

*Decrees of the  
Ecumenical Councils*

Volume One  
*Nicaea I to Lateran V*

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*Lateran III*

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1179

## INTRODUCTION

By an agreement reached at Venice in 1177, the bitter conflict which had arisen about twenty years earlier between Pope Alexander III (1159–1181) and Emperor Frederick I (1152–1190) was brought to an end. For when Pope Hadrian IV had died in 1159, the cardinals elected two popes together, namely Roland of Siena, who took the name of Alexander III, and Octavian of Rome, who though he was nominated by fewer cardinals, nevertheless with the support of the emperor Frederick usurped the name of Pope Victor IV. The emperor, wishing to remove everything which stood in the way of his authority in Italy, declared war upon the Italian states and especially the Roman church which, after its struggle for ecclesiastical liberty for so many years, was enjoying great authority. The emperor carried on the war for a long time. A serious schism had arisen out of this conflict, and after Victor IV two antipopes were nominated in opposition to Alexander III, namely Paschal III (1164–1168) and Callistus III (1168–1178). At last, when Alexander had gained the victory, he promised the emperor at Venice that he would summon a general council<sup>1</sup>.

The particular object of this council was to put an end to the schism within the church and the quarrel between the emperor and the papacy. It was summoned by Pope Alexander in 1178, "so that according to the custom of the ancient fathers, the good should be sought and confirmed by many, and that with the cooperation of the grace of the holy Spirit, by the efforts of all, there should be carried out what was required for the correction of abuses and the establishment of what was pleasing to God"<sup>2</sup>. The council was held at Rome in March 1179<sup>3</sup>. About three hundred fathers assembled from the provinces of Europe and some from the Latin east<sup>4</sup>, and a single legate from the Greek church<sup>5</sup>. It began on 5 March, according to Archbishop William of Tyre, our chief authority<sup>6</sup>. The

<sup>1</sup> See *Pactum praevium inter imperatorem et ecclesiam*, ed. L. Weiland, in *MGH Const.*, I Hanover 1893, 364 (ch. 25).

<sup>2</sup> *Alexandri III papae epistolae et privilegia*, letter 1356 (PL 200, 1184); see also the letters of summons 1357–1358 (Jaffé 13097–13099); all are dated 21 September 1178; we also know of another letter of summons, dated 30 May 1178 (Jaffé 13070): see *Epistolae pontificum Romanorum ineditae*, ed. S. Loewenfeld, Leipzig 1855, 154–155 no. 271.

<sup>3</sup> See DThC 8/2 (1925) 2645.

<sup>4</sup> There are two lists of signatures, though they are not complete; see L. D'Achery, *Spicilegium*, XII Paris 1675, 638–651 (Msi 22, 213–217, 239–240), and Msi<sup>1</sup> 2 (1748) 691–700 (Msi 22, 458–468); see Tangl, *Die Teilnehmer ...*, 210–219; Rousset de Pina 159 and n. 2.

<sup>5</sup> See especially P. Lamma, *Commeni e Staufer. Ricerche sui rapporti tra Bisanzio e l'Occidente nel secolo XII*, II Rome 1957, 300–301.

<sup>6</sup> See William of Tyre, *Historia rerum in partibus transmarinis gestarum* XXI, 26, *Recueil des historiens des Croisades, Historiens Occidentaux*, I Paris 1844, 1049 (PL 201, 842); *A History of Deeds done beyond the Sea*, trans. E. Babcock and A. Krey, *Columbia University Records of Civilization* 35, II New York 1943, 436–438).

bishops first heard Rufinus, bishop of Assisi, who in a highly polished address praised the Roman pontiff and the Roman church, "that church to which alone belongs the decision and power to summon a general council, to lay down new canons and cancel the old; indeed, though the fathers had summoned a solemn council many times in the past, yet the obligation and reason to do this was never more expedient than at the present"<sup>7</sup>.

We do not have the same reasons for doubting the ecumenical nature of this council as we have for Lateran I and II<sup>8</sup>. For, the way in which the council was summoned and conducted by the pope, and the number of fathers who gathered from the whole Latin world and devoted their efforts to strengthening the unity of the church and condemning heretics, resemble rather the ancient councils than Lateran I and II and exemplify the typical council of the Middle Ages presided over by the Roman pontiff<sup>9</sup>. For this reason it is not surprising that chronicles of the period frequently refer to this council as Lateran I.

Although we do not possess the acts of the council, we have evidence from chronicles and annals<sup>10</sup> and especially from the canons which the fathers laid down in the final session on 19 March<sup>11</sup>. Accordingly, to avoid future schisms it was first laid down that nobody was to be regarded as Roman pontiff unless he had been elected by two thirds of the cardinals (canon 1); all appointments by antipopes were deemed invalid (canon 2); heretics called Cathars were excommunicated<sup>12</sup> and likewise were the bands of mercenaries, or rather criminals, which were causing utter destruction in some parts of Europe; it was declared, and this seems an innovation, that arms should be taken up against them (canon 27)<sup>13</sup>; it was also decided not to pass judgment about the preaching of the Waldensians<sup>14</sup>. All this seems to have been directed to strengthening the unity of the church<sup>15</sup>. In addition, Alexander III and the fathers, renewing the precedent of Lateran I and II, laid down several canons for the reform of the church and some concerning morals and civil affairs.

<sup>7</sup> G. Morin, *Le discours d'ouverture du concile général de Latran (1179) et l'oeuvre littéraire de maître Rufin, évêque d'Assise*, Atti della Pontif. Accad. Romana di archeologia, Ser. III, Memorie 2 (1928) 117, and see also 113–121.

<sup>8</sup> See above pp. 187 and 195.

<sup>9</sup> See Hauck, *Die Rezeption* . . . , 468; Tangl 196, 211; Rousset de Pina 158–159; Fransen, in *Le concile*, 127.

<sup>10</sup> See among others Rousset de Pina 156 n. 4.

<sup>11</sup> See Rousset de Pina 161–173; concerning the days on which sessions were held, see DThC 8/2 (1925) 2645–2646.

<sup>12</sup> See among others A. Borst, *Dië Katharer*, Stuttgart 1953, 115 and also 10, 241, 247, 250.

<sup>13</sup> See among others H. Pissard, *La guerre sainte en pays chrétien. Essai sur l'origine et le développement des théories canoniques*, Paris 1912, 27–34.

<sup>14</sup> See especially Walter Map, *Ne Nugis Curialium (Courtiers' Trifles)*, I, 31, edd. and trans. M. James, C. Brooke and R. Mynors, Oxford 1983, 125–129; see P. Pouzet, *Les origines lyonnaises de la secte des Vaudois*, Revue d'histoire de l'église de France 22 (1936) 10–16; G. Gonnet, *Il Valdismo medioevale*, Torre Pellice 1942, 25–27; R. Manselli, *Studi sulle eresie del secolo XII*, Rome 1953, 84–87.

<sup>15</sup> See also canons 24 and 26 on Jews and Saracens.

The canons of this council played a notable part in the future government of the church<sup>16</sup>. They were frequently included in the collections of decretals compiled in the late 12th and early 13th century, and afterwards all were inserted into Pope Gregory IX's *Decretals*. Walter Holtzmann and other scholars considered that these decretal collections in fact arose from this Lateran council and its canons<sup>17</sup>. Certainly the canons, unlike those of Lateran I and II and many preceding councils, appear to have been worked out by an excellent legal mind, so that it is probable they were composed under the authority of Alexander III himself, who was an expert lawyer. The canons, except for those which refer to Lateran II or the council of Rheims in 1148 (see canons 2, 11, 20–22) or to Gratian's *Decrees* (see canons 1–4, 7, 11, 13–14, 17–18), are new and original.

The tradition of the canons has not yet been adequately examined and remains very uncertain. Many manuscript codices survive for this council (in contrast to Lateran I and II). However, they do not seem to give us the version of the canons which was confirmed by ecclesiastical authority and which Archbishop William of Tyre, with the authority of the fathers, had himself drawn up<sup>18</sup>. Frequently the canons are to be found in chronicles and decretal collections. They are included in four contemporary English chronicles: those of Abbot Benedict of Peterborough<sup>19</sup>, Gervase of Canterbury<sup>20</sup>, William of Newburgh<sup>21</sup>, and Roger of Hoveden<sup>22</sup>. And in the following collections of decretals<sup>23</sup>: the collection called the Appendix of the Lateran council<sup>24</sup>, the collections of

<sup>16</sup> See however PL 205, 235 C.

<sup>17</sup> See especially W. Holtzmann, *Collectio Eberbacensis*, Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanon. Abt. 17 (1928) 550–551; idem, *Die Register Papst Alexander III in den Händen der Kanonisten*, Quellen und Forschungen aus italienischen Archiven und Bibliotheken 30 (1940) 16–17, and Congrès de droit canonique médiéval, Louvain et Bruxelles, 22–26 juillet 1958, Louvain 1959, 7. On the collections of decretals, see especially W. Holtzmann, *Über eine Ausgabe der päpstlichen Dekretalen des 12. Jahrhunderts*, Nachrichten der Akad. der Wissensch. in Göttingen (1945) 15–36 (= Holtzmann); S. Kuttner, *Notes on a Projected Corpus of the Twelfth-Century Decretal Letters*, Traditio 6 (1948) 345–351; W. Holtzmann, in *Papal Decretals Relating to the Diocese of Lincoln in the Twelfth Century*, by W. Holtzmann and E. Kemp (Publications of the Lincoln Record Society 47), Hereford 1954, IX–XVII; idem, *Kanonistische Ergänzungen zur Italia pontificia*, Quellen und Forschungen aus italienischen Archiven und Bibliotheken 37 (1957) 56–57 (= Holtzmann II).

<sup>18</sup> See William of Tyre, *Historia* . . . , 1051 (PL 201, 842; trans. Babcock II 438).

<sup>19</sup> See *Gesta regis Henrici secundi Benedicti abbatis* . . . , ed. W. Stubbs (Rolls Series 49/1), I London 1867, 222–238.

<sup>20</sup> See *The Historical Works of Gervase of Canterbury*, ed. W. Stubbs (Rolls Series 73/1), I London 1879, 278–292.

<sup>21</sup> See *Chronicles of the Reigns of Stephen, Henry II, and Richard I*, ed. R. Howlett (Rolls Series 82/1), I London 1884, 206–223.

<sup>22</sup> See *Chronica magistri Rogeri de Hovedene*, ed. W. Stubbs (Rolls Series 51/2), II London 1869, 173–189; the canons which were printed by Msi<sup>1</sup> 2 (1748) 687–690 (Msi 22, 455–458) from the anonymous Zwetla history of the Roman pontiffs, appear to be rubrics.

<sup>23</sup> See the list of collections in Holtzmann 21–24, Holtzmann II 58–63.

<sup>24</sup> See J. von Schulte, *Zur Geschichte der Literatur über das Dekret Gratians, II. Beitrag*, Sitzungsber. Ak. Wien 64 (1870) 139–140 (= Schulte II. Beitr.); idem, *Beitrag zur Geschichte des canonischen Rechts von Gratian bis auf Bernhard von Pavia*, ibid. 72 (1872) 486, 500, 514–515 (= Schulte); E. Friedberg, *Die Kanones-Sammlungen zwischen Gratian und Bern-*

Bamberg<sup>25</sup>, Berlin I<sup>26</sup>, Canterbury I–II<sup>27</sup>, Kassel<sup>28</sup>, Cheltenham<sup>29</sup>, Claudian<sup>30</sup>, Cotton<sup>31</sup>, Dertosa<sup>32</sup>, Douai<sup>33</sup>, Durham<sup>34</sup>, Eberbach<sup>35</sup>, Erlangen<sup>36</sup>, Florian<sup>37</sup>, Klosterneuberg<sup>38</sup>, Leipzig<sup>39</sup>, Oriel II<sup>40</sup>, Paris I<sup>41</sup>, Peterhouse<sup>42</sup>,

*hard von Pavia*, Leipzig 1897, 63–65, 67, 71–72 (= Friedberg); F. Heyer, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanon. Abt. 3* (1913) 625–627 (= Heyer); J. Juncker, *Die Collectio Berolinensis* ..., *ibid.* 13 (1924) 408 (= Juncker); W. Holtzmann, *Die Register Papst Alexanders III* ..., *op. cit.*, 18–19; see also S. Kuttner, *Repertorium der Kanonistik (1140–1234)* (Studi e testi 71), I Vatican City 1937, 290–291 (= Kuttner); Holtzmann 23 no. 28; Holtzmann II 61.

<sup>25</sup> See Schulte II. Beitr. 139–140; Schulte 494, 495, 514–515; Friedberg 87, 114–115; Heyer 631; Juncker 306–307, 321; W. Holtzmann, *Die Register Papst Alexanders III* ..., *op. cit.*, 54; W. Deeters, *Die Bambergensisgruppe der Dekretalensammlungen des 12. Jahrhunderts* (Dissertation), Bonn 1956, 43, 315–323 (= Deeters); see also Kuttner 292; Holtzmann 23 no. 30; Holtzmann II 61.

<sup>26</sup> See Heyer 622; Juncker 288–289, 306–307, 321 ff., 348 ff., 408; see also Kuttner 278; Holtzmann 22 no. 8; Holtzmann II 59.

<sup>27</sup> See G. Warner and J. Gilsou, *Catalogue of Western Manuscripts in the Old Royal and King's Collections*, I London 1921, 312; see also Kuttner 282; Holtzmann 22 no. 14; Holtzmann II 59.

<sup>28</sup> See *Corpus iuris canonici*, ed. I. H. Böhmer, Halle 1747, XXIV; Schulte II. Beitr. 139–140; Schulte 493, 514–515; Friedberg 130; Juncker 408–409; Deeters 43, 315–323; see also Kuttner 293; Holtzmann 23 no. 33; Holtzmann II 62.

<sup>29</sup> See E. Seckel, *Über drei Canones-Sammlungen des ausgehenden 12. Jahrhunderts in englischen Handschriften*, Neues Archiv 25 (1899–1900) 526, 531 n. 4; Heyer 636; Kuttner 298; see also Holtzmann 22 no. 24; Holtzmann II 60.

<sup>30</sup> See Kuttner 279 (Cotton I); see also Holtzmann 22 no. 20; Holtzmann II 60.

<sup>31</sup> See K. Hampe, *Reise nach England von Juli 1895 bis Februar 1896*, Neues Archiv 22 (1896–1897) 388 n. 1; Heyer 635; see also Kuttner 297 (Cotton II); Holtzmann 22 no. 25; Holtzmann II 60.

<sup>32</sup> See W. Holtzmann, *Beiträge zu den Dekretalensammlungen des zwölften Jahrhunderts*, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanon. Abt. 16* (1927) 40; see also Kuttner 279; Holtzmann 21 no. 1; Holtzmann II 58.

<sup>33</sup> See Kuttner 279; see also Holtzmann 22 no. 11; Holtzmann II 59.

<sup>34</sup> See Kuttner 281; see also Holtzmann 22 no. 16; Holtzmann II 60.

<sup>35</sup> See Holtzmann, *Collectio Eberbacensis* ..., 551, 555; see also Kuttner 281; Holtzmann 21 no. 2; Holtzmann II 58.

<sup>36</sup> See Deeters 43, 315–323; see also Kuttner 294; Holtzmann 23 no. 31; Holtzmann II 62.

<sup>37</sup> See Kuttner 281; see also Holtzmann 22 no. 9; Holtzmann II 59.

<sup>38</sup> See F. Schönsteiner, *Die Collectio Claustro-neoburgensis*, *Jahrbuch des Stiftes Klosterneuburg 2* (1909) 1–154; Heyer 622; Juncker 408; H.-E. Lohmann, *Die Collectio Wigorniensis (Collectio Londinensis Regia). Ein Beitrag zur Quellengeschichte des kanonischen Rechts im 12. Jahrhundert*, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanon. Abt. 22* (1933) 44; see also Kuttner 278; Holtzmann 22 no. 23; Holtzmann II 60.

<sup>39</sup> See Schulte 491, 514–515; *Quinque compilationes antiquae* ..., ed. E. Friedberg, Leipzig 1882, 189; Friedberg 115 ff., Juncker 307, 322–324, 408; Deeters 43, 315–323; see also Kuttner 292–293; Holtzmann 23 no. 32; Holtzmann II 62.

<sup>40</sup> See Kuttner 295; see also Holtzmann 23 no. 29; Holtzmann II 61.

<sup>41</sup> See Friedberg 46, 52–63; Heyer 621; Juncker 297, 300, 408; see also Kuttner 286; Holtzmann 22 no. 6; Holtzmann II 59.

<sup>42</sup> See W. Holtzmann, *Zum Prozeß der Äbtissin Mathia von S. Maria in Capua*, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanon. Abt. 27* (1938) 302; see also Holtzmann 22 no. 26; Holtzmann II 60.

