrine that a bishop's subjects can be judged only by the bishop himself, and he insisted that the Roman pontiff can also judge them (66). To prove his point, Bernold cited three names — Leo, Vigilius, Gregory — and noted admiringly that all three had testified " with almost the same utterance " on the question of the Roman pontiff's jurisdictional primacy. Then, immediately after quoting Gregory IV's statement about the papal " fullness of power ", Bernold continued:

> Whence it is clearly shown that no bishop has so much power over the flock entrusted to him as does the pope. Although the pope has divided his own task among individual bishops, nevertheless he has in no way deprived himself of his universal and paramount power, just as a king has not diminished his own royal power, although he has divided his kingdom among various dukes, counts, and judges. Therefore, since the lord pope has such paramount power that even when the bishop of a church is unwilling, the pope can settle anything in that church..., who will deny that anywhere in the world the pope can condemn the subjects of bishops as well as the bishops themselves, when they defy apostolic teaching (67)?

(66) On Bernold's conception of the papal office, see Oskar Greulich, *Die kirchenpolitische Stellung Bernolds von Konstanz*, in: *Historisches Jahrbuch* 55 (1935) 1-54, esp. 14-19; Heinrich Weisweiler, *Die päpstliche Gewalt in den Schriften Bernolds von St. Blasien aus dem Investiturstreit*, in: *Studi Gregoriani* 4 (1952) 129-47.

(67) *Apologeticus* c. 23, *MGH, Libelli de lite* II 87f: *...Preterea beatus Leo papa, ...item Vigilius papa, ...item beatus pater Gregorius, hi, inquam, singuli eadem auctoritate precipui pene eadem voce in decretis suis verissime testantur hoc modo: ' Sancta Romana aecclesia vices suas ita aliis impertivit aecclesiis, ut in partem vocatae sint sollicitudinis, non in plenitudinem potestatis '. Unde liquido demonstratur, quod quilibet episcopus nec super gregem sibi commissum tantam potestatem habeat, quantum presul apostolicus, qui licet curam suam in singulos episcopos diviserit, nullomodo tamen se ipsum sua universali et principali potestate privavit, sicut nec rex suam regalem potentiam diminuit, licet regnum suum in diversos duces, comites sive iudices diviserit. Cum ergo domnus apostolicus in omni aecclesia tam principalem potestatem habeat, ut etiam invito episcopo cuiuslibet aecclesiae quaeque in ea iuxta canonicas sanctiones possit disponere, quis denegare poterit, quin ubique gentium tam subditos episcoporum, quam ipsos episcopos apostolicae institutionis contemptores damnare possit?* The citations of Pseudo-Vigilius and Gregory IV were not identified by the editor, F. Thaner (*ibid.* 87 n. 8).

On the authority of Leo, Pseudo-Vigilius, and Gregory IV, Bernold explained the bishops' judicial competence as a " task " (*cura*) which " the pope has divided among individual bishops ", that is, as a derivative form of power. With this assertion, Bernold was still on familiar ground, but at the same time he also drew fresh implications from the tradition, and added a new element to the papal " fullness of power ". Every cleric, he maintained, has two competent superiors, his bishop and the Roman pontiff (68). Since the pope's power is " universal and paramount ", it can override the judicial authority of a bishop, and the pope can judge not only the bishop himself but also any of the bishop's subjects, " even when the bishop is unwilling " (69). Like the ninth-century statements on the " fullness of power ", Bernold's conception of the papal *plenitudo potestatis* stresses the judicial prerogatives of the Roman pontiff. But unlike the earlier view, Bernold's doctrine explicitly invoked

(68) Since Bernold refers to the pope's preeminent jurisdiction over a bishop's *grex* or *subditi*, one might ask if he meant to imply a political dimension within this papal *universalis et principalis potestas*, and to make this concept the foundation of a papal jurisdiction over the layman and the monarch. In this context, however, when Bernold mentioned specific cases (*ibid.* 87), all of them concerned the exercise of papal jurisdiction over the clergy. Note also his statement that the pope *quaeque in [qualibet ecclesia]... possit disponere* (*ibid.* 88). One must therefore conclude that Bernold was arguing merely for direct papal power over the lower clergy. In any case, when Bernold drew the interesting parallel between the ecclesiastical and secular hierarchies, culminating in the pope and the king respectively, he could easily have subordinated the secular hierarchy to the pope, but he preferred to regard the secular hierarchy as separate and apparently autonomous. Such parallels between the various gradations of office in the ecclesiastical and monarchical constitutions became common in the 12th century.

