

INTRODUCTION

The Third Lateran Council (1179), presided over by Pope Alexander III (1159-1181), represented both a continuation of papal conciliar trends in the twelfth century and an advancement beyond them. The council reiterated in part the reform program that had dominated the Latin church for a century and, more particularly, continued the emphasis on ecclesiastical discipline and social order and morality implemented by Innocent II in his councils of the 1130s (cf. e.g., cc. 11, 12, 13, 15, 16, 20, 21, 22, and 25).¹ On the other hand, Alexander also formulated his own program and did not simply repeat the decrees of previous councils (cf., e.g., cc. 1, 16, 18, 23, 24, 26, and 27).² The council was primarily legislative in function and thus followed the trend in the *concilia generalia* from the past century of transitioning from primarily judicial bodies to legislative ones.³ The quality of Lateran III's legislation, however, was far more sophisticated than any that had preceded it, reflecting the developments in legal studies, both in Roman and canon law, that had occurred in European intellectual centers, particularly Bologna, since the 1120s and 1130s.⁴ Thus, while the legislative authority *per se* of Alexander III at the Third Lateran Council in 1179 might not have been any more pronounced than that of Innocent II at the Second in 1139, it was significantly enriched and built upon a far more complex and mature jurisprudence. Nevertheless, that is not to say that the Lateran III canons represent the peak of juristic development. As our apparatus show, in their adaptations of the canons in

¹ I. S. Robinson, *The Papacy, 1073-1198: Continuity and Innovation (Cambridge Medieval Textbooks)*, Cambridge 1990, p. 139.

² Cf. A. J. Duggan's overview of the legislation of Lateran III in her «Conciliar Law, 1123-1215: The Legislation of the Four Lateran Councils», *History of Medieval Canon Law in the Classical Period, 1140-1234* – ed. W. Hartmann - K. Pennington (*History of Medieval Canon Law* 6), Washington 2008, p. 335-338.

³ Robinson, *Papacy*, p. 145.

⁴ Duggan, *Conciliar Law*, p. 320, 340-341.

Compilatio prima (1190) and the Liber extra (1234), respectively, Bernard of Pavia and Raymond of Peñafort added further juristic nuance and refined terminology. In short, the canons of Lateran III represent significant development and an enhanced juristic presence in the papal curia in comparison with those of earlier twelfth-century councils, but legal studies continued to advance, legal terminology became even more specific, and the level of legal expertise within the papal curia continued to increase after 1179.

Politically, the Third Lateran Council presented to Christendom the centralized decrees and activity of a re-unified church following the second extended schism of the twelfth century.⁵ The schism began in 1159 when a majority of cardinals elected Rolandus Bandinelli pope as Alexander III but a rival faction of cardinals elevated another, Octavian, to the papacy as Victor IV. Alexander outlived and out-manuevered Victor IV (1159-1164) as well as his two anti-pope successors (Paschal III, 1164-1168, and Calixtus III, 1168-1178), all three of whom had imperial backing from no less a figure than the Emperor Frederick Barbarossa. Alexander III managed to align himself successfully with the northern Italian cities, organized into the Lombard League in 1167, thereby tying the ecclesiastical schism to the imperial politics in Northern Italy, where Frederick Barbarossa sought to solidify his power and the Lombard cities sought to thwart it. Throughout the schism, Alexander succeeded in retaining the support of the French, English, and Sicilian kingdoms and in exercising significant authority throughout Christendom, primarily through the issuing of decretal letters in response to inquiries to the papal curia (more decretal letters survive from Alexander III than from any other previous pope), definitive judgments in response to appeals from lower ecclesiastical courts, and councils held in friendly territory (such

⁵ On the political events described in this paragraph, cf. Robinson, *Papacy*, p. 473-498.

as the Council of Montpellier in 1162 and that of Tours in 1163).⁶ The schism ended with the Peace of Venice in July 1177. Thirteen months later, on September 21, 1178, Alexander III confirmed his place as head of the church universal and called a general council.

The Third Lateran Council took place in three sessions from March 5 to March 19, 1179, thus following in the papal tradition of holding Lenten synods at the Lateran. Such a relatively brief time period of meetings did not allow for the 300 bishops plus numerous abbots, attendants, and lay princes to consult on and compose the twenty-seven decrees of the council. Instead, much preparatory work was done in advance. Alexander III seems to have relied heavily on the many legally-trained men in his curia, set up commissions beforehand to investigate certain matters and to draft decrees pertaining to them, and brought the results of the work of these experts before the council for approval. In many cases, these legally-trained men in the curia based their work on Alexander III's earlier decretals and on earlier twelfth-century councils.⁷ In many respects, then, the work of the attendees at the council was that of approbation, not consultation or legislation.⁸ The pope and his curia exercised the legislative function, in fulfillment of what was now viewed as the proper and sole authority of the pope in the church, while the conciliar fathers now exercised the role of granting assent and presenting a united front to Christendom in support of the pope's decrees.