Rochester<sup>43</sup>, Sangerman<sup>44</sup>, and Tanner<sup>45</sup>; and there are a considerable number of collections still to be examined<sup>46</sup>. The canons are also contained in the book called “Rommersdorfer Briefbuch”<sup>47</sup>, the Cartulary of Rievaulx<sup>48</sup>, and the codices Florence Ricc. 288 (Day-book)<sup>49</sup>, Innsbruck Univ. 90 (Gratian’s Decrees)<sup>50</sup>, and (which seem to have been unnoticed hitherto) Vatican Reg. lat. 596<sup>51</sup>, 12th century (fos. 6<sup>v</sup>–8<sup>v</sup>), and 984<sup>52</sup>, 12th century (fos. 2<sup>r</sup>–7<sup>v</sup>)<sup>53</sup>. We can say for certain that the canons of the council were spread abroad through the whole Latin church, and were of great weight in its concerns and transactions<sup>54</sup>.

The first printed edition was made by Cr<sup>2</sup> (2, 1551, 836–843). He edited, from a manuscript now lost or unknown, the whole collection known as the Appendix of the Lateran council, which is divided into fifty parts; all 27 canons of Lateran III are in the first part. This text was copied by Su (3, 1567, 626–633) and Bn (3, 1606, 1345–1350), though Su introduced some errors. Bn, who was the first to give the name “Appendix of the Lateran council” to the collection, added some variant readings and rubrics which he had found in the chronicle of Roger of Hoveden. The Roman editors (Rm 4, 1612, 27–33), using also the manuscript codex of Antonio Augustine of Tarragona, produced a more accurate text<sup>55</sup> and

<sup>43</sup> See W. Holtzmann, *Papsturkunden in England*, I Berlin 1930, 141; Kuttner 282; see also Holtzmann 22 no. 15; Holtzmann II 59.

<sup>44</sup> See H. Singer, *Neue Beiträge über die Dekretalensammlungen vor und nach Bernhard von Pavia*, *Sitzungsber. Ak. Wien* 171 (1914) 121–124; Heyer 639; Juncker 408–409; see also Kuttner 298–299; Holtzmann 23 no. 39; Holtzmann II 62.

<sup>45</sup> See Kuttner 294; W. Holtzmann, *Die Dekretalensammlungen des 12. Jahrhunderts. I. Die Sammlung Tanner*, *Festschrift zur Feier des 200 jährigen Bestehens der Ak. der Wissensch. in Göttingen*, Göttingen-Berlin-Heidelberg 1951, 86, 106–107; see also Holtzmann 23 no. 35; Holtzmann II 62.

<sup>46</sup> To these decretal collections, Herold (see below p. 210) added three others: Alcobaca (see Holtzmann II 58), Ambrosian (see Holtzmann II 59), Cusa (see Holtzmann II 59).

<sup>47</sup> See F. Kempf, *Das Rommersdorfer Briefbuch des 13. Jahrhunderts*, *Mitteilungen des österreichischen Instituts für Geschichtsforschung*, Erg.-Bd. XII/3, Innsbruck 1933, 505.

<sup>48</sup> See *Cartularium abbatiae de Rievallie ordinis Cisterciensis* (Publications of the Surtees Society 83), Durham 1889, 362–376.

<sup>49</sup> See *Le Liber censuum de l’église romaine*, edd. P. Fabre and L. Duchesne, Paris 1910, *Introd. 21*, vol. II, 17–18; Deeters 382.

<sup>50</sup> See F. Maassen, *Beiträge zur Geschichte der juristischen Literatur des Mittelalters, insbesondere der Decretisten-Literatur des zwölften Jahrhunderts*, *Sitzungsber. Ak. Wien* 24 (1857) 64; Friedberg 3; Juncker 296, 408; Kuttner 286; see also Holtzmann 21 no. 2; Holtzmann II 58.

<sup>51</sup> See A. Luchaire, *Étude sur quelques manuscrits de Rome et de Paris*, Paris 1899, 153–154.

<sup>52</sup> See *Chroniques de St-Martial de Limoges*, ed. H. Duplès-Agier, Paris 1874, VIII, LXVIII.

<sup>53</sup> To these codices Herold (see below p. 210) added two others; Brussels, Bibl. Royale, II 2532; Darmstadt, Hessische Landes- und Universitätsbibliothek, 542.

<sup>54</sup> The canons, as we have said, were included in the *Decretals* of Gregory IX. They were also included in the collections of Bruges (see Friedberg 137; Juncker 408–409; Kuttner 297–298; Holtzmann 23 no. 36; Holtzmann II 62–63) and of Frankfurt (see S. Kuttner, *Collectio Francofurtana*, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanon. Abt. 22* (1933) 372; Holtzmann 23 no. 37; Holtzmann II 63) and in the first Compilation (see Schulte 514–515; *Quinque compilationes antiquae* ..., VIII; Juncker 408–409; Kuttner 322–344).

<sup>55</sup> In the manuscript codex Vatican Lat. 6418, I (on which see S. Kuttner, *L’édition romaine des conciles généraux et les actes du premier concile de Lyon*, Rome 1940, 84) it is said of the

more variant readings. Later editions, all of which we have examined, followed the Roman text, namely: ER 27 (1644) 439–463; LC 10 (1671) 1507–1523; Hrd 6 (1714) 1673–1684; Cl 13 (1730) 416–432; Msi 22 (1778) 217–233. Böhmer, who published his edition in 1747, before Msi, is an exception. He took the canons from the Kassel collection of decretals, where the order and some readings are different<sup>56</sup>. Finally Herold, in his unpublished Bonn dissertation of 1952<sup>57</sup>, examined thoroughly the whole tradition and established the order of the canons; using 36 sources<sup>58</sup>, he concluded there were 34 different traditions<sup>59</sup>!

As things now stand, it is impossible to use all the known sources for our edition. For, these sources reveal only a limited part of the whole tradition and, what is even more important, we do not yet understand the relations between the individual traditions. Even Herold has not examined these relations sufficiently. We have therefore preferred to publish the text of a single tradition, namely that of the Appendix of the Lateran council, using Cr<sup>2</sup> and Rm as the best text of this tradition and including the variant readings listed in Rm. This “Appendix” is a good text, as even Herold’s text (= H) shows. We have given Herold’s variant readings in the critical apparatus, and we have noted in footnotes the order in which he places the 23 canons that he includes.

BIBLIOGRAPHY: H-L 5/2 (1913) 1086–1112; DThC 8/2 (1925) 2644–2652; DDrC 6 (1957) 347–349; LThK 6 (2<sup>1</sup>1961) 816; NCE 8 (1967) 406–410; HC 4 (1980) 63–66; A. Hauck, *Kirchengeschichte Deutschlands*, IV Leipzig 1903, 294–296; idem, *Die Rezeption und Umbildung der allgemeinen Synode im Mittelalter*, *Historische Vierteljahrschrift* 10 (1907) 468 ff.; F. Heyer, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanon. Abt.* 3 (1913) 625–627; G. Tangl, *Die Teilnehmer an den allgemeinen Konzilien des Mittelalters*, Weimar 1922, 196–201, 210–219; W. Holtzmann, *Collectio Eberbacensis*, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanon. Abt.* 17 (1928) 550–551; H-E. Lohmann, *Die Collectio Wigormiensis* . . ., *ibid.* 22 (1933) 54–55; H. J. Schroeder, *Disciplinary Decrees of the General Councils*, St. Louis, Mo. — London 1937, 214–235; J. Rousset de Pina, in A. Fliche and others, *Du premier concile du Latran à l'avènement d'Innocent III*, II (*Histoire de l'église* 9/2), Paris 1953, 156–174; W.M. Plöchl, *Geschichte des Kirchenrechts*, II Vienna 1955, see p. 495; M. Pacaut, *Alexandre III. Étude sur la conception du pouvoir pontifical dans sa pensée et dans son oeuvre*, Paris 1956, 128, 261, 262, 268, 272, 281, 284, 286, 287, 292, 301; S. Kuttner, *Brief Note, Concerning the Canons of the Third Lateran Council*, *Traditio* 13 (1957) 505–506; G. Fransen, *L'ecclésiologie des conciles médiévaux*, in *Le concile*, 125–141; R. Foreville, *Latran I, II, III et Latran IV* (*Histoire des Conciles* 6), Paris 1965; M. Mollat and P. Tombeur, *Les conciles Latran I à Latran IV: Concordance, index, listes de fréquence, tables comparatives* (*Conciles oecuméniques médiévaux* 1), Louvain 1974; J. Longère (ed.), *Le troisième concile de Latran (1179). Sa place dans l'histoire*, *Communications présentées à la Table Ronde du C.N.R.S.*, le 26 avril 1980, Paris 1982.

canons of this council: “ . . . the canons must be placed as they have been edited, and the various readings in the codex of Antonio Augustine must be considered . . .” (fol. 54<sup>r</sup>); but in the table of contents we read: “ . . . collated with the manuscript codices and with the Annals of the Englishman Roger of Hoveden” (fol. a11r).

<sup>56</sup> See *Corpus iuris canonici* . . ., ed. I. Böhmer, II Halle 1747, App. 185–189; below each of the canons are the variant readings taken from Hrd. <sup>57</sup> W. Herold, *Die Canones des 3. Laterankonzils (1179)*. His dissertation relies on the advice and direction of W. Holtzmann.

<sup>58</sup> Herold however was unaware of the Florence and two Vatican Regim. codices.

<sup>59</sup> See S. Kuttner, *Brief Note, Concerning the Canons of the Third Lateran Council*, *Traditio* 13 (1957) 505–506.

Walter Herold

## CANONES

1.<sup>1</sup> Licet de evitanda<sup>a</sup> discordia in electione summi<sup>b</sup> pontificis manifesta satis a nostris praedecessoribus constituta manaverint<sup>2</sup>, tamen quia saepe post illa per improbae ambitionis audaciam gravem passa est ecclesia scissuram, nos etiam ad malum hoc evitandum, de consilio fratrum nostrorum et sacri approbatione concilii aliquid decrevimus<sup>c</sup> 5 adiungendum. Statuimus igitur ut si forte, inimico homine supersemillante zizania<sup>ds</sup>, inter cardinales de substituendo pontifice non potuerit concordia plena esse, et duabus partibus concordantibus tertia pars noluerit concordare aut sibi alium praesumpserit ordinare<sup>e</sup>, ille<sup>f</sup> Romanus pontifex habeatur, qui a duabus partibus fuerit electus et receptus. Si 10 quis autem de tertiae partis nominatione confisus, quia rem<sup>g</sup> non potest, sibi nomen episcopi usurpaverit, tam ipse quam qui eum receperit, excommunicationi subiaceant et totius sacri ordinis privatione mulcentur, ita ut viatici eis etiam, nisi tantum in ultimis, communio denegetur, et nisi resipuerint, cum Dathan et Abiron, quos terra vivos absorbit<sup>4</sup>, 15 accipiant portionem. Praeterea, si a paucioribus aliquis quam a duabus partibus fuerit electus ad apostolatus officium, nisi maior concordia intercesserit, nullatenus assumatur et praedictae poenae subiaceat, si humiliter noluerit abstinere. Ex hoc tamen nullum canonicis constitutionibus<sup>h</sup> et aliis ecclesiasticis<sup>i</sup> praeiudicium generetur, in quibus maioris 20 et senioris<sup>k</sup> partis debet sententia praevalere, quia quod in eis dubium venerit, superioris poterit iudicio definiri. In Romana vero ecclesia aliquid speciale constituitur, quia non potest recursus ad superiorem haberi.<sup>5</sup>

2.<sup>6</sup> Quod a praedecessore nostro felicitis memoriae Innocentio factum 25 est<sup>7</sup> innovantes, ordinationes ab Octaviano et Guidone haeresiarcho necnon et Iohanne Strumensi<sup>8</sup>, qui eos secutus est, factas, et ab ordinatis ab eis, irritas esse censemus, adicientes etiam ut, si<sup>1</sup> qui dignitates ecclesiasticas seu beneficia per praedictos schismaticos receperunt<sup>m</sup>, careant

a vitanda H    b Romani H    c decernimus H    d zizaniam Cr<sup>2</sup>-ER, H 30  
 e nominare vel ordinare v. l. Rm nominare H  
 f absque ulla exceptione ab universa ecclesia add. v. l. Rm, H  
 g de ratione esse v. l. Rm quae tamen glossa videtur  
 h institutionibus H    i ecclesiis v. l. Rm, H; fortasse ecclesiasticis (electionibus)  
 k sanioris Cr<sup>2</sup>, LC-Msi, H    l om. H    m acceperunt H 35

<sup>1</sup> C. 1 in H.

<sup>2</sup> Cf. praesertim c. 1 conc. Romani a. 1059 sub Nicolao II papa habitus (Msi 19, 897, 907) eiusdemque bull. *In nomine Domini* (Msi 19, 903-904; MGH, *Leges in-f.*<sup>o</sup>, II/2, 177-179); cf. etiam c. 1 D. XXIII (Fr 1 77-79).

<sup>3</sup> Cf. Mt 13, 25.

<sup>4</sup> Cf. Dt 11, 6 (atque etiam Nm 16, 30-33).

<sup>5</sup> c. 6 X. I 6 (Fr 2, 51).    <sup>6</sup> C. 2 in H.

<sup>7</sup> Cf. conc. Lat. II c. 30 (cf. supra p. 203).

<sup>8</sup> Octavianus i. e. Victor IV antipapa (1159-1164), Guido i. e. Paschalis III antipapa (1164 ad 1168), Iohannes abbas Strumensis i. e. Callistus III antipapa (1168-1178).

## CANONS

1.<sup>1</sup> Although clear enough decrees have been handed down by our predecessors to avoid dissension in the choice of a sovereign pontiff<sup>2</sup>, nevertheless in spite of these, because through wicked and reckless ambition the church has often suffered serious division, we too, in order to avoid this evil, on the advice of our brethren and with the approval of the sacred council, have decided that some addition must be made. Therefore we decree that if by chance, through some enemy sowing tares<sup>3</sup>, there cannot be full agreement among the cardinals on a successor to the papacy, and though two thirds are in agreement a third party is unwilling to agree with them or presumes to appoint someone else for itself, that person shall be held as Roman pontiff who has been chosen and received by the two thirds. But if anyone trusting to his nomination by the third party assumes the name of bishop, since he cannot take the reality, both he and those who receive him are to incur excommunication and be deprived of all sacred order, so that viaticum be denied them, except at the hour of death, and unless they repent, let them receive the lot of Dathan and Abiron<sup>4</sup>, who were swallowed up alive by the earth. Further, if anyone is chosen to the apostolic office by less than two thirds, unless in the meantime he receives a larger support, let him in no way assume it, and let him be subject to the foresaid penalty if he is unwilling humbly to refrain. However, as a result of this decree, let no prejudice arise to the canons and other ecclesiastical constitutions according to which the decision of the greater and senior<sup>k</sup> part should prevail, because any doubt that can arise in them can be settled by a higher authority; whereas in the Roman church there is a special constitution, since no recourse can be had to a superior<sup>5</sup>.

2.<sup>6</sup> Renewing the decision taken by our predecessor of happy memory, Innocent<sup>7</sup>, we decree that the ordinances made by the heresiarchs Octavian and Guido, and also by John of Struma<sup>8</sup> who followed them, and by those ordained by them, are void; and furthermore that if any have received ecclesiastical dignities or benefices through the foresaid schismatics, they are to be deprived of

k sounder Cr<sup>2</sup>, LC-Msi, H

<sup>1</sup> Canon 1 in H.

<sup>2</sup> See especially canon 1 of the council of Rome held in 1059 under pope Nicholas II (Msi 19, 897, 907) and his bull *In nomine Domini* (Msi 19, 903-904; MGH, *Leges in-f.*<sup>o</sup>, II/2, 177-179); see also ch. 1 D. XXIII (Fr 1, 77-79).

<sup>3</sup> See Mt 13, 25.

<sup>4</sup> See Dt 11, 6 (and also Nm 16, 30-33).

<sup>5</sup> ch. 6 *Decretals* I 6 (Fr 2, 51).    <sup>6</sup> Canon 2 in H.

<sup>7</sup> See Lateran council II, canon 30 (see above p. 203).