(69) With the expression *universalis et principalis potestas* (which he considered equivalent to the term *plenitudo potestatis* in the quotation from Gregory IV), Bernold affirmed the papacy's claim to universality — a common theme in the Age of Reform. Gregory VII, *Dictatus pape* c. 2, *Reg.* 2.55a, ed. Caspar 202: *Quod solus Romanus pontifex iure dicatur universalis;* see the parallel texts cited by Caspar, and his Index s.v. *universalis*. The Norman princes swore fealty to the *universalis papa;* Deusdedit, *Coll. can.* 3.288, ed. Wolf von Glanvell 395; also, Gregory VII, *Reg.* 1.21a, 8.1a, *ed. cit.* 35, 514.

the idea of *plenitudo potestatis* to justify papal jurisdiction over the lower clergy as well as over the episcopate: the Roman pontiff is an omnicompetent judge for the entire Church, " anywhere in the world ". More than any other theorist of the Reform movement, Bernold expressed this idea of papal authority with juristic precision. Indeed, his concept of *plenitudo potestatis* distinctly prefigured the dominant decretistic doctrine on papal power in the last quarter of the twelfth century.

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Within the *Decretum*, master Gratian republished the three classic statements on the " fullness of power ". Yet it is significant that he placed Leo the Great's assertion not in the context of legatine powers but in a *quaestio* devoted to the circumstances under which bishops may be tried (70). Immediately before this *capitulum*, he put a typically Pseudo-Isidorian text intended to show that " Comprovincial bishops and metropolitans can hear, but cannot decide, the cases of bishops " (71). Gratian summed up Leo's view as a statement of principle requiring papal judgment before a bishop can be definitively sentenced (72), and he reinforced this doctrine by placing another Pseudo-Isidorian *capitulum* right after Leo's text and by assigning to it the same meaning (73). With similar effect, Gratian juxtaposed the two ninth-century texts in a *quaestio* on the right of an accused or convicted bishop to appeal to the Roman See (74).

Because Gratian not only transmitted these three familiar texts but also, in his own *dicta*, twice referred to *plenitudo potestatis*, the terms *plenitudo potestatis* and *pars sollicitudinis* entered the technical language of the decretistic tradition. Indeed, solely through his transmission of the three classic passages, the early decretists could easily and specifically have identified the formula *plenitudo potestatis* with the appellate jurisdiction

(70) C. 3 q. 6 c. 8.

(71) C. 3 q. 6 rubr. c. 7: *Conprouinciales et metropolitani episcoporum causam audire, sed diffinire non possunt.*

(72) C. 3 q. 6 rubr. c. 8: *Ante apostolicam censuram in causis episcoporum non est diffinitiua sententia ferenda.*

(73) C. 3 q. 6 rubr. c. 9: *Preter conscientiam Romani Pontificis nec concilia celebrari, nec episcopum dampnari oportet.*

(74) C. 2 q. 6 cc. 11 (Gregory IV), 12 (Ps.-Vigilius).

of the Roman Pontiff, as well as with the papal monopoly over cases concerning bishops. This juridical terminology was swiftly echoed in practice; for example, while preparing an appeal to Rome in 1153, the clergy of Durham unmistakably associated the pope's *plenitudo potestatis* with his appellate jurisdiction (75). Still, solely within these three passages, the decretists would not have found ready-made the more far-reaching conception of papal *plenitudo potestatis* as the jurisdiction of the *iudex ordinarius omnium*, that is, as the jurisdiction of the universal ordinary over the entire Church (76).

Yet in the two *dicta* where he himself mentioned the *plenitudo potestatis*, Gratian provided the foundations for this later conception — although, ironically, both times he was referring to a *non*-papal *plenitudo potestatis:* In a discussion of the bishop's right to name his own successor, Gratian used the term *plenitudo potestatis* simply to indicate the full authority inherent in the office. For as Gratian explained, an archbishop of Mainz had once been allowed to appoint a coadjutor, " who, when [the archbishop] himself had died, would succeed to the fullness of power " (77).

More important, however, is Gratian's other use of the term *plenitudo potestatis*, which appeared in his introduction to a *quaestio* on the judicial powers of metropolitans. Indeed, from the perspective of the term's later history, one may regard the entire *quaestio* (C. 9 q. 3) virtually as a short treatise on the concept *plenitudo potestatis*. In his summary of this *quaestio*, Gratian asked whether a metropolitan can judge the clerics who are subject to one of his suffragan bishops, or revoke the judgment of a cleric by the suffragan bishop, without the bishop having been consulted (78). Then, in his introduction to the *quaestio*, Gratian

(75) W. Holtzmann, ed., *Papsturkunden in England* III (*Abh. der Akademie der Wissenschaften in Göttingen, phil.-hist. Kl.* 33: Göttingen 1952) 226 no. 92; C. R. Cheney, *From Becket to Langton* (Manchester 1956) 48.

(76) On the pope as " univeral ordinary ", see Watt, *Theory*, esp. 92-97.