<sup>8</sup> Octavian was the antipope Victor IV (1159-1164), Guido was the antipope Paschal III (1164-1168), and John, abbot of Struma, was the antipope Callistus III (1168-1178).

impetratis<sup>1</sup>. Alienationes quoque seu<sup>a</sup> invasiones, quae per eosdem schismaticos sive per laicos factae sunt de rebus ecclesiasticis, omni careant firmitate et ad ecclesiam sine omni eius onere revertantur. Si quis autem contrae praesumpserit, excommunicationi se noverit subi-  
 5 acere. Illos autem, qui sponte iuramentum de tenendo schismate praestiterint<sup>b</sup>, a sacris ordinibus et dignitatibus decrevimus<sup>c</sup> manere suspensos.<sup>2</sup>

3.<sup>3</sup> Cum in<sup>d</sup> sacris ordinibus et ministeriis ecclesiasticis, et aetatis maturitas et morum gravitas et scientia litterarum sit inquirenda<sup>e</sup>, multo fortius haec<sup>f</sup> in episcopo oportet inquiri, qui ad curam positus aliorum,  
 10 in se ipso debet ostendere qualiter alios in domo Domini oporteat conversari. Eapropter, ne quod de<sup>g</sup> quibusdam ex necessitate temporis factum est, in exemplum trahatur a posteris, praesenti decreto statuimus, ut nullus in episcopum eligatur, nisi qui iam trigesimum aetatis annum egerit et de legitimo sit matrimonio natus, qui etiam vita et scientia  
 15 commendabilis demonstratur. Cum autem electus fuerit et confirmationem electionis acceperit et ecclesiasticorum bonorum<sup>h</sup> administrationem habuerit, decurso tempore de consecrandis episcopis a canonibus definito, is ad quem spectant beneficia, quae habuerat, disponendi de illis liberam habeat facultatem. Inferiora etiam ministeria, utputa<sup>i</sup> de-  
 20 canatus, archidiaconatus et alia quae animarum curam habent annexam, nullus omnino suscipiat, sed nec parochialium ecclesiarum regimen, nisi qui iam vigesimum quintum aetatis<sup>k</sup> annum attigerit, et qui scientia et moribus existat commendandus. Cum autem assumptus fuerit, si archidiaconus in diaconum<sup>l</sup> et<sup>m</sup> decani<sup>n</sup> (et reliqui admoniti) non fuerint praefixo  
 25 a canonibus tempore in presbyteros ordinati, et ab illo removeantur officio et alii conferatur, qui et velit et possit convenienter illud implere; nec prosit illis<sup>o</sup> appellationis diffugium, si forte in transgressionem<sup>p</sup> constitutionis istius per appellationem voluerint se tueri. Hoc sane non solum de promovendis, sed de his etiam qui iam promoti sunt, si canones non  
 30 obstant, praecipimus observandum. Clerici sane<sup>q</sup> si contra formam istam quemquam elegerint, et eligendi potestate tunc privatos et ab ecclesiasticis beneficiis triennio se noverint suspensos. Dignum est enim ut, quos timor Dei a malo non revocat, ecclesiasticae saltem<sup>r</sup> coerceat  
 35 severitas disciplinae. Episcopus autem<sup>s</sup>, si cui fecerit aut fieri consenserit contra hoc<sup>t</sup>, in conferendis praedictis<sup>u</sup> potestatem suam amittat: et per

a sive H b praestiterunt H c decernimus H d cunctis add. v. l. Rm, H

e quaerenda H f hoc Cr<sup>2</sup> Su g de v. l. Rm a rell.

h honorum Su Rm i utpote H k om. H l diaconem Cr<sup>2</sup> Su H

m decanus H n eis H o transgressionem H p vero v. l. Cr<sup>2</sup> Su

q tamen Cr<sup>2</sup> Su r etiam H

s si contra hoc fecerit aut fieri consenserit v. l. Rm si aut fecerit contra hoc aut consenserit fieri H

t officiis et beneficiis add. v. l. Rm officiis add. H

<sup>1</sup> Cf. etiam *Chronicon universale* anonymi Laudunensis, ed. G. Waitz, in MGH *Script.*, XXVI Hannoverae 1882, 449; Sigeberti Gemblacensis *Continuatio Aquicinctina*, ed. L. Bethmann, in MGH *Script.*, VI Hannoverae 1849, 417.

<sup>2</sup> c. 1 X. V 8 (Fr 2, 790); cf. etiam c. 37 C. XII q. 2 (Fr 1, 699). <sup>3</sup> C. 3 in H.

them<sup>1</sup>. Moreover alienations or seizures of ecclesiastical property, which have been made by these schismatics or by lay persons, are to lack all validity and are to return to the church without any burden to it. If anyone presumes to act against this, let him know that he is excommunicated. We decree that those who of their own accord have taken an oath to remain in schism are suspended from sacred orders and dignities.<sup>2</sup>

3.<sup>3</sup> Since in holy orders and ecclesiastical ministries both maturity of age, a serious character and knowledge of letters should be required, much more should these qualities be required in a bishop, who is appointed for the care of others and ought to show in himself how others should live in the house of the Lord. Therefore, lest what has been done with regard to certain persons through the needs of the time should be taken as a precedent for the future, we declare by the present decree that no one should be chosen bishop unless he has already reached the age of thirty, been born in lawful wedlock and also is shown to be worthy by his life and learning. When he has been elected and his election has been confirmed, and he has the administration of ecclesiastical property, after the time has passed for the consecration of bishops as laid down by the canons, let the person to whom the benefices which he held belong, have the free disposition of them. Further, with regard to the inferior ministries, for instance that of dean or archdeacon, and others which have the care of souls annexed, let no one at all receive them, or even the rule of parish churches, unless he has already reached his twenty-fifth year of age, and can be approved for his learning and character. When he has been nominated, if the archdeacon is not ordained deacon, and the deans (and the rest after due warning) are not ordained priests, within the time fixed by the canons, let them be removed from that office and let it be conferred on another who is both able and willing to fulfil it properly; and let them not be allowed the evasion of recourse to an appeal, should they wish by an appeal to protect themselves against a transgression of the constitution. We order that this should be observed with regard to both past and future appointments, unless it is contrary to the canons. Certainly if clerics appoint someone contrary to this rule, let them know that they are deprived of the power of election and are suspended from ecclesiastical benefices for three years. For it is right that at least the strictness of ecclesiastical discipline should restrain those who are not recalled from evil by the fear of God. But if any bishop has acted in anyone's interest contrary to this decree, or has consented to such actions, let

<sup>1</sup> See also *Chronicon universale* by the anonymous writer from Laon, ed. G. Waitz, in MGH *Script.*, XXVI Hanover 1882, 449; Sigebert of Gembloux, *Continuatio Aquicinctina*, ed. L. Bethmann, in MGH *Script.*, VI Hanover 1849, 417.

<sup>2</sup> ch. 1 *Decretals* V 8 (Fr 2, 790); see also ch. 37 C. XII q. 2 (Fr 1, 699). <sup>3</sup> Canon 3 in H.



capitulum aut per metropolitanum<sup>1</sup>, si<sup>a</sup> capitulum concordare nequiverit, ordinentur.<sup>2</sup>

4.<sup>3</sup> Cum apostolus se et<sup>b</sup> suos propriis manibus decreverit exhibendos<sup>c</sup>, ut locum praedicandi auferret pseudoapostolis et illis quibus praedicabat non exsisteret onerosus<sup>d</sup>, grave nimis et emendatione fore<sup>d</sup> dignum 5 dignoscitur, quod quidam fratrum et coepiscoporum nostrorum ita graves in procurationibus suis subditis existunt, ut pro huiusmodi causa<sup>e</sup> interdum ornamenta ecclesiastica subditi compellantur exponere et longi temporis victum brevis hora consumat. Quocirca statuimus, quod<sup>f</sup> archiepiscopi parochias visitantes pro diversitate provinciarum et facultatibus ecclesiarum quadraginta vel quinquaginta<sup>g</sup> evectio<sup>h</sup> numerum non<sup>i</sup> excedant<sup>i</sup>; cardinales vero viginti vel viginti quinque non excedant, episcopi viginti vel triginta<sup>k</sup> nequaquam excedant, archidiaconi<sup>l</sup> quinque aut<sup>m</sup> septem, decani<sup>n</sup> constituti sub ipsis duobus equis existant contenti. Nec cum canibus venatoriis et avibus<sup>o</sup> proficiscantur, sed ita procedant, 15 ut non quae sunt sua sed quae Iesu Christi quaerere videantur<sup>5</sup>; nec sumptuosas epulas quaerant<sup>p</sup>, sed cum gratiarum actione recipiant quod honeste et<sup>q</sup> competenter fuerit illis ministratum<sup>r</sup>. Prohibemus etiam ne subditos suos talliis et exactionibus episcopi gravare praesumant. Sustine- 20 mus autem pro multis necessitatibus, quae aliquoties superveniunt, ut si manifesta et rationabilis causa exstiterit, cum caritate moderatum ab eis valeant auxilium postulare. Cum enim dicat apostolus: *Non debent parentibus filii thesaurizare sed parentes filiis*<sup>6</sup>, multum longe a paterna pietate videtur, si praepositi suis subditis<sup>s</sup> graves existant, quos in cunctis necessitatibus pastoris more fovere debent. Archidiaconi autem<sup>t</sup> sive 25 decani nullas exactiones vel tallias in presbyteros seu clericos exercere praesumant. Sane, quod de praedicto<sup>u</sup> numero evectio<sup>h</sup> secundum tolerantiam dictum est, in illis locis poterit observari, in quibus ampliores sunt redditus et ecclesiae<sup>v</sup> facultates; in pauperioribus autem locis tantam volumus teneri mensuram, ut ex accessu maiorum minores non debeant<sup>w</sup> 30

<sup>a</sup> etiamsi H    <sup>b</sup> ac H    <sup>c</sup> alendos v. l. Rm

<sup>d</sup> esse H    <sup>e</sup> ipsa add. H    <sup>f</sup> ut H    <sup>g</sup> quadagesimum vel quinquagesimum H

<sup>h</sup> evectio<sup>h</sup> numerum v. l. LC Cl Msi    <sup>i</sup> om. H

<sup>k</sup> episcopi vero vicesimum vel tricesimum, cardinales vero vigesimum aut vigesimum quintum H

<sup>l</sup> vero add. H    <sup>m</sup> aut Cr<sup>2</sup> Su vel rell.    <sup>n</sup> vero add. H

<sup>o</sup> Nec . . . avibus] nec om. Cr<sup>2</sup> Su avibus non Cr<sup>2</sup> Su    <sup>p</sup> requirant H    <sup>q</sup> ac H

<sup>r</sup> nec sumptuosas . . . ministratum om. Cr<sup>2</sup> Su    <sup>s</sup> subiectis H

<sup>t</sup> autem Cr<sup>2</sup> Su vero rell.    <sup>u</sup> praedicti H    <sup>v</sup> ecclesiasticae H

<sup>w</sup> minores merito non doleant se v. l. Rm, H

<sup>1</sup> Cf. c. 36 D. LXIII (Fr 1, 247).

<sup>2</sup> c. 7 X. I 6 (Fr 2, 51-52); cf. G. J. Ebers, *Das Devolutionsrecht, vornehmlich nach katolischem Kirchenrecht*, Stuttgart 1906, 171-178.

<sup>3</sup> C. 6 in H.

<sup>4</sup> Cf. 1 Th 2, 9; 2 Th 3, 7-8; cf. etiam 2 Cor 11, 9.

<sup>5</sup> Cf. Ph 2, 21.

<sup>6</sup> 2 Cor 12, 14.

him lose the power of conferring the foresaid offices, and let these appointments be made by the chapter, or by the metropolitan<sup>1</sup> if the chapter cannot agree.<sup>2</sup>

4.<sup>3</sup> Since the apostle decided that he ought to support himself and those accompanying him by his own hands, so that he might remove the opportunity of preaching from false apostles and might not be burdensome to those to whom he was preaching<sup>4</sup>, it is recognized that it is a very serious matter and calls for correction that some of our brethren and fellow bishops are so burdensome to their subjects in the procurations demanded that sometimes, for this reason, subjects are forced to sell church ornaments and a short hour consumes the food of many days. Therefore we decree that archbishops on their visitations of their dioceses are not to bring with them more than forty or fifty horses or other mounts, according to the differences of dioceses and ecclesiastical resources; cardinals should not exceed twenty or twenty-five, bishops are never to exceed twenty or thirty, archdeacons five or seven, and deans, as their delegates, should be satisfied with two horses. Nor should they set out with hunting dogs and birds, but they should proceed in such a way that they are seen to be seeking not their own but the things of Jesus Christ<sup>5</sup>. Let them not seek rich banquets but let them receive with thanksgiving what is duly and suitably provided<sup>6</sup>. We also forbid bishops to burden their subjects with taxes and impositions. But we allow them, for the many needs which sometimes come upon them, if the cause be clear and reasonable, to ask for assistance moderated by charity. For since the apostle says *children ought not to lay up for their parents, but parents for their children*<sup>6</sup>, it seems to be far removed from paternal affection if superiors are burdensome to their subjects, when like a shepherd they ought to cherish them in all their needs. Archdeacons or deans should not presume to impose charges or taxes on priests or clerics. Indeed, what has been said above by way of permission about the number of horses may be observed in those places where there are greater resources or revenues, but in poorer places we wish measure so to be observed that the visit of greater personages should not be a burden to the

<sup>r</sup> Let them not . . . provided omitted in Cr<sup>2</sup> Su

<sup>1</sup> See ch. 36 D. LXIII (Fr 1, 247).

<sup>2</sup> ch. 7 *Decretals* I 6 (Fr 2, 51-52); see G. J. Ebers, *Das Devolutionsrecht, vornehmlich nach katolischem Kirchenrecht*, Stuttgart 1906, 171-178.

<sup>3</sup> Canon 6 in H.

<sup>4</sup> See 1 Th 2, 9; 2 Th 3, 7-8; see also 2 Cor 11, 9.

<sup>5</sup> See Ph 2, 21.

<sup>6</sup> 2 Cor 12, 14.

gravari, ne sub tali indulgentia illi, qui paucioribus equis uti solebant hactenus, plurimam<sup>a</sup> sibi credant potestatem indultam.<sup>1</sup>

5.<sup>2</sup> Episcopus si<sup>b</sup> aliquem sine certo titulo, de quo necessaria vitae percipiat, in diaconum<sup>c</sup> vel presbyterum ordinaverit, tamdiu necessaria ei subministret, donec in aliqua ei<sup>d</sup> ecclesia convenientia stipendia militiae clericalis assignet; nisi forte talis<sup>e</sup> qui ordinatur<sup>f</sup> exstiterit, qui de sua vel paterna hereditate subsidium vitae possit habere.<sup>3</sup>

6.<sup>4</sup> Reprehensibilis valde consuetudo in quibusdam partibus inolevit, ut<sup>g</sup> fratres et coepiscopi nostri seu etiam archidiaconi, quos<sup>h</sup> appellaturos in causis suis existimant, nulla penitus admonitione praemissa, suspensionis vel<sup>i</sup> excommunicationis in eos ferant sententiam. Alii etiam, dum superioris sententiam et disciplinam canonicam reformidant, sine ullo gravamine appellationem obiciunt et ad defensionem iniquitatis usurpant, quod ad subsidium<sup>k</sup> innocentium dignoscitur institutum. Quocirca ne vel praelati valeant sine causa gravare subiectos vel subditi pro sua voluntate sub appellationis obtentu correctionem valeant eludere praelatorum, praesenti decreto statuimus, ut nec praelati, nisi canonica commonitione praemissa, suspensionis vel excommunicationis sententiam proferant in subiectos, nisi forte talis sit culpa, quae ipso genere suo excommunicationis<sup>l</sup> poenam inducat; nec subiecti contra disciplinam ecclesiasticam ante ingressum causae in vocem appellationis prorumpant<sup>m</sup>. Si vero quisquam pro sua necessitate crediderit appellandum, competens ei ad prosequendam appellationem terminus praefigatur, infra quem, si forte prosequi<sup>n</sup> neglexerit, libere tunc episcopus sua auctoritate utatur. Si autem in quocumque negotio aliquis appellaverit et eo qui appellatus fuerit veniente, qui appellaverit venire neglexerit, si proprium quid habuit<sup>o</sup>, competentem ei<sup>p</sup> recompensationem faciat expensarum, ut hoc saltem timore perterritus<sup>q</sup>, in gravamen alterius non facile quis appellet. Praecipue vero in locis<sup>r</sup> religiosis hoc volumus observari, ne monachi sive quicumque religiosi, cum pro aliquo excessu fuerint corrigendi, contra regularem praelati sui et capituli disciplinam appellare praesumant, sed humiliter ac devote suscipiant, quod pro salute sua utiliter<sup>s</sup> eis fuerit iniunctum<sup>t</sup>.<sup>5</sup>

7.<sup>6</sup> Cum in ecclesiae corpore omnia debeant ex caritate tractari et quod gratis receptum est gratis<sup>u</sup> impendi, horribile nimis est, quod in quibus-

<sup>a</sup> plurium *H*    <sup>b</sup> praeterea si episcopus *H*    <sup>c</sup> diaconem *H*

<sup>d</sup> eidem in aliqua *H*    <sup>e</sup> sit *add. H*    <sup>f</sup> ordinatus *H*

<sup>g</sup> cum *add. H*    <sup>h</sup> quosdam *H*    <sup>i</sup> seu *H*    <sup>k</sup> praesidium *H*

<sup>l</sup> suspensionis vel excommunicationis *v. l. Rm, H*    <sup>m</sup> erumpant *H*    <sup>n</sup> prosequi *Cr<sup>2</sup> Su*

<sup>o</sup> habuerit *H*    <sup>p</sup> illi *H*    <sup>q</sup> deterritus *H*    <sup>r</sup> *om. v. l. Rm*    <sup>s</sup> *om. H*

<sup>t</sup> sua sciunt iis iniunctum *v. l. Rm*    <sup>u</sup> debeat *add. H*

<sup>1</sup> c. 6 *X. III 39* (Fr 2, 623); cf. etiam c. 3 *D. XCIV* (Fr 1, 331) et c. 8 *C. X q. 3* (Fr 1, 625-626); G. Schreiber, *Kurie und Kloster im 12. Jahrhundert*, Stuttgart 1910, I 226, 242; II 171-173, 176.

<sup>2</sup> *C. 5, II in H.*    <sup>3</sup> c. 4 *X. III 5* (Fr 2, 465); cf. conc. Chalcedon. c. 6 (cf. supra p. 90).

<sup>4</sup> *C. 12 in H.*    <sup>5</sup> c. 26 *X. II 28* (Fr 2, 418-419).    <sup>6</sup> *C. 4 in H.*

humbler, lest by such a grant those who were accustomed to use fewer horses should think that the widest powers have been granted to them.<sup>1</sup>

5.<sup>2</sup> If a bishop ordains someone as deacon or priest without a definite title from which he may draw the necessities of life, let the bishop provide him with what he needs until he shall assign him the suitable wages of clerical service in some church, unless it happens that the person ordained is in such a position that he can find the support of life from his own or family inheritance.<sup>3</sup>

6.<sup>4</sup> A most reprehensible custom has become established in certain places whereby our brethren and fellow bishops and even archdeacons have passed sentence of excommunication or suspension, without any previous admonition, on those who they think will lodge an appeal. Others too, while they fear the sentence and canonical discipline of a superior, lodge an appeal without any real grounds and thus make use of a means ordained for the help of the innocent as a defence of their own wrongdoing. Therefore to prevent prelates burdening their own subjects without reason, or subjects at their will being able to escape the correction of prelates under cover of an appeal, we lay down by this present decree that prelates should not pass sentence of suspension or excommunication without a previous canonical warning, unless the fault is such that by its nature it incurs the penalty of excommunication<sup>1</sup>, and that subjects should not recklessly have recourse to an appeal, contrary to ecclesiastical discipline, before the introduction of their case. But if anyone believes that because of his own need he should make an appeal, let a proper limit be fixed for his making it, and if it happens that he fails to do so within this limit, let the bishop freely use his own authority. If in any business someone makes an appeal, but fails to appear when the defendant has arrived, let him make a proper repayment of the defendant's expenses, if he is in a position to do so; in this way, at least by fear, a person may be deterred from lightly making an appeal to the injury of another. But we wish that in religious houses especially this should be observed, namely that monks or other religious, when they are to be corrected for any fault, should not presume to appeal against the regular discipline of their superior or chapter, but they should humbly and devoutly submit to what is usefully enjoined them for their salvation.<sup>5</sup>

7.<sup>6</sup> Since in the body of the church everything should be treated with a spirit of charity, and what has been freely received should be freely given, it is utterly

<sup>1</sup> suspension or excommunication *variant reading in Rm, H*

<sup>1</sup> ch. 6 *Decretals III 39* (Fr 2, 623); see also ch. 3 *D. XCIV* (Fr 1, 331) and ch. 8 *C. X q. 3* (Fr 1, 625-626); G. Schreiber, *Kurie und Kloster im 12. Jahrhundert*, Stuttgart 1910, I 226, 242; II 171-173, 176.

<sup>2</sup> Canon 5, II in *H.*

<sup>3</sup> ch. 4 *Decretals III 5* (Fr 2, 465); see council of Chalcedon, canon 6 (see above p. 90).

<sup>4</sup> Canon 12 in *H.*    <sup>5</sup> ch. 26 *Decretals II 28* (Fr 2, 418-419).    <sup>6</sup> Canon 4 in *H.*

dam ecclesiis locum venalitas perhibetur habere ita, ut pro episcopis vel abbatibus seu<sup>a</sup> quibuscumque personis ecclesiasticis ponendis in sede seu introducendis presbyteris in ecclesiam necnon pro sepulturis et exsequiis mortuorum et benedictionibus nubentium seu aliis sacramentis<sup>b</sup> aliquid exigatur<sup>c</sup>, et ille qui indiget non possit ista percipere, nisi manum implere<sup>d</sup> curaverit largitoris. Putant<sup>d</sup> plures ex hoc sibi licere, quia legem moris<sup>e</sup> de longa invaluisse consuetudine arbitrantur, non satis, quia cupiditate caecati sunt, attendentes, quod tanto graviora sunt crimina quanto diutius animam infelicem tenuerint alligatam. Ne igitur hoc de cetero fiat et vel pro personis ecclesiasticis deducendis ad sedem vel sacerdotibus instituendis aut mortuis sepeliendis seu etiam nubentibus benedicendis seu etiam<sup>f</sup> aliis sacramentis aliquid exigatur, districtius inhibemus. Si quis autem contra hoc venire praesumpserit, portionem cum Giezi<sup>1</sup> se noverit habiturum, cuius<sup>2</sup> factum turpis muneris exactione imitatur<sup>2</sup>. Prohibemus insuper, ne novi census ab episcopis vel abbatibus aliisve praelatis imponantur ecclesiis nec veteres augeantur nec partem reddituum suis usibus appropriare praesumant, sed libertates, quas<sup>3</sup> sibi maiores desiderant conservari, minoribus quoque suis bona voluntate conservent. Si quis autem aliter egerit, irritum quod fecerit habeatur.<sup>3</sup>

8.<sup>4</sup> Nulla ecclesiastica ministeria seu etiam beneficia vel ecclesiae alicui tribuantur seu promittantur antequam vacent, ne desiderare quis mortem proximi<sup>h</sup> videatur, in cuius locum et beneficium se crediderit<sup>i</sup> successurum. Cum enim id etiam in ipsis gentilium legibus inveniatur prohibitum<sup>k</sup>, turpe nimis est et divini plenum animadversione iudicii, si locum in Dei ecclesia futurae successionis expectatio habeat, quam etiam damnare<sup>l</sup> ipsi gentiles homines curaverunt. Cum vero praebendas ecclesiasticas<sup>m</sup> seu quaelibet officia in aliqua ecclesia vacare contigerit vel etiam si modo vacant, non diu maneat in suspenso, sed infra sex menses personis, quae digne administrare valeant, conferantur. Si autem episcopus, ubi<sup>n</sup> ad eum<sup>n</sup> spectaverit<sup>o</sup>, conferre distulerit, per capitulum ordinetur. Quod si ad capitulum electio pertinuerit et infra praedictum<sup>p</sup> terminum<sup>q</sup> hoc non fecerit, episcopus hoc secundum Deum cum virorum religiosorum consilio exsequatur aut, si omnes forte neglexerint, metropolitanus de ipsis secundum Deum absque illorum contradictione disponat.<sup>5</sup>

9.<sup>6</sup> Cum et plantare sacram religionem et plantatam fovere modis omnibus debeamus, numquam hoc melius exsequemur<sup>r</sup>, quam si nutrire<sup>s</sup> quae recta sunt et corrigere<sup>s</sup> quae profectum veritatis<sup>t</sup> impediunt,

a pro add. H b ecclesiasticis add. H c requiratur H d autem add. H  
e moris con. Cr<sup>2</sup> (et postea Hrd) mortis rell. f om. H g libertatem quam H  
h sui add. H i credidit Cr<sup>2</sup> Su k inhibitum H l condemnare H  
m ecclesias H n ad quem H o sine rationabili causa add. H p praescriptum H  
q similiter add. H r exsequimur H s ea add. H t virtutis H

<sup>1</sup> Cf. 4 Rg 5, 20–27. <sup>2</sup> c. 9 X. V 3 (Fr 2, 751); cf. etiam c. 100 C. I q. 1 (Fr 1, 398).

<sup>3</sup> c. 7 X. III 39 (Fr 2, 623). <sup>4</sup> C. 5, I in H.

<sup>5</sup> c. 2 X. III 8 (Fr 2, 488); cf. G. J. Ebers, *Das Devolutionsrecht, vornehmlich nach katholischem Kirchenrecht*, Stuttgart 1906, 171–178. <sup>6</sup> C. 8 in H.

disgraceful that in certain churches trafficking is said to have a place, so that a charge is made for the enthroning of bishops, abbots or ecclesiastical persons, for the installation of priests in a church, for burials and funerals, for the blessing of weddings or for other sacraments, and that he who needs them cannot gain them unless he first makes an offering to the person who bestows them. Some think that this is permitted in the belief that long standing custom has given it the force of law. Such people, blinded by avarice, are not aware that the longer an unhappy soul is bound by crimes the graver they are. Therefore, so that this may not be done in the future, we severely forbid that anything be demanded for the enthronement of ecclesiastical persons or the institution of priests, for burying the dead as well as for blessing marriages or for any other sacrament. But if anyone presumes to act against this, let him know that he will have his lot with Giezi<sup>1</sup>, whose action he imitates by his demand of a disgraceful present<sup>2</sup>. Moreover we forbid bishops, abbots or other prelates to impose upon churches new dues, increase the old or presume to appropriate to their own use part of the revenues, but let them readily preserve for their subjects those liberties which superiors wish to be preserved for themselves. If anyone acts otherwise, his action is to be held invalid.<sup>3</sup>

8.<sup>4</sup> Let no ecclesiastical ministries or even benefices or churches be assigned or promised to anyone before they are vacant, so that nobody may seem to wish for the death of his neighbour to whose position or benefice he believes himself to be the successor. For since we find this forbidden even in the laws of the pagans themselves, it is utterly disgraceful and calls for the punishment of God's judgment if the hope of future succession should have any place in God's church, when even pagans have taken care to condemn it. But whenever ecclesiastical prebends or any offices happen to become vacant in a church, or are even now vacant, let them no longer remain unassigned and let them be conferred within six months on persons who are able to administer them worthily. If the bishop, when it concerns him, delays to make the appointment, let it be done by the chapter; but if the election belongs to the chapter and it does not make the appointment within the prescribed time, let the bishop proceed according to God's will, with the advice of religious men; or if by chance all fail to do so, let the metropolitan dispose of these matters without opposition from them and in accordance with God's will.<sup>5</sup>

9.<sup>6</sup> Since we ought both to plant holy religion and in every way to cherish it when planted, we shall never fulfil this better than if we take care to nourish

<sup>1</sup> See 4 Kg 5, 20–27. <sup>2</sup> ch. 9 *Decretals* V 3 (Fr 2, 751); see also ch. 100 C. I q. 1 (Fr 1, 398).

<sup>3</sup> ch. 7 *Decretals* III 39 (Fr 2, 623). <sup>4</sup> Canon 5, I in H.

<sup>5</sup> ch. 2 *Decretals* III 8 (Fr 2, 488); see G. J. Ebers, *Das Devolutionsrecht, vornehmlich nach katholischem Kirchenrecht*, Stuttgart 1906, 171–178. <sup>6</sup> Canon 8 in H.

commissa nobis<sup>a</sup> auctoritate curemus. Fratrum autem et coepiscoporum nostrorum vehementer conquestione comperimus, quod fratres Templi et Hospitalis<sup>b</sup>, alii quoque religiosus professionis, indulta sibi ab apostolica sede excedentes privilegia, contra episcopalem auctoritatem multa praesumunt, quae et scandalum generant<sup>c</sup> in populo Dei et grave pariunt periculum animarum<sup>d</sup>. Proponunt<sup>e</sup> enim quod ecclesias recipiant de manibus laicorum, excommunicatos et interdictos ad ecclesiastica sacramenta et sepulturam admittant, in<sup>f</sup> ecclesiis suis praeter eorum conscientiam<sup>f</sup> et instituunt et amoveant sacerdotes, et fratribus eorum ad eleemosynas quaerendas euntibus, cum indultum sit eis ut in adventu eorum semel in anno ecclesiae aperiantur atque in eis divina celebrentur officia, plures ex eis de una sive<sup>g</sup> diversis domibus ad locum interdictum saepius accedentes, indulgentia privilegiorum<sup>h</sup> in celebrandis officiis<sup>i</sup> abutuntur et tunc mortuos apud praedictas<sup>k</sup> ecclesias sepelire praesumunt.

15 Occasione quoque fraternitatum, quas in pluribus locis faciunt, robur episcopalis auctoritatis enervant, dum contra eorum sententiam sub aliquorum privilegiorum obtentu munire cunctos intendunt, qui ad eorum fraternitatem volunt accedere et se conferre<sup>l</sup>. In his<sup>m</sup>, quia non tam de maiorum conscientia vel consilio quam de minorum indiscretionem<sup>n</sup> quorundam<sup>o</sup> exceditur, et removenda ea in quibus excedunt et quae dubietatem<sup>p</sup> faciunt declaranda, decrevimus<sup>q</sup>. Ecclesias sane et decimas de manu laicorum, sine consensu episcoporum, tam illos quam<sup>r</sup> quoscumque alios religiosos recipere prohibemus, dimissis etiam quas<sup>s</sup> contra tenorem istum moderno<sup>t</sup> tempore receperunt. Excommunicatos et nominatim

25 interdictos tam ab illis quam ab omnibus aliis, iuxta episcoporum sententiam statuimus evitandos. In ecclesiis suis, quae ad eos pleno iure non pertinent, instituendos presbyteros episcopis praesentent<sup>u</sup>, ut eis quidem de plebis cura respondeant, ipsis vero pro rebus temporalibus rationem exhibeant competentem; institutos autem, episcopis inconsultis, non audeant remove. Si vero Templarii sive Hospitalarii ad ecclesiam interdictam<sup>v</sup> venerint, non nisi semel in anno ad ecclesiasticum admittantur officium nec tunc ibi corpora sepeliant defunctorum<sup>w</sup>. De fraternitatibus<sup>x</sup> hoc statuimus<sup>y</sup> ut, si non se praedictis fratribus omnino reddiderint sed in suis proprietatibus duxerint<sup>z</sup> remanendum, propter hoc ab

35 episcoporum sententia nullatenus eximantur, sed potestatem suam in eos

<sup>a</sup> a Deo add. H    <sup>b</sup> et add. H    <sup>c</sup> faciunt H    <sup>d</sup> proposuerunt H

<sup>e</sup> cunctis add. H    <sup>f</sup> conscientias H    <sup>g</sup> de add. H

<sup>h</sup> nostrorum add. H    <sup>i</sup> et sepeliendis mortuis add. H    <sup>k</sup> interdictas H

<sup>l</sup> volunt . . . conferre] voluerint se conferre H    <sup>m</sup> autem add. H    <sup>n</sup> discretionem H

40 <sup>o</sup> om. H    <sup>p</sup> dubitationem H    <sup>q</sup> decernimus H    <sup>r</sup> etiam add. H

<sup>s</sup> quascumque H    <sup>t</sup> aliquo v. l. Rm    <sup>u</sup> repraesentent H

<sup>v</sup> ecclesiam interdictam v. l. Rm    <sup>w</sup> ecclesiasticum interdictum rel.