(77) C. 8 q. 1 pr.: *Quod autem episcopo successorem sibi instituere liceat, ex uerbis Zachariae papae coniicitur* [cf. C. 7 q. 1 c. 17], *quibus Maguntino archiepiscopo permisit adiutorem sibi statuere, qui ei defuncto in plenitudinem succederet potestatis... Item exemplo B. Petri illud idem probatur, qui B. Clementem sibi successorem instituit.*

(78) C. 9 pr.: *Queritur...* [tertio], *an archiepiscopus clericos suffraganei sui illo inconsulto dampnare ualeat, uel dampnatos absoluere?*

speculated about the relation between the metropolitan and his suffragan bishops:

> ...An archbishop can condemn or acquit the clerics of his suffragan bishop without having consulted that suffragan... Just as the churches of the entire bishopric are in the bishop's power, thus also the churches of the entire province belong to the archbishop's diocese. For the bishops are called by the metropolitan to a share of the responsibility, not to the fullness of power. Indeed, he imparts his office to them in such a way that it does not remove any of his own power... (79).

In other words, within the boundaries of his province (*archiepiscopatus*), the metropolitan's jurisdiction is, so to speak, ubiquitous, but it is not limited to appellate jurisdiction. According to Gratian's explicit comparison, throughout the province the metropolitan has, at the least, the power of an episcopal ordinary. In order to suggest that each suffragan bishop's power is inferior to and derivative from his metropolitan's jurisdiction, Gratian recast the old formulae: the metropolitan grants his own *uices* to the bishop of each diocese, and calls the bishop *in partem sollicitudinis, non in plenitudinem potestatis*.

In his introduction to C. 9 q. 3, however, Gratian was merely exploring a theoretically possible position, rather than defending his own view of the constitutional relations between metropolitan and suffragan. Indeed, within this *quaestio* he included several *capitula* forbidding the metropolitan to judge the clerical subjects of his suffragan bishops (80), and at the end of the same *quaestio*, he explicitly repudiated the doctrine which he had formulated in the introduction (81). Even more, Gratian intended to distinguish sharply between the jurisdiction of

(79) C. 9 q. 3 pr.: *Quod archiepiscopus clericos sui suffraganei illo inconsulto dampnare ualeat uel absoluere, sic uidetur posse probari. Sicut totius episcopatus ecclesiae in potestate sunt episcopi, sic et ecclesiae totius archiepiscopatus ad diocesim pertinent archiepiscopi. Vocantur enim episcopi a metropolitano in partem sollicitudinis, non in penitudinem potestatis. Sic quippe uices suas eis inpertit, ut potestatem suam sibi non adimat. Unde et sine eius consilio nichil eis agere licet...* In general, see P. G. Caron, *I poteri del metropolita secondo Graziano*, in: *Studia Gratiana* 2 (1954) 253-77 and esp. 269-71.

(80) C. 9 q. 3 cc. 4-8.

(81) In fact, Gratian himself believed that a metropolitan is entitled to intervene in the affairs of a suffragan bishop's diocese only when the bishop has been negligent. See C. 9 q. 3 c. 3, and esp. Gratian's explanation in C. 9 q. 3 *dict. p. c.* 21, where, however, he does not mention the *plenitudo potestatis* or the *pars sollicitudinis*.

the pope and that of the metropolitan, for within this *quaestio* he presented numerous *capitula* demonstrating that the Roman Pontiff may judge the subjects of any bishop (82). As Gratian asserted here, " Only the Roman Church can, by its own authority, judgeconcerning all " (83).

In short, within a single *quaestio* Gratian constructed the model for the later theory which defined *plenitudo potestatis* as the ubiquitous jurisdiction pertaining to the " ordinary judge of all ", and which characterized the *pars sollicitudinis* as a derivative form of jurisdiction (84). To be sure, Gratian himself applied the term *plenitudo potestatis* only to the metropolitan and did not, in this context, mention the expression *iudex ordinarius omnium* (85). Yet the substance and the technical language of his argument provided the principal components with which the decretists would create the later doctrine of papal *plenitudo potestatis*.

(82) C. 9 q. 3 cc. 11-12, 14-21.

(83) C. 9 q. 3 *dict. p. c.* 9: *Sola enim Romana ecclesia sua auctoritate ualet de omnibus iudicare; de ea uero nulli iudicare permittitur.* Also, C. 9 q. 3 *rubr. c.* 11: *Ab aliis dampnatos uel excommunicatos apostolica soluit auctoritas.*

(84) One may, of course, suspect that Gratian was directly influenced by Bernold of Constance. In citing the formulae *plenitudo potestatis* and *pars sollicitudinis*, both Bernold and Gratian used primarily the version by Gregory IV, and there are other similarities of thought and diction (above, nn. 67 and 79). Still, the similarities do not suffice for the confident assertion of direct influence.

(85) Gratian appropriated the term *iudex ordinarius* from Roman law (*Cod.* 1.3.32, 1.37.2, 12.19.2), but did not, so far as I am aware, coin the phrase *iudex ordinarius omnium*. See C. 2 q. 6 *dict. p. c.* 33: *...Iudicum enim alii sunt arbitrarii, alii ordinarii. Ordinarii uero sunt, qui ab apostolico, ut ecclesiastici, uel ab inperatore, utpote seculares, legitimam potestatem accipiunt...;* note that this passage appeared in the same *quaestio* with the familiar texts by Gregory IV and Pseudo-Vigilius (cc. 11, 12).