<sup>x</sup> interdictorum v. l. Rm    <sup>y</sup> confratribus v. l. Rm    <sup>z</sup> autem add. H

<sup>y</sup> constituimus H    <sup>z</sup> omnino add. v. l. Rm

<sup>1</sup> Cf. inter alia G. Bottarelli, *Storia politica e militare del sovrano ordine . . . di Malta*, I Milano 1940, 69.

what is right and to correct what stands in the way of the progress of truth by means of the authority entrusted to us<sup>a</sup>. Now we have learnt from the strongly worded complaints of our brethren and fellow bishops that the Templars and Hospitallers, and other professed religious, exceeding the privileges granted them by the apostolic see have often disregarded episcopal authority, causing scandal to the people of God and grave danger to souls<sup>1</sup>. We are told that they receive churches from the hands of lay persons; that they admit those under excommunication and interdict to the sacraments of the church and to burial; that in their churches they appoint and remove priests without the knowledge of the bishop; that when the brothers go to seek alms, and it is granted that the churches should be open on their arrival once a year and the divine services should be celebrated in them, several of them from one or more houses often go to a place under interdict and abuse the privileges granted<sup>h</sup> to them by holding divine service, and then presume to bury the dead in the said churches. On the occasion also of the brotherhoods which they establish in many places, they weaken the bishops' authority, for contrary to their decision and under cover of some privileges they seek to defend all who wish to approach and join their brotherhood. In these matters, because the faults arise not so much with the knowledge or advice of the superiors as from the indiscretion of some of the subjects, we have decreed that abuses should be removed and doubtful points settled. We absolutely forbid that these orders and all other religious should receive churches and tithes from the hands of lay persons, and we even order them to put away what they have recently received contrary to this decree. We declare that those who are excommunicated, or interdicted by name, must be avoided by them and all others according to the sentence of the bishop. In churches which do not belong to them by full right, let them present to the bishops the priests to be instituted, so that while they are answerable to the bishops for the care of the people, they may give to their own members a proper account of temporal matters. Let them not presume to remove those priests who have been appointed without first consulting the bishops. If the Templars or Hospitallers come to a church which is under an interdict, let them be allowed to hold the services of the church only once a year and let them not bury there the bodies of the dead. With regard to the brotherhoods we declare as follows: if any do not give themselves entirely to the said brothers but decide to keep their possessions, they are in no way on this account exempt from the sentence of the bishops, but the bishops may exercise their power over them as over other

<sup>a</sup> by God added in H    <sup>h</sup> by us added in H

<sup>1</sup> See among others G. Bottarelli, *Storia politica e militare del sovrano ordine . . . di Malta*, I Milan 1940, 69; M. Barber, *The Trial of the Templars*, Cambridge 1978, 12.

sicut in alios parochianos suos exercent, cum pro suis excessibus fuerint corrigendi. Quod autem de praedictis fratribus dictum est, de<sup>a</sup> aliis quoque religiosis, qui praesumptione sua episcoporum iura praeripiunt et contra canonicas eorum sententias et tenorem privilegiorum nostrorum venire praesumunt, praecipimus observari. Si autem contra hoc institutum venerint, et ecclesiae in quibus ista praesumpserint subiaceant interdicto, et quod egerint irritum<sup>b</sup> habeatur.<sup>1</sup>

10.<sup>2</sup> Monachi non pretio recipiantur in monasterio, non peculium permittantur habere, non singuli per villas et oppida seu ad<sup>c</sup> quascumque parochiales ponantur ecclesias, sed in maiori conventu aut cum aliquibus fratribus maneant, nec soli inter saeculares homines spiritualium hostium conflictionem<sup>d</sup> exspectent, Salomone dicente: *Vae soli, quia si ceciderit non habet sublevantem*<sup>e</sup>. Si quis autem exactus pro sua receptione aliquid dederit, ad sacros ordines non ascendat; is autem qui acceperit<sup>f</sup>, officii sui privatione<sup>g</sup> mulctetur. Si<sup>h</sup> vero peculium habuerit, nisi ei ab abbate pro iniuncta fuerit administratione permissum, a<sup>i</sup> communione removeatur altaris, et qui in extremis cum peculio inventus fuerit<sup>k</sup>, nec oblatio pro eo fiat nec inter fratres recipiat<sup>l</sup> sepulturam. Quod etiam de diversis<sup>m</sup> religiosis praecipimus observari. Abbas etiam<sup>n</sup> qui ista diligenter non curaverit, officii sui iacturam se noverit incursum. Prioratus quoque sive<sup>o</sup> obedienciae pretii datione nulli tradantur, alioqui et dantes et accipientes<sup>p</sup> a ministerio fiant ecclesiastico alieni. Priores vero<sup>q</sup>, cum in conventualibus ecclesiis fuerint constituti, nisi pro manifesta causa et rationabili non mutentur, videlicet si fuerint dilapidatores nec<sup>s</sup> continenter<sup>s</sup> vixerint aut aliquid tale egerint, pro quo amovendi merito videantur, aut si etiam pro necessitate maioris officii de consilio<sup>t</sup> fratrum fuerint transferendi.<sup>4</sup>

11.<sup>5</sup> Clerici in sacris ordinibus constituti, qui mulierculas suas<sup>c</sup> in domibus suis<sup>u</sup> incontinentiae nota tenuerint, aut obiciant eas et continenter vivant, aut ab officio et beneficio ecclesiastico fiant alieni. Quicumque<sup>v</sup> incontinentia illa, quae contra naturam est, propter quam *venit ira Dei in filios diffidentiae*<sup>6</sup> et quinque civitates igne consumpsit<sup>7</sup>, deprehensi fuerint laborare, si clerici fuerint eiciantur a clero vel<sup>w</sup> ad poenitentiam agendam in monasteriis detrudantur<sup>x</sup>, si laici excommunicationi subdantur et a coetu fidelium fiant prorsus<sup>y</sup> alieni.<sup>8</sup> Monasteria praeterea sanctimonia-

<sup>a</sup> ab H    <sup>b</sup> et vacuum add. H

<sup>c</sup> om. H    <sup>d</sup> conflictum H    <sup>e</sup> non est qui sublevet eum v. l. Rm

<sup>f</sup> receperit H is vero qui eum receperit v. l. Rm    <sup>g</sup> suspensione v. l. Rm    <sup>h</sup> qui H

<sup>i</sup> de Cr<sup>2</sup> Su    <sup>k</sup> et digne non penituerit add. H    <sup>l</sup> accipiat H

<sup>m</sup> universis v. l. Rm, H    <sup>n</sup> autem H    <sup>o</sup> seu H    <sup>p</sup> recipientes H    <sup>q</sup> autem H

<sup>r</sup> per electionem capitulorum suorum canonice add. v. l. Rm    <sup>s</sup> si incontinenter H

<sup>t</sup> consensu v. l. Rm    <sup>u</sup> sub add. H

<sup>v</sup> autem add. H    <sup>w</sup> et H    <sup>x</sup> retrudantur H    <sup>y</sup> penitus H

<sup>1</sup> c. 3 X. V 33 (Fr 2, 849-850); cf. G. Schreiber, *Kurie und Kloster im 12. Jahrhundert*, Stuttgart 1910, I 294; II 15, 67, 116, 354.    <sup>2</sup> C. 9 in H.    <sup>3</sup> Ec 4, 10.

<sup>4</sup> c. 2 X. III 35 (Fr 2, 596-597).    <sup>5</sup> C. 10 in H.    <sup>6</sup> Eph 5, 6.    <sup>7</sup> Cf. Gn 19, 24-25.

<sup>8</sup> c. 4 X. V 31 (Fr 2, 836); cf. etiam c. 13 C. XXXII q. 7 (Fr 1, 1143).

parishioners whenever they are to be corrected for their faults. What has been said about the said brothers, we declare shall be observed with regard to other religious who presume to claim for themselves the rights of bishops and dare to violate their canonical decisions and the tenor of our privileges. If they do not observe this decree, let the churches in which they dare so to act be placed under an interdict, and let what they do be considered void.<sup>1</sup>

10.<sup>2</sup> Monks are not to be received in a monastery for money nor are they allowed money of their own. They are not to be stationed individually in towns or cities or parish churches, but they are to remain in larger communities or with some of their brethren, nor are they to await alone among people of the world the attack of their spiritual foes, since Solomon says, *Woe to him who is alone when he falls and has not another to lift him up*<sup>3</sup>. If anyone when demanded gives something for his reception, let him not proceed to sacred orders and let the one who has received him be punished by loss of his office. If he has money in his possession, unless it has been granted him by the abbot for a specific purpose, let him be removed from the communion of the altar, and any one who is found at his death with money in his possession<sup>k</sup> is not to receive burial among his brethren and mass is not to be offered for him. We order that this is also to be observed with regard to other religious. Let the abbot who does not exercise care in such matters know that he will incur the loss of his office. Neither priories nor obediences are to be handed over to anyone for a sum of money; otherwise both giver and receiver are to be deprived of ministry in the church. Priors, when they have been appointed to conventual churches, are not to be changed except for a clear and reasonable cause, for instance if they are wastrels or live immoral lives or have committed an offence for which they clearly should be removed, or if on account of the demands of higher office they should be transferred on the advice of their brethren.<sup>4</sup>

11.<sup>5</sup> Clerics in holy orders, who in open concubinage keep their mistresses in their houses, should either cast them out and live continently or be deprived of ecclesiastical office and benefice. Let all who are found guilty of that unnatural vice for which *the wrath of God came down upon the sons of disobedience*<sup>6</sup> and destroyed the five cities with fire<sup>7</sup>, if they are clerics be expelled from the clergy or confined in monasteries to do penance; if they are laymen they are to incur excommunication and be completely separated from the society of the faithful.<sup>8</sup> If any cleric without clear and necessary cause presumes to frequent convents of

<sup>k</sup> and has not repented in a fitting manner added in H

<sup>1</sup> ch. 3 *Decretals* V 33 (Fr 2, 849-850); see G. Schreiber, *Kurie und Kloster im 12. Jahrhundert*, Stuttgart 1910, I 294; II 15, 67, 116, 354.    <sup>2</sup> Canon 9 in H.    <sup>3</sup> Ec 4, 10.

<sup>4</sup> ch. 2 *Decretals* III 35 (Fr 2, 596-597).    <sup>5</sup> Canon 10 in H.    <sup>6</sup> Eph 5, 6.

<sup>7</sup> See Gn 19, 24-25.

<sup>8</sup> ch. 4 *Decretals* V 31 (Fr 2, 836); see also ch. 13 C. XXXII q. 7 (Fr 1, 1143).

lium si quisquam clericus sine manifesta et necessaria causa frequentare praesumpserit, per episcopum arceatur, et si non destiterit a beneficio ecclesiastico reddatur immunis.<sup>1</sup>

12.<sup>2</sup> Clerici in subdiaconatu et supra et in minoribus quoque ordinibus, si stipendiis ecclesiasticis sustentantur<sup>a</sup>, coram iudice saeculari advocati in negotiis<sup>b</sup> fieri non praesumant, nisi propriam vel ecclesiae suae causam fuerint prosecuti aut pro miserabilibus forte personis, quae proprias causas administrare non possunt<sup>3</sup>. Sed nec procurationes<sup>c</sup> villarum aut iurisdictiones etiam saeculares sub aliquibus principibus vel<sup>d</sup> saecularibus viris, ut iustitiarum eorum fiant, clericorum quisquam assumere<sup>e</sup> praesumat. Si quis adversus hoc<sup>f</sup> tentaverit, quoniam<sup>g</sup> contra doctrinam Apostoli est<sup>h</sup> dicentis: *Nemo militans Deo implicat se negotiis saecularibus*<sup>4</sup>, et<sup>h</sup> saeculariter agit, ab ecclesiastico fiat ministerio alienus, pro eo quod, officio clericali neglecto, fluctibus saeculi, ut potentibus saeculi<sup>h</sup> placeat, se immergit. Districtius autem decrevimus<sup>i</sup> puniendum, si religiosorum quisquam aliquid praedictorum audeat<sup>k</sup> attentare.<sup>5</sup>

13.<sup>6</sup> Quia nonnulli, modum avaritiae non ponentes<sup>l</sup>, dignitates diversas<sup>m</sup> ecclesiasticas et plures ecclesias parochiales contra sacrorum canonum instituta nituntur acquirere ita ut, cum unum officium vix implere sufficiant, stipendia sibi vindicent plurimorum, ne id de cetero fiat, districtius inhibemus. Cum igitur<sup>n</sup> ecclesia vel ecclesiasticum ministerium committi debuerit, talis ad hoc persona quaeratur, quae residere in loco et curam eius per seipsum<sup>o</sup> valeat exercere. Quod si aliter fuerit actum, et qui receperit, quod contra sacros<sup>p</sup> canones accepit<sup>q</sup>, amittat, et qui dederit, largiendi potestate privetur.<sup>7</sup>

14.<sup>8</sup> Quia in tantum iam quorundam processit ambitio, ut non duas vel tres sed sex aut plures ecclesias perhibeantur habere<sup>r</sup>, nec duabus debitam possint provisionem impendere, per fratres et coepiscopos nostros carissimos<sup>s</sup> emendari<sup>t</sup> praecipimus et de multitudine<sup>t</sup> canonibus inimica, quae dissolutionis materiam et vagationis inducit et certum continet periculum animarum eorum, qui ecclesiis digne<sup>u</sup> valeant deservire, volumus<sup>v</sup> ecclesiasticis<sup>v</sup> beneficiis<sup>v</sup> indigentiam sublevari<sup>9</sup>. Praeterea<sup>10</sup>, quia in tantum quorundam laicorum processit audacia, ut episcoporum auctoritate neglecta clericos instituant in ecclesiis et removeant etiam cum voluerint, possessiones quoque atque alia bona ecclesiastica pro sua plerumque voluntate distribuunt, et tam ecclesias ipsas<sup>h</sup> quam earum

<sup>a</sup> sustententur *Rm-Msi*    <sup>b</sup> saecularibus *add. H* saecularibus alias forensibus *add. v. l. Rm*  
<sup>c</sup> procuratores *v. l. Rm, quam ER-Msi supra ad advocati minus recte ponunt*    <sup>d</sup> et *H*  
<sup>e</sup> exercere *v. l. Rm, H*    <sup>f</sup> quis autem contra hoc venire *H*    <sup>g</sup> quia *H*    <sup>h</sup> *om. H*  
<sup>i</sup> decernimus *H*    <sup>k</sup> ausus fuerit *H*    <sup>l</sup> et *add. H*    <sup>m</sup> *om. Cr<sup>2</sup> Su*    <sup>n</sup> vel *add. H*  
<sup>o</sup> seipsam *H*    <sup>p</sup> sanctos *Bn-Msi*    <sup>q</sup> accepit *H*    <sup>r</sup> cum *add. H*  
<sup>s</sup> hoc emendari *H*    <sup>t</sup> praebendarum *add. Rm-Msi*

<sup>1</sup> c. 8 X. III 1 (Fr 2, 450); cf. inter alia conc. Lat. II c. 6-8 (v. supra p. 198).

<sup>2</sup> C. 11 in H.    <sup>3</sup> c. 1 X. I 37 (Fr 2, 210).    <sup>4</sup> 2 Tm 2, 4.    <sup>5</sup> c. 4 X. III 50 (Fr 2, 658).

<sup>6</sup> C. 14, I in H.    <sup>7</sup> c. 3 X. III 4 (Fr 2, 460); cf. etiam c. 2 D. LXX (Fr 1, 257).

<sup>8</sup> C. 14, II in H.    <sup>9</sup> c. 5 X. III 5 (Fr 2, 465).    <sup>10</sup> C. 16, II in H.

nuns, let the bishop keep him away; and if he does not stop, let him be ineligible for an ecclesiastical benefice.<sup>1</sup>

12.<sup>2</sup> Clerics in the subdiaconate and above and also those in minor orders, if they are supported by ecclesiastical revenues, should not presume to become advocates in legal matters before a secular judge, unless they happen to be defending their own case or that of their church, or acting on behalf of the helpless who cannot conduct their own cases<sup>3</sup>. Let clerics not presume to take upon themselves the management of towns or even secular jurisdiction under princes or seculars so as to become their ministers of justice. If anyone dares to act contrary to this decree, and so contrary to the teaching of the Apostle who says, *No soldier of God gets entangled in secular affairs*<sup>4</sup>, and acts as a man of this world, let him be deprived of ecclesiastical ministry, on the grounds that neglecting his duty as a cleric he plunges into the waves of this world to please its princes. We decree in the strictest terms that any religious who presumes to attempt any of the above-mentioned things should be punished.<sup>5</sup>

13.<sup>6</sup> Because some, setting no limit to their avarice, strive to obtain several ecclesiastical dignities and several parish churches contrary to the decrees of the holy canons, so that though they are scarcely able to fulfil one office sufficiently they claim the revenues of very many, we strictly forbid this for the future. Therefore when it is necessary to entrust a church or ecclesiastical ministry to anyone, the person sought for this office should be of such a kind that he is able to reside in the place and exercise his care for it himself. If the contrary is done, both he who receives it is to be deprived of it, because he has received it contrary to the sacred canons, and he who gave it is to lose his power of bestowing it.<sup>7</sup>

14.<sup>8</sup> Because the ambition of some has now gone to such lengths that they are said to hold not two or three but six or more churches, and since they cannot devote the proper care to two, we order, through our brethren and most dear fellow bishops, that this be corrected; and with regard to this pluralism, so contrary to the canons, and which gives rise to loose conduct and instability, and causes definite danger to the souls of those who are able to serve the churches worthily, it is our wish to relieve their want by ecclesiastical benefices<sup>9</sup>. Further<sup>10</sup>, since some of the laity have become so bold that disregarding the authority of bishops they appoint clerics to churches and even remove them when they wish, and distribute the property and other goods of the church for the most part according to their own wishes, and even dare to burden the

<sup>1</sup> ch. 8 *Decretals* III 1 (Fr 2, 450); see among others Lateran council II, canons 6-8 (see above p. 198).

<sup>2</sup> Canon 11 in H.    <sup>3</sup> ch. 1 *Decretals* I 37 (Fr 2, 210).    <sup>4</sup> 2 Tm 2, 4.

<sup>5</sup> ch. 4 *Decretals* III 50 (Fr 2, 658).

<sup>6</sup> Canon 14, I in H.    <sup>7</sup> ch. 3 *Decretals* III 4 (Fr 2, 460); see also ch. 2 D. LXX (Fr 1, 257).

<sup>8</sup> Canon 14, II in H.    <sup>9</sup> ch. 5 *Decretals* III 5 (Fr 2, 465).    <sup>10</sup> Canon 16, II in H.

homines tallis et exactionibus praesumant gravare, eos qui amodo ista commiserint<sup>a</sup>, anathemate decernimus feriendos. Presbyter autem sive clericus, qui ecclesiam per laicos<sup>b</sup> sine proprii episcopi auctoritate receperit tenendam<sup>c</sup>, communione privetur, et si perstiterit, a ministerio ecclesiastico et ordine deponatur.<sup>1</sup> Sane quia laici quidam ecclesiasticas personas et ipsos etiam episcopos suo iudicio stare compellunt, eos qui de cetero id praesumpserint, a communione fidelium decernimus segregandos. Prohibemus etiam<sup>d</sup> ne laici, decimas cum animarum suarum periculo detinentes<sup>e</sup>, in alios laicos possint aliquo modo<sup>f</sup> transferre. Si quis vero receperit et ecclesiae non tradiderit<sup>g</sup>, christiana sepultura privetur.<sup>2</sup>

15. <sup>3</sup> Cum in officiis caritatis illis primo<sup>h</sup> teneamur obnoxii, a quibus nos beneficium cognoscimus accepisse<sup>i</sup>, e<sup>k</sup> contrario<sup>k</sup> ecclesiastici<sup>c</sup> quidam clerici, cum ab ecclesiis suis multa bona<sup>l</sup> perceperint, bona per ecclesias<sup>m</sup> adquisita in alios usus<sup>c</sup> praesumunt transferre, hoc igitur quia et antiquis canonibus constat inhibendum, nos etiam nihilominus inhibemus<sup>n</sup>; indemnitati itaque<sup>c</sup> ecclesiarum providere volentes, sive intestati decesserint sive aliis conferre voluerint, penes ecclesias<sup>o</sup> eadem bona praecipimus remanere<sup>4</sup>. Praeterea, quoniam quidam in quibusdam partibus sub pretio statuuntur, qui decani vocantur, et pro certa pecuniae quantitate episcopalem iurisdictionem exercent, praesenti decreto statuimus ut qui de cetero id praesumpserit, officio suo privetur et episcopus conferendi hoc officium potestatem amittat.<sup>5</sup>

16. <sup>6</sup> Cum in cunctis ecclesiis quod pluribus et senioribus<sup>p</sup> fratribus visum fuerit, incunctanter debeat observari, grave nimis et reprehensione est dignum<sup>q</sup>, quod quarumdam ecclesiarum<sup>r</sup> pauci, quandoque non tam de ratione quam de propria voluntate, ordinationem multoties<sup>s</sup> impediunt et ordinationem ecclesiasticam procedere non permittunt. Quocirca praesenti decreto statuimus, ut nisi a paucioribus et inferioribus aliquid rationabile fuerit ostensum<sup>t</sup>, appellatione remota, semper praevaleat et suum consequatur effectum, quod a maiori et seniori<sup>u</sup> parte capituli<sup>v</sup> fuerit constitutum. Nec nostram constitutionem impediatur, si forte aliquis ad conservandam ecclesiae suae consuetudinem iuramento se dicat adstrictum; non enim dicenda sunt iuramenta sed potius periuria, quae

<sup>a</sup> praesumpserint *H*    <sup>b</sup> sive patronatus obtentu sive alio quocumque modo *add. H*

<sup>c</sup> *om. H*    <sup>d</sup> insuper *H*    <sup>e</sup> retinentes *Cr<sup>2</sup> Su*

<sup>f</sup> sine sui episcopi consensu *add. H*    <sup>g</sup> reddiderit *v. l. Rm, H*

<sup>h</sup> loco *add. H*    <sup>i</sup> recepisse *H*    <sup>k</sup> *om. Cr<sup>2</sup> Su* e contra *H*

<sup>l</sup> beneficia *H*    <sup>m</sup> ecclesias *H*

<sup>n</sup> et *add. H*    <sup>o</sup> ecclesiam *Cr<sup>2</sup> Su*    <sup>p</sup> sanioribus *H*

<sup>q</sup> dignissimum *H*    <sup>r</sup> per quasdam ecclesias *v. l. Rm, H*

<sup>s</sup> multorum *v. l. Rm* multorum et prudentiorum *H*

<sup>t</sup> rationabiliter (rationabile *H*) obiectum fuerit et ostensum *v. l. Rm, H*

<sup>u</sup> saniori *v. l. Rm*    <sup>v</sup> concilii *v. l. Rm* consilii *H*

<sup>1</sup> c. 4 *X. III 38* (Fr 2, 610); cf. etiam c. 20 *C. XVI q. 7* (Fr 1, 806).

<sup>2</sup> Prohibemus . . . privetur: c. 19 *X. III 30* (Fr 2, 562).    <sup>3</sup> *C. 13* in *H*.

<sup>4</sup> c. 7 *X. III 26* (Fr 2, 540).    <sup>5</sup> c. 1 *X. V 4* (Fr 2, 767-768).    <sup>6</sup> *C. 7* in *H*.

churches themselves and their people with taxes and impositions, we decree that those who from now on are guilty of such conduct are to be punished by anathema. Priests or clerics who receive the charge of a church from the hands of lay persons<sup>b</sup>, without the authority of their own bishop, are to be deprived of communion; and if they persist, they are to be deposed from the ecclesiastical ministry and order.<sup>1</sup> We firmly decree that because some of the laity force ecclesiastics and even bishops to come before their courts, those who presume to do so in the future are to be separated from the communion of the faithful. Further we forbid lay persons, who hold tithes to the danger of their souls, to transfer them in any way<sup>f</sup> to other lay persons. If anyone receives them and does not hand them over to the church, let him be deprived of christian burial.<sup>2</sup>

15.<sup>3</sup> Although in duties of charity we are especially under obligation to those from whom we know we have received a gift, on the contrary certain clerics, after receiving many goods from their churches, have presumed to transfer these goods to other uses. We forbid this, knowing that it is also forbidden by ancient canons. Therefore, as we wish to prevent damage to the churches, we order that such goods should remain under the control of the churches<sup>4</sup>, whether the clerics die intestate or wish to bestow them upon others. Besides, since in certain places certain persons called deans are appointed for a fee and exercise episcopal jurisdiction for a sum of money, by the present decree we declare that those who in future presume to do this should be deprived of their office and the bishop shall lose the power of conferring this office.<sup>5</sup>

16.<sup>6</sup> Since in every church what is approved by the greater and senior<sup>p</sup> part of the brethren should unhesitatingly be observed, it is a very serious and blameworthy matter that in certain churches a few persons, sometimes not so much for a good reason as for their own will, frequently prevent an election and do not allow the ecclesiastical appointment to go forward. Therefore we declare by the present decree that unless some reasonable objection is shown by the smaller and junior party, apart from an appeal, whatever is determined by the greater and senior<sup>u</sup> part of the chapter should always prevail and should be put into effect. Nor let it stand in the way of our decree if someone perchance says that he is under oath to preserve the custom of his church. For this is not to be called an oath but rather perjury, which is opposed to the advantage of the

<sup>b</sup> whether under cover of patronage or in any other way *added in H*

<sup>f</sup> without the consent of their bishop *added in H*

<sup>p</sup> *sounder H*    <sup>u</sup> *sounder variant reading in Rm*

<sup>1</sup> ch. 4 *Decretals III 38* (Fr 2, 610); see also ch. 20 *C. XVI q. 7* (Fr 1, 806).

<sup>2</sup> Further we . . . burial: ch. 19 *Decretals III 30* (Fr 2, 562).    <sup>3</sup> *Canon 13* in *H*.

<sup>4</sup> ch. 7 *Decretals III 26* (Fr 2, 540).    <sup>5</sup> ch. 1 *Decretals V 4* (Fr 2, 767-768).

<sup>6</sup> *Canon 7* in *H*.

contra utilitatem ecclesiasticam et sanctorum patrum veniunt instituta. Si quis<sup>a</sup> autem huiusmodi consuetudines, quae nec ratione iuvantur nec sacris congruunt institutis, iurare<sup>b</sup> praesumpserit, donec congruam<sup>c</sup> egerit poenitentiam, a Domini corporis perceptione fiat<sup>d</sup> alienus.<sup>1</sup>

5 17.<sup>2</sup> Quoniam in quibusdam locis ecclesiarum fundatores aut heredes eorum, potestate in qua eos ecclesia hucusque sustinuit, abutuntur et, cum in ecclesia Dei unus debeat esse qui praesit, ipsi plures sine respectu subiectionis eligere moliuntur et, cum una ecclesia unius debeat esse rectoris, pro sua defensione plurimos repraesentant, quocirca praesenti  
10 decreto statuimus ut, si forte in plures partes fundatorum se vota diffuderint<sup>e</sup>, ille praeficiatur ecclesiae, qui maioribus iuvatur meritis et plurimum<sup>f</sup> eligitur et probatur assensu. Si autem hoc sine scandalo fieri<sup>g</sup> nequiverit, ordinet antistes ecclesiam sicut melius<sup>h</sup> secundum Deum viderit ordinandam<sup>i</sup>. Id ipsum etiam faciat, si de iure patronatus  
15 quaestio emerit inter aliquos et cui competat infra tres<sup>k</sup> menses non fuerit definitum.<sup>3</sup>

18.<sup>4</sup> Quoniam ecclesia Dei et in eis<sup>l</sup> quae spectant ad subsidium corporis et in eis<sup>l</sup> quae ad profectum veniunt<sup>m</sup> animarum, indigentibus sicut pia mater providere tenetur, ne pauperibus, qui parentum opibus iuari  
20 non possunt, legendi et proficiendi opportunitas subtrahatur, per unamquamque ecclesiam cathedralem magistro, qui clericos eiusdem ecclesiae et scholares pauperes gratis doceat, competens aliquod beneficium assignetur<sup>n</sup>, quo docentis necessitas sublevetur et discentibus via pateat ad doctrinam. In aliis quoque restituatur ecclesiis sive<sup>o</sup> monasteriis, si  
25 retroactis temporibus aliquid in eis ad hoc fuerit<sup>p</sup> deputatum. Pro licentia vero docendi nullus omnino<sup>q</sup> pretium exigat, vel sub obtentu alicuius consuetudinis ab eis<sup>l</sup> qui docent aliquid quaerat, nec docere quempiam expetita<sup>r</sup> licentia, qui sit idoneus, interdicit. Qui vero contra hoc venire praesumpserit, a beneficio ecclesiastico fiat alienus. Dignum quidem esse  
30 videtur, ut in ecclesia Dei fructum laboris sui non habeat, qui cupiditate animi, dum<sup>s</sup> vendit<sup>t</sup> licentiam docendi, ecclesiarum<sup>t</sup> profectum nititur impedire.<sup>5</sup>

<sup>a</sup> quis restitui ab aliquis *Cr<sup>2</sup> Su, om. rel.*

<sup>b</sup> quae nec ratione . . . iurare] quae nec ratione iuvantur nec sacris . . . iurare *v. l. Rm* quae ratione iuvantur et sacris . . . irritare *omnes*

35 <sup>c</sup> condignam *H* <sup>d</sup> exsistat *H* <sup>e</sup> diviserint *v. l. Rm, H* <sup>f</sup> plurimorum *Rm-Msi*  
<sup>g</sup> esse *H* <sup>h</sup> eam *add. H* <sup>i</sup> ordinandum *Su* <sup>k</sup> quattuor *v. l. Rm* duos *H*  
<sup>l</sup> his *Cr<sup>2</sup> Su H* <sup>m</sup> proveniunt *H* <sup>n</sup> praebatur *H* <sup>o</sup> seu *H* <sup>p</sup> fuerat *H*  
<sup>q</sup> *om. Bn-Msi* <sup>r</sup> petita *Rm-Msi*

40 <sup>s</sup> dum vendit *Rm* (dum *om. rel.*) divendens *Cr<sup>2</sup> Su*

<sup>t</sup> ecclesiasticum *v. l. Rm, H* (et *eccl. con. Hrd*)

<sup>1</sup> c. 1 *X. III 11* (Fr 2, 506). <sup>2</sup> C. 16, I in H.

<sup>3</sup> c. 3 *X. III 38* (Fr 2, 610); cf. etiam c. 36 D. LXIII (Fr 1, 247); cf. G. J. Ebers, *Das Devolutionsrecht, vornehmlich nach katholischem Kirchenrecht*, Stuttgart 1906, 171-178.

<sup>4</sup> C. 17 in H.

<sup>5</sup> c. 1 *X. V 5* (Fr 2, 768-769); cf. etiam c. 12 D. XXXVII (Fr 1, 139); cf. G. Post, *Alexan-*

church and the decrees of the holy fathers. If anyone presumes to maintain under oath such customs, which are neither supported by reason nor in accord with the sacred decrees, let him be denied the reception of the body of the Lord until he performs fit penance.<sup>1</sup>

17.<sup>2</sup> Since in certain places the founders of churches or their heirs abuse the power in which the church has supported them until now, and though there ought to be one superior in the church of God they nevertheless contrive to choose several without regard to subordination, and though there ought to be one rector in each church they nevertheless put forward several in order to protect their own interests; for these reasons we declare by the present decree that if the founders support several candidates, that one should be in charge of the church who is supported by greater merits and is chosen and approved by the consent of the greater number. If this cannot be done without scandal, let the bishop arrange in the manner that he sees best according to the will of God. He should also do this if the question of the right of patronage arises among several persons, and it has not been settled to whom it belongs within three<sup>k</sup> months.<sup>3</sup>

18.<sup>4</sup> Since the church of God is bound to provide like a mother for those in want, with regard to both the things which concern the support of the body and those which lead to the progress of the soul, therefore, in order that the opportunity of learning to read and progress in study is not withdrawn from poor children who cannot be helped by the support of their parents, in every cathedral church a master is to be assigned some proper benefice so that he may teach the clerics of that church and the poor scholars. Thus the needs of the teacher are to be supplied and the way to knowledge opened for learners. In other churches and monasteries too, if anything in times past has been assigned in them for this purpose, it should be restored. Let no one demand any money for a licence to teach, or under cover of some custom seek anything from teachers, or forbid anyone to teach who is suitable and has sought a licence. Whoever presumes to act against this decree is to be deprived of ecclesiastical benefice. Indeed, it seems only right that in the church of God a person should not have the fruit of his labour if through self-seeking he strives to prevent the progress of the churches by selling the licence to teach.<sup>5</sup>

<sup>k</sup> four variant reading in *Rm*, two in *H*

<sup>1</sup> ch. 1 *Decretals III 11* (Fr, 2, 506). <sup>2</sup> Canon 16, I in H.

<sup>3</sup> ch. 3 *Decretals III 38* (Fr 2, 610); see also ch. 36 D. LXIII (Fr 1, 247); see G. J. Ebers, *Das Devolutionsrecht, vornehmlich nach katholischem Kirchenrecht*, Stuttgart 1906, 171-178.

<sup>4</sup> Canon 17 in H.

<sup>5</sup> ch. 1 *Decretals V 5* (Fr 2, 768-769); see also ch. 12 D. XXXVII (Fr 1, 139); see G. Post, *Alexander III, the "Licentia docendi" and the Rise of the Universities*, Anniversary Essays in Mediaeval History, by Students of C. H. Haskins, Boston — New York 1929, 255-257.



19.<sup>1</sup> Non minus pro peccato eorum qui faciunt, quam pro illorum detrimento qui sustinent, grave nimis esse dignoscitur, quod in diversis partibus mundi rectores et consules civitatum necnon et alii qui potestatem habere videntur, tot ecclesiis frequenter onera imponunt et<sup>a</sup> ita gravibus eas crebrisque<sup>b</sup> exactionibus premunt, ut deterioris conditionis factum sub eis sacerdotum videatur quam sub Pharaone fuerit<sup>2</sup>, qui divinae legis notitiam non habebat. Ille quidem, omnibus aliis servituti subiectis<sup>c</sup>, sacerdotes suos et eorum possessiones in pristina libertate dimisit et de publico eis alimoniam ministravit. Isti vero universa fere onera sua imponunt ecclesiis et tot angariis eas<sup>d</sup> affligunt, ut illud eis, quod Ieremias deplorat, competere videatur: *Princeps provinciarum facta est sub tributo*<sup>3</sup>. Sive quidem fossata sive expeditiones sive quaelibet alia sibi arbitrentur<sup>e</sup> agenda, de bonis ecclesiarum<sup>f</sup>, clericorum et pauperum Christi usibus deputatis cuncta volunt fere compilari<sup>g</sup>. Iurisdictionem etiam et auctoritatem episcoporum et aliorum praelatorum ita evacuunt, ut nihil potestatis eis in suis videatur hominibus remansisse, super quo dolendum est pro ecclesiis; dolendum etiam nihilominus et pro ipsis, qui<sup>f</sup> timorem Dei et ecclesiastici ordinis reverentiam videntur penitus abiecissee. Quocirca sub anathematis districtione severius prohibemus, ne de cetero talia praesumant attentare, nisi episcopus et clerus tantam necessitatem vel<sup>h</sup> utilitatem aspexerint<sup>i</sup>, ut absque<sup>k</sup> coactione<sup>l</sup> ad relevandas communes<sup>m</sup> necessitates, ubi laicorum non suppetunt facultates, subsidia per ecclesias existiment conferenda. Si autem consules aut alii de cetero id<sup>n</sup> praesumpserint<sup>n</sup> et commoniti desistere forte noluerint, tam ipsi quam eorum fautores excommunicationi se noverint subiacere, nec communioni fidelium reddantur nisi<sup>o</sup> satisfactionem fecerint competentem.<sup>4</sup>

20.<sup>5</sup> Felicitis memoriae papae Innocentii<sup>6</sup> et Eugenii<sup>7</sup> praedecessorum nostrorum vestigiis inhaerentes, detestabiles<sup>p</sup> nundinas vel ferias, quas vulgo torneamenta vocant, in quibus milites ex conducto venire<sup>q</sup> solent et ad ostentationem virium suarum et audaciae temerarie<sup>r</sup> congregiuntur, unde mortes hominum et animarum pericula saepe proveniunt, fieri prohibemus. Quod si quis eorum ibidem mortuus fuerit, quamvis ei poscenti venia<sup>s</sup> non negetur, ecclesiastica tamen careat sepultura.<sup>8</sup>

<sup>a</sup> om. H    <sup>b</sup> et crebris H    <sup>c</sup> subactis H    <sup>d</sup> ipsas H  
<sup>e</sup> arbitrantur H    <sup>f</sup> et add. H    <sup>g</sup> complere v. l. Rm compleri H  
<sup>h</sup> et H    <sup>i</sup> inspexerint H    <sup>k</sup> ulla add. Rm-Msi    <sup>l</sup> exactione v. l. Rm  
<sup>m</sup> utilitates vel add. v. l. Rm    <sup>n</sup> ista commiserint H  
<sup>o</sup> donec H    <sup>p</sup> illas add. Rm-Msi    <sup>q</sup> convenire H  
<sup>r</sup> temere Rm-Msi    <sup>s</sup> poenitentia H

*der III, the „Licentia docendi“ and the Rise of the Universities*, Anniversary Essays in Mediaeval History, by Students of C. H. Haskins, Boston - New York 1929, 255-277.

<sup>1</sup> C. 15 in H.    <sup>2</sup> Cf. Ex 1, 8-12.    <sup>3</sup> Lm 1, 1.

<sup>4</sup> c. 4 X. III 49 (Fr 2, 654-655).    <sup>5</sup> C. 19, I in H.

<sup>6</sup> Conc. Lat. II, c. 14 (v. supra p. 200).

<sup>7</sup> Cf. conc. Remense (1148), c. 12 (Msi 21, 716-717).    <sup>8</sup> c. 1 X. V 13 (Fr 2, 804).

19.<sup>1</sup> It is recognized as a very serious matter, as regards the sin of those who do it no less than the loss of those who suffer it, that in several parts of the world the governors and officials of cities, and others too who are seen to have power, often impose on churches so many burdens and oppress them with such heavy and frequent impositions, that under them the priesthood seems to be in a worse condition than it was under Pharaoh<sup>2</sup>, who had no knowledge of the divine law. He indeed, though he reduced all others to slavery, left his priests and their possessions in their ancient freedom, and provided them with support from public funds. But these others impose burdens of nearly every kind upon the churches and afflict them with so many exactions that the lamentation of Jeremiah seems to apply to them, *The prince of provinces has become a tributary*<sup>3</sup>. For whenever they think that entrenchments or expeditions or anything else should be made, they wish that almost everything should be seized from the goods assigned to the use of churches, clerics and Christ's poor. They even so reduce the jurisdiction and authority of bishops and other prelates that these seem to retain no power over their own subjects. But though we must in this matter grieve for the churches, we must grieve none the less for those who seem to have utterly cast aside the fear of God and respect for the ecclesiastical order. Therefore we strictly forbid them under pain of anathema to attempt such acts in future, unless the bishop and clergy see the need or advantage to be so great that they believe that where the means of the laity are insufficient, aid should be given voluntarily by the churches to relieve common needs. But if in future officials or others presume to continue such practices and after warning refuse to stop, let both them and their supporters know that they are excommunicated, and let them not be restored to the communion of the faithful unless they make due satisfaction.<sup>4</sup>

20.<sup>5</sup> Following the footsteps of our predecessors of happy memory, popes Innocent<sup>6</sup> and Eugenius<sup>7</sup>, we forbid those abominable jousts and fairs, which are commonly called tournaments, in which knights come together by agreement and rashly engage in showing off their physical prowess and daring, and which often result in human deaths and danger to souls. If any of them dies on these occasions, although forgiveness<sup>8</sup> is not to be denied him when he requests it, he is to be deprived of a church burial.<sup>8</sup>

<sup>5</sup> penance H

<sup>1</sup> Canon 15 in H.    <sup>2</sup> See Ex 1, 8-12.    <sup>3</sup> Lm 1, 1.

<sup>4</sup> ch. 4 *Decretals* III 49 (Fr 2, 654-655).    <sup>5</sup> Canon 19, I in H.

<sup>6</sup> Lateran council II, canon 14 (see above p. 200).

<sup>7</sup> See council of Rheims (1148), canon 12 (Msi 21, 716-717).

<sup>8</sup> ch. 1 *Decretals* V 13 (Fr 2, 804).

21.<sup>1</sup> Treugas<sup>a</sup> a quarta feria post occasum solis usque ad secundam feriam in<sup>b</sup> ortum solis<sup>c</sup> et ab adventu Domini usque ad octavas epiphaniae et a septuagesima usque ad octavas paschae, ab omnibus inviolabiliter observari praecipimus. Si quis autem treugam<sup>d</sup> frangere tentaverit, post  
 5 tertiam communionem si non satisfecerit, episcopus suos sententiam excommunicationis dictet<sup>e</sup> et scriptam vicinis episcopis<sup>f</sup> annuntiet; episcopus<sup>g</sup> autem<sup>h</sup> nullus excommunicatum in communionem suscipiat, immo scripto<sup>i</sup> susceptam sententiam quisque confirmet. Si quis autem hoc violare praesumpserit, ordinis sui periculo subiaceat, et quoniam  
 10 *funiculus triplex non<sup>k</sup> facile<sup>k</sup> rumpitur*<sup>2</sup>, praecipimus ut episcopi, solum Dei et salutis<sup>l</sup> populi habentes respectum, omni tepiditate<sup>m</sup> seposita, ad pacem firmiter tenendam mutuum sibi consilium et auxilium praestent<sup>n</sup>, neque hoc alicuius amore vel odio praetermittant. Quod<sup>o</sup> si quis in<sup>p</sup> opere Dei tepidus fuerit inventus, damnum dignitatis suae<sup>q</sup> incurrat.<sup>3</sup>

15 22.<sup>4</sup> Innovamus<sup>a</sup> ut presbyteri monachi clerici conversi peregrini mercatores rustici euntes et redeuntes et in agricultura existentes et animalia<sup>f</sup> quae semina portant ad agrum<sup>s</sup>, congrua<sup>t</sup> securitate laentur<sup>5</sup>, nec quisquam alicui<sup>u</sup> novas pedagiorum<sup>v</sup> exactiones sine auctoritate regum et principum consensu<sup>w</sup> statuere aut statutas de novo tenere aut  
 20 veteres augmentare aliquo modo temere<sup>o</sup> praesumat. Si quis autem contra hoc venire<sup>x</sup> praesumpserit<sup>x</sup> et commonitus non destiterit, donec satisfaciatur communionem careat christiana.<sup>6</sup>

23.<sup>7</sup> Cum dicat Apostolus<sup>8</sup>, abundantiosem honorem membris infirmioribus deferendum, ecclesiasticis<sup>y</sup> quidam, quae sua sunt, non quae  
 25 Iesu Christi, quaerentes<sup>9</sup>, leprosis qui cum sanis habitare non possunt et<sup>z</sup> ad ecclesiam<sup>aa</sup> cum aliis convenire, ecclesias et coemeteria non permittunt habere nec proprii iuvare ministerio sacerdotis. Quod quia procul a pietate christiana esse dignoscitur, de benignitate apostolica constituimus, ut ubicumque tot simul sub communi vita fuerint congregati, qui ecclesiam  
 30 sibi cum coemeterio constituere<sup>bb</sup> et proprio gaudere valeant presbytero, sine contradictione aliqua permittantur habere. Caveant tamen ut<sup>cc</sup> iniuriosi veteribus ecclesiis de iure parochiali nequaquam existant. Quod

<sup>a</sup> autem *add. H*    <sup>b</sup> post *H*    <sup>c</sup> in ortum solis *om. Cr<sup>2</sup> Su*    <sup>d</sup> treugas *H*

<sup>e</sup> in eum *add. Rm-Msi*    <sup>f</sup> suis *Cr<sup>2</sup> Su*    <sup>g</sup> quorum *Rm-Msi* episcoporum *H*

35 <sup>h</sup> *om. Rm-Msi*    <sup>i</sup> scripto *con. Rm* scriptam *omnes*    <sup>k</sup> difficile *H*

<sup>l</sup> ad solum Deum et salutem *H*    <sup>m</sup> cupiditate alias trepiditate *v. l. vel potius glossa in Rm*

<sup>n</sup> praebent *H*    <sup>o</sup> *om. H*    <sup>p</sup> hoc *add. v. l. Rm, H*

<sup>q</sup> propriae *H*    <sup>r</sup> quibus arant et *add. v. l. Rm, H*

<sup>s</sup> quae . . . agrum] seminant *v. l. Rm*    <sup>t</sup> continua *H*

40 <sup>u</sup> alicubi *v. l. Rm, H*    <sup>v</sup> pedagiorum *H*

<sup>w</sup> auctoritate et consensu regum et principum *v. l. Rm, H*    <sup>x</sup> fecerit *H*

<sup>y</sup> econtra *H*    <sup>z</sup> vel *H*    <sup>aa</sup> ecclesias *H*    <sup>bb</sup> construere *H*    <sup>cc</sup> ne *H*

<sup>1</sup> C. 19, II in H.    <sup>2</sup> Ec 4, 12.

<sup>3</sup> Conc. Lat. II, c. 12 (v. supra p. 199-200); c. 1 X. I 34 (Fr 2, 203).    <sup>4</sup> C. 19, III in H.

<sup>5</sup> c. 2 X. I 34 (Fr 2, 203); cf. conc. Lat. II, c. 11 (v. supra p. 199).

<sup>6</sup> c. 10 X. III 39 (Fr 2, 624).    <sup>7</sup> C. 18 in H.

<sup>8</sup> Cf. 1 Cor 12, 22-23.    <sup>9</sup> Cf. Ph 2, 21.

21.<sup>1</sup> We decree that truces are to be inviolably observed by all from after sunset on Wednesday until sunrise on Monday, and from Advent until the octave of the Epiphany, and from Septuagesima until the octave of Easter. If anyone tries to break the truce, and he does not comply after the third warning, let his bishop pronounce sentence of excommunication and communicate his decision in writing to the neighbouring bishops. Moreover, let no bishop receive into communion the excommunicated person, but rather let him confirm the sentence received in writing. If anyone presumes to infringe this, he will do so at the risk of his position. *Since a threefold cord is not quickly broken*<sup>2</sup>, we enjoin bishops, having regard only for God and the salvation of the people, and laying aside all timidity, to furnish each other with mutual counsel and help towards firmly maintaining peace, and not to omit this duty by reason of any affection or aversion. For if anyone is found to be lukewarm in the work of God, let him incur the loss of his dignity.<sup>3</sup>

22.<sup>4</sup> We renew our decree that priests, monks, clerics, lay brothers, merchants and peasants, in their coming and going and their work on the land, and the animals which carry seeds to the field, should enjoy proper security<sup>5</sup>, and that nobody should impose on anyone new demands for tolls, without the approval of kings and princes, or renew those already imposed or in any way increase the old. If anyone presumes to act against this decree and does not stop after warning, let him be deprived of christian society until he makes satisfaction.<sup>6</sup>

23.<sup>7</sup> Although the Apostle<sup>8</sup> says that we should pay greater honour to our weaker members, certain ecclesiastics, seeking what is their own and not the things of Jesus Christ<sup>9</sup>, do not allow lepers, who cannot dwell with the healthy or come to church with others, to have their own churches and cemeteries or to be helped by the ministry of their own priests. Since it is recognized that this is far from christian piety, we decree, in accordance with apostolic charity, that wherever so many are gathered together under a common way of life that they are able to establish a church for themselves with a cemetery and rejoice in their own priest, they should be allowed to have them without contradiction. Let them take care, however, not to harm in any way the parochial rights of established churches. For we do not wish that what is granted them on the score

<sup>1</sup> Canon 19, II in H.    <sup>2</sup> Ec 4, 12.

<sup>3</sup> Lateran council II, canon 12 (see above pp. 199-200); ch. 1 *Decretals* I 34 (Fr 2, 203).

<sup>4</sup> Canon 19, III in H.

<sup>5</sup> ch. 2 *Decretals* I 34 (Fr 2, 203); see Lateran council II, canon 11 (see above p. 199).

<sup>6</sup> ch. 10 *Decretals* III 39 (Fr 2, 624).    <sup>7</sup> Canon 18 in H.

<sup>8</sup> See 1 Cor 12, 22-23.    <sup>9</sup> See Ph 2, 21.

namque<sup>a</sup> eis pro pietate conceditur, ad aliorum iniuriam nolumus red-  
dare. Statuimus etiam ut de hortis et nutrimentis animalium suorum,  
decimas tribuere non cogantur.<sup>1</sup>

24.<sup>2</sup> Ita quorundam animos occupavit saeva cupiditas, ut cum glorien-  
tur nomine christiano, Sarracenis arma ferrum et lignamina<sup>b</sup> galearum  
deferant et pares eis<sup>c</sup> aut etiam superiores in malitia fiant, dum ad im-  
pugnandos christianos arma eis et necessaria subministrant. Sunt etiam  
qui pro sua cupiditate in galeis et piraticis Sarracenorum navibus regimen  
et curam gubernationis exercent. Tales igitur a communione ecclesiae  
praecisos et excommunicationi pro sua iniquitate subiectos, et rerum  
suarum per saeculi principes catholicos et consules civitatum privatione  
mulctari et capientium servos, si capti fuerint, fore censemus. Praecipimus  
etiam<sup>d</sup> ut per ecclesias maritimarum urbium crebra et solemnibus excom-  
municatio proferatur in eos.<sup>3</sup> Excommunicationis quoque poenae sub-  
dantur, qui Romanos aut alios<sup>e</sup> christianos pro negotiatione vel aliis  
causis honestis navigio vectos, aut capere aut rebus suis spoliare praesumunt.  
Illi etiam qui christianos naufragia<sup>f</sup> patientes, quibus secundum  
regulam fidei auxilium esse tenentur, damnanda cupiditate rebus suis  
spoliare praesumunt, nisi ablata reddiderint, excommunicationi se no-  
verint subiacerere.<sup>4</sup>

25.<sup>5</sup> Quia in omnibus fere locis crimen<sup>g</sup> usurarum ita inolevit<sup>h</sup>, ut  
multi alii negotiis praetermissis quasi licite usuras exerceant, et qualiter  
utriusque Testamenti pagina condemnentur<sup>i</sup> nequaquam attendant, ideo  
constituimus, ut usurarii manifesti nec ad communionem admittantur  
altaris nec christianam, si in hoc peccato decesserint, accipiant sepulturam,  
sed nec eorum oblationem quisquam accipiat. Qui autem acceperit aut  
eos christianae tradiderit sepulturae, et ea quae acceperit<sup>k</sup> reddere com-  
pellatur et, donec ad arbitrium sui<sup>l</sup> episcopi satisfaciatur, ab officii sui  
maneat executione suspensus.<sup>6</sup>

26.<sup>7</sup> Iudaei sive Sarraceni nec<sup>m</sup> sub alendorum puerorum<sup>n</sup> obtentu nec<sup>m</sup>  
pro servitio nec<sup>o</sup> alia qualibet causa, christiana mancipia in domibus suis

<sup>a</sup> enim H    <sup>b</sup> ligamina Cr<sup>2</sup>-ER lignamina LC-Msi    <sup>c</sup> illis H  
<sup>d</sup> autem H    <sup>e</sup> om. Cr<sup>2</sup> Su    <sup>f</sup> naufragium H    <sup>g</sup> crimen v. l. Rm tantum omnes  
<sup>h</sup> invaluit H    <sup>i</sup> condemnentur H    <sup>k</sup> accepit H    <sup>l</sup> dioecesani H  
<sup>m</sup> neque H    <sup>n</sup> suorum add. v. l. Rm    <sup>o</sup> vel H

<sup>1</sup> c. 2 X. III 48 (Fr 2, 652); cf. G. Schreiber, *Kurie und Kloster im 12. Jahrhundert*, II Stuttgart 1910, 21, 113.

<sup>2</sup> C. 22 in H.    <sup>3</sup> c. 6 X. V 6 (Fr 2, 773).

<sup>4</sup> c. 3 X. V 17 (Fr 2, 808-809); cf. W. Holtzmann, *Zur päpstlichen Gesetzgebung über die Juden im 12. Jahrhundert*, Festschrift Guido Kirsch, Stuttgart 1955, 219-220.

<sup>5</sup> C. 20 in H.

<sup>6</sup> c. 3 X. V 19 (Fr 2, 812); cf. F. Schneider, *Das kirchliche Zinsverbot und die kuriale Praxis im 13. Jahrhundert*, Festgabe . . . Heinrich Finke, Münster i. W. 1904, 143-144; T. P. McLaughlin, *The Teaching of the Canonists on Usury (XII, XIII and XIV Centuries)*, Mediaeval Studies 1 (1939) 110; 2 (1940) 4, 12 sqq.; G. Le Bras, *Usure*, DThC 15 (1948) 2342, 2365, 2366.

<sup>7</sup> C. 21 in H.

of piety should result in harm to others. We also declare that they should not be compelled to pay tithes for their gardens or the pasture of animals.<sup>1</sup>

24.<sup>2</sup> Cruel avarice has so seized the hearts of some that though they glory in the name of Christians they provide the Saracens with arms and wood for helmets, and become their equals or even their superiors in wickedness and supply them with arms and necessities to attack Christians. There are even some who for gain act as captains or pilots in galleys or Saracen pirate vessels. Therefore we declare that such persons should be cut off from the communion of the church and be excommunicated for their wickedness, that catholic princes and civil magistrates should confiscate their possessions, and that if they are captured they should become the slaves of their captors. We order that throughout the churches of maritime cities frequent and solemn excommunication should be pronounced against them.<sup>3</sup> Let those also be under excommunication who dare to rob Romans or other Christians who sail for trade or other honourable purposes. Let those also who in the vilest avarice presume to rob shipwrecked Christians, whom by the rule of faith they are bound to help, know that they are excommunicated unless they return the stolen property.<sup>4</sup>

25.<sup>5</sup> Nearly everywhere the crime of usury has become so firmly rooted that many, omitting other business, practise usury as if it were permitted, and in no way observe how it is forbidden in both the Old and New Testament. We therefore declare that notorious usurers should not be admitted to communion of the altar or receive christian burial if they die in this sin. Whoever receives them or gives them christian burial should be compelled to give back what he has received, and let him remain suspended from the performance of his office until he has made satisfaction according to the judgment of his own bishop.<sup>6</sup>

26.<sup>7</sup> Jews and Saracens are not to be allowed to have christian servants in their houses, either under pretence of nourishing their children or for service or any

<sup>1</sup> ch. 2 *Decretals* III 48 (Fr 2, 652); see G. Schreiber, *Kurie und Kloster im 12. Jahrhundert*, II Stuttgart 1910, 21, 113.

<sup>2</sup> Canon 22 in H.    <sup>3</sup> ch. 6 *Decretals* V 6 (Fr 2, 773).

<sup>4</sup> ch. 3 *Decretals* V 17 (Fr 2, 808-809); see W. Holtzmann, *Zur päpstlichen Gesetzgebung über die Juden im 12. Jahrhundert*, Festschrift Guido Kirsch, Stuttgart 1955, 219-220.

<sup>5</sup> Canon 20 in H.

<sup>6</sup> ch. 3 *Decretals* V 19 (Fr 2, 812); see F. Schneider, *Das kirchliche Zinsverbot und die kuriale Praxis im 13. Jahrhundert*, Festgabe . . . Heinrich Finke, Münster in Westphalia 1904, 143-144; T. P. McLaughlin, *The Teaching of the Canonists on Usury (XII, XIII and XIV Centuries)*, Mediaeval Studies 1 (1939) 110; 2 (1940) 4, 12 ff.; G. Le Bras, *Usure*, DThC 15 (1948) 2342, 2365, 2366.    <sup>7</sup> Canon 21 in H.

permittantur habere. Excommunicentur autem qui cum eis praesumpserint habitare. Testimonium quoque christianorum adversus Iudaeos in omnibus<sup>a</sup> causis, cum illi adversus christianos testibus suis utantur, recipiendum esse censemus, et anathemate decernimus feriendos, quicumque Iudaeos christianis voluerint in hac parte praeferre, cum eos subiicere Deo inspirante ad fidem se converterint christianam, a possessionibus suis nullatenus excludantur, cum melioris conditionis conversos ad fidem esse oporteat quam, antequam<sup>b</sup> fidem acceperunt<sup>c</sup>, habebantur. Si<sup>d</sup> autem secus factum fuerit, principibus vel<sup>e</sup> potestatibus eorundem locorum sub poena excommunicationis iniungimus, ut portionem hereditatis et bonorum suorum ex integro eis faciant exhiberi.<sup>2</sup>

27.<sup>3</sup> Sicut ait beatus Leo<sup>4</sup>, licet ecclesiastica disciplina, sacerdotali contenta iudicio, cruentas non<sup>f</sup> efficiat<sup>f</sup> ultiones, catholicorum tamen principum constitutionibus adiuvatur, ut saepe quaerant homines salutare remedium, dum corporale super se metuunt evenire supplicium. Eapropter, quia in Gasconia Albigesio et partibus Tolosanais et aliis locis, ita haereticorum, quos alii Catharos, alii Patrinos<sup>g</sup>, alii Publicanos, alii<sup>h</sup> aliis nominibus vocant, invaluit damnata perversitas, ut iam non in occulto sicut aliqui<sup>i</sup> nequitiam suam exercent, sed suum errorem publice manifestent et ad suum consensum simplices atrahtant et infirmos<sup>5</sup>, eos et defensores eorum et receptores anathemati decernimus subiicere, et sub anathemate prohibemus, ne quis eos<sup>k</sup> in domibus<sup>k</sup> vel in terra sua tenere vel fovere vel<sup>l</sup> negotiationem cum eis exercere praesumat. Si autem in hoc peccato decesserint, non<sup>m</sup> sub nostrorum privilegiorum cuilibet<sup>n</sup> indultorum obtentu nec<sup>m</sup> sub aliacumque<sup>o</sup> occasione, aut oblatio fiat pro eis aut inter christianos recipiant<sup>p</sup> sepulturam.<sup>6</sup> De Brabantionibus<sup>q</sup> et Aragonensibus, Navarriis, Basculis<sup>r</sup>, Coterellis et Triaverdinis<sup>s</sup>, qui tantam in christianos immanitatem exercent, ut nec<sup>t</sup> ecclesiis nec<sup>t</sup> monasteriis deferant, non viduis et pupillis, non senibus et<sup>l</sup> pueris nec cuilibet parcant aetati aut sexui, sed more paganorum omnia perdant et vastent, similiter constituimus, ut<sup>u</sup> qui eos conduxerint vel tenuerint vel foverint per

<sup>a</sup> communibus *H*    <sup>b</sup> antea quam *H*    <sup>c</sup> suscipierent *H*    <sup>d</sup> cum *H*    <sup>e</sup> seu *H*

<sup>f</sup> effugiat *v. l. Rm, H*    <sup>g</sup> Patarenos *v. l. Su LC-Msi*    <sup>h</sup> etiam *add. H*

<sup>35</sup> <sup>i</sup> alibi *H*    <sup>k</sup> ipsos in domo *H*    <sup>l</sup> aut *H*    <sup>m</sup> neque *H*

<sup>n</sup> quibuscumque *H*    <sup>o</sup> alia quacumque *H*    <sup>p</sup> accipiant *H*

<sup>q</sup> Brabanconibus *v. l. Rm*    <sup>r</sup> Baschis *v. l. Rm*    <sup>s</sup> om. *H*

<sup>t</sup> non . . . aut *H*    <sup>u</sup> ipsi et *add. H*

<sup>1</sup> Testimonium quoque . . . foveri: c. 21 *X. II 20* (Fr 2, 322); cf. W. Holtzmann, *Zur päpstlichen Gesetzgebung* . . . 217-224; S. W. Baron, *A Social and Religious History of the Jews*, IV New York <sup>2</sup>1957, 8, 10, 15-16, 236, 238, 240.

<sup>2</sup> Iudaei . . . habitare. Si qui praeterea . . . exhiberi: c. 5 *X. V 6* (Fr 2, 773).

<sup>3</sup> C. 23, I et II in *H*; c. 23, II inc.: De Brabantionibus . . .

<sup>4</sup> Cf. epistola XV ad Turribium (PL 54, 680 A).

<sup>5</sup> Cf. A. Borst, *Die Katharer* (Schriften der MGH XII), Stuttgart 1953, 115, 247 n. 1, 250 n. 8.    <sup>6</sup> c. 8 *X. V 7* (Fr 2, 779-780).

other reason. Let those be excommunicated who presume to live with them. We declare that the evidence of Christians is to be accepted against Jews in every case, since Jews employ their own witnesses against Christians, and that those who prefer Jews to Christians in this matter are to lie under anathema, since Jews ought to be subject to Christians and to be supported by them on grounds of humanity alone<sup>1</sup>. If any by the inspiration of God are converted to the christian faith, they are in no way to be excluded from their possessions, since the condition of converts ought to be better than before their conversion. If this is not done, we enjoin on the princes and rulers of these places, under penalty of excommunication, the duty to restore fully to these converts the share of their inheritance and goods.<sup>2</sup>

27.<sup>3</sup> As St. Leo says<sup>4</sup>, though the discipline of the church should be satisfied with the judgment of the priest and should not cause the shedding of blood, yet it is helped by the laws of catholic princes so that people often seek a salutary remedy when they fear that a corporal punishment will overtake them. For this reason, since in Gascony and the regions of Albi and Toulouse and in other places the loathsome heresy of those whom some call the Cathars, others the Patarenes, others the Publicani, and others by different names, has grown so strong that they no longer practise their wickedness in secret, as others do, but proclaim their error publicly and draw the simple and weak to join them<sup>5</sup>, we declare that they and their defenders and those who receive them are under anathema, and we forbid under pain of anathema that anyone should keep or support them in their houses or lands or should trade with them. If anyone dies in this sin, then neither under cover of our privileges granted to anyone, nor for any other reason, is mass to be offered for them or are they to receive burial among Christians.<sup>6</sup> With regard to the Brabanters, Aragonese, Navarrese, Basques, Coterelli and Triaverdini<sup>s</sup>, who practise such cruelty upon Christians that they respect neither churches nor monasteries, and spare neither widows, orphans, old or young nor any age or sex, but like pagans destroy and lay everything waste, we likewise decree that those who hire, keep or support them,

<sup>5</sup> omitted in *H*

<sup>1</sup> We declare . . . alone; ch. 21 *Decretals II 20* (Fr 2, 322); see W. Holtzmann, *Zur päpstlichen Gesetzgebung* . . . 217-224; S. W. Baron, *A Social and Religious History of the Jews*, IV New York <sup>2</sup>1957, 8, 10, 15-16, 236, 238, 240.

<sup>2</sup> Jews and . . . live with them. If any . . . goods: ch. 5 *Decretals V 6* (Fr 2, 773).

<sup>3</sup> Canon 23, I and II in *H*; canon 23, II begins: With regard to the Brabanters . . .

<sup>4</sup> See letter 15 to Turribius (PL 54, 680 A).

<sup>5</sup> See A. Borst, *Die Katharer* (Schriften der MGH XII), Stuttgart 1953, 115, 247 n. 1, 250 n. 8.

<sup>6</sup> ch. 8 *Decretals V 7* (Fr 2, 779-780).

regiones, in quibus taliter debacchantur, in dominicis et aliis solemnibus diebus per ecclesias<sup>a</sup> publice denuntientur<sup>b</sup> et eadem omnino sententia et poena cum praedictis haereticis habeantur adstricti nec ad communionem recipiantur ecclesiae, nisi societate illa pestifera et haeresi abiuratis. Relaxatos autem se noverint a debito fidelitatis et<sup>c</sup> hominii ac totius obsequii, donec in tanta iniquitate permanserint, quicumque illis aliquo pacto<sup>d</sup> tenentur annexi. Ipsi<sup>e</sup> autem cunctisque fidelibus in remissionem<sup>f</sup> peccatorum iniungimus, ut tantis cladibus se viriliter opponant et contra eos armis populum christianum tueantur; confiscenturque<sup>g</sup> eorum bona et liberum sit principibus huiusmodi<sup>h</sup> homines subicere servituti. Qui autem in vera poenitentia ibi decesserint, et peccatorum indulgentiam et fructum mercedis aeternae se non dubitent percepturos<sup>i</sup>. Nos etiam de misericordia Dei et beatorum apostolorum Petri et Pauli auctoritate confisi, fidelibus christianis, qui contra eos arma susceperint et ad episcoporum seu<sup>k</sup> aliorum praelatorum consilium ad eos certaverint<sup>l</sup> expugnandos, biennium de poenitentia iniuncta relaxamus, aut si longiorem ibi moram habuerint, episcoporum discretioni, quibus huius rei cura<sup>m</sup> fuerit iniuncta, committimus, ut ad eorum arbitrium secundum modum laboris maior eis indulgentia tribuatur. Illos autem, qui admonitioni episcoporum in huiusmodi parte<sup>n</sup> parere contempserint, a perceptione corporis et sanguinis Domini iubemus fieri alienos. Interim vero eos, qui ardore fidei<sup>o</sup> ad eos expugnandum laborem istum<sup>p</sup> assumpserint, sicut eos qui sepulchrum Dominicum<sup>q</sup> visitant, sub ecclesiae defensione recipimus et ab universis inquietationibus tam in rebus quam in personis statuimus manere securos<sup>r</sup>. Si vero quisquam vestrum<sup>t</sup> praesumpserit eos molestare, per episcopum loci excommunicationis sententia feriat, et tamdiu sententia servetur<sup>s</sup> ab omnibus, donec et ablata reddantur et de illatis damnis congrue iterum<sup>u</sup> satisfaciatur. Episcopi vero sive presbyteri, qui talibus fortiter non restiterint, officii sui privatione<sup>u</sup> mulctentur, donec misericordiam apostolicae sedis obtineant.

<sup>a</sup> excommunicati *add. v. l. Rm, H*    <sup>b</sup> nuntientur *H*

<sup>c</sup> seu *H*    <sup>d</sup> pacto *v. l. Rm* peccato *rell.*    <sup>e</sup> principibus *H*    <sup>f</sup> omnium *add. v. l. Rm*

<sup>g</sup> confiscentur quoque *H*    <sup>h</sup> pestilentes *add. H*    <sup>i</sup> habituros *H*    <sup>k</sup> sive *H*

<sup>l</sup> certaverint *v. l. seu potius con. LC* decertando *omnes* decertaverint *H*

<sup>m</sup> cura *v. l. Rm* causa *rell.*    <sup>n</sup> *om. H*    <sup>o</sup> *om. Cr<sup>2</sup> Su*    <sup>p</sup> istum *v. l. Rm* iustum *rell.*    <sup>q</sup> Domini *H*

<sup>r</sup> quisquam interim *H*    <sup>s</sup> observetur *H*

<sup>t</sup> satisfiat *H*    <sup>u</sup> suspensione *H*

<sup>1</sup> Cf. A. Gottlob, *Kreuzablaß und Almosenablaß* . . ., Stuttgart 1906, 124-128; H. Pissard, *La guerre sainte en pays chrétien* . . ., Paris 1912, 27-34, 51-53; H. Grundmann, *Religiöse Bewegungen im Mittelalter*, Berlin 1935, 54, 57, 63 sqq., 77, 92 sq., 98, 453.

in the districts where they rage around, should be denounced publicly on Sundays and other solemn days in the churches, that they should be subject in every way to the same sentence and penalty as the above-mentioned heretics, and that they should not be received into the communion of the church, unless they abjure their pernicious society and heresy. As long as such people persist in their wickedness, let all who are bound to them by any pact know that they are free from all obligations of loyalty, homage or any obedience. On these<sup>e</sup> and on all the faithful we enjoin, for the remission of sins, that they oppose this scourge with all their might and by arms protect the christian people against them. Their goods are to be confiscated and princes free to subject them to slavery. Those who in true sorrow for their sins die in such a conflict should not doubt that they will receive forgiveness for their sins and the fruit of an eternal reward. We too, trusting in the mercy of God and the authority of the blessed apostles Peter and Paul, grant to faithful Christians who take up arms against them, and who on the advice of bishops or other prelates seek to drive them out, a remission for two years of penance imposed on them, or, if their service shall be longer, we entrust it to the discretion of the bishops, to whom this task has been committed, to grant greater indulgence, according to their judgment, in proportion to the degree of their toil. We command that those who refuse to obey the exhortation of the bishops in this matter should not be allowed to receive the body and blood of the Lord. Meanwhile we receive under the protection of the church, as we do those who visit the Lord's sepulchre, those who fired by their faith have taken upon themselves the task of driving out these heretics, and we decree that they should remain undisturbed from all disquiet both in their property and persons<sup>r</sup>. If any of you presumes to molest them, he shall incur the sentence of excommunication from the bishop of the place, and let the sentence be observed by all until what has been taken away has been restored and suitable satisfaction has been made for the loss inflicted. Bishops and priests who do not resist such wrongs are to be punished by loss of their office until they gain the pardon of the apostolic see.

<sup>e</sup> princes *H*

<sup>1</sup> See A. Gottlob, *Kreuzablaß und Almosenablaß* . . ., Stuttgart 1906, 124-128; H. Pissard, *La Guerre sainte en pays chrétien* . . ., Paris 1912, 27-34, 51-53; H. Grundmann, *Religiöse Bewegungen im Mittelalter*, Berlin 1935, 54, 57, 63 ff., 77, 92 ff., 98, 453.