The complete activity of the council remains something of a mystery. William of Tyre recorded the official *Acta*, but they have not survived. Scholars know from other sources that the council did hear some cases, or at least some cases were brought before the pope and his curia on

⁶ R. Somerville, *Pope Alexander III and the Council of Tours: A Study of Ecclesiastical Political and Institutions in the Twelfth Century*, Berkeley-Los Angeles-London 1977. Somerville discusses Montpellier on pp. 51-55.

⁷ Cfr Robinson, *Papacy*, p. 141-143; Foreville, *Latran I, II, III, et Latran IV (Histoire des conciles oecuméniques 6)* Paris 1965, p. 152; Somerville, *Council of Tour* passim.

⁸ F.-J. Schmale, «Systematisches zu den Konzilien des Reformpapsttums im 12. Jahrhundert», *Annuaire Historiae Conciliorum* 6 (1974), p. 29.

the occasion of the council, although they might have been decided afterward by the curia and not in the full session of the council.⁹ In addition, the council took up the matter of Peter Lombard's Christology. Alexander III had commissioned John of Cornwall with investigating the teaching of the Master of the Sentences. John recommended condemnation; Alexander agreed. In this case, however, Alexander agreed not to condemn Peter Lombard's position after the master's defender, Adam du Petit-Pont, another Parisian master, persuaded a number of bishops present that his eminent colleague's teachings were orthodox.¹⁰ The main output of the council, however, consisted of twenty-seven decrees.¹¹ Alexander seems not to have promulgated them in a set form, however, or perhaps more than one exemplar, not all of them exactly the same, were available for copying by clerics at the council. In any case, the textual tradition and even the order and numbering of the canons proved to be fluid, and bishops seem to have returned back home with slightly different versions of the council's legislation, which they were then expected to disseminate further and implement in their dioceses.¹²

The canons come down to us in complete form in four English chronicles;¹³ additionally they were rapidly incorporated into decretal collections.¹⁴ The chief investigator of these twelfth-

⁹ Foreville, *Latran I, II, III, et Latran IV*, p. 137.

¹⁰ Robinson, *Papacy*, p. 143.

¹¹ A French chronicle records that more decrees were drafted and proposed (again evidence of preparatory work by Alexander's curia) but that twelve of them were not approved and promulgated. Cfr Anonymous of Laon, *Chronicum universale* (MGH *Scriptores*, 26) p. 449. On the possibility of some of these drafted but unapproved decrees finding expression in the chronicle of Bernardo Maragone of Pisa, cf. R. Engl and A. A. Larson, «Ein unbeachtetes Zeugnis zum dritten Laterankonzil: Bernardo Maragones *Annales Pisani*», *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 97 (2011), p. 357-368.

¹² Sometimes bishops undertook the promulgation of the Lateran III canons through diocesan synods, where the program of the general council could be mixed with the bishop's own decrees reflecting his concerns for his particular diocese. Duggan described this activity occurring following the First Lateran Council («Conciliar Law», p. 327-328). Uta-Renate Blumenthal has recently shown from a manuscript that a council in Avignon promulgated the Lateran III canons mixed with regional concerns. Cfr U.-R. Blumenthal, «Das Dritte Laterankonzil, seine Beschlüsse und die Rechtspraxis», *Die Ordnung der Kommunikation und die Kommunikation der Ordnung im mittelalterlichen Europa*, vol. 2, *Zentralität: Papsttum und Orden im 12. und 13. Jahrhundert*— hrsg. C. Andenna - K. Herbers - G. Melville (*Aurora*, 20), Stuttgart 2011, forthcoming.

¹³ *Gesta regis Henrici secundi Benedicti abbatis* – ed. W. Stubbs (*Rolls Series* 49), 2 vols., London 1867, I, p. 222-238, which served as the source for the next chronicle: *Chronica magistri Rogeri de Houedene* – ed. W. Stubbs

century decretal collections in the twentieth century, Walther Holtzmann, believed that the Third Lateran Council was responsible for inspiring the production of these collections, but subsequent research, in large part completed by Charles Duggan, showed that clerics throughout Christendom were adding papal decretals, the *ius novum*, to Gratian's Decretum, the *ius vetus*, or gathering them into their own collections at least since the 1150s.¹⁵ The rapid incorporation of the Lateran III decrees into such collections (within ten years) provided for their wide dissemination and quick acceptance as the law of the church even beyond the particular, local activity of promulgation by individual bishops.¹⁶ Moreover, Bernard of Pavia incorporated the canons into the *Compilatio prima* (1190), and almost all eventually made their way into the *Decretales Gregorii noni* or *Liber extra* (1234). In this way, the legislation of the Third Lateran Council not only became solidified in the law of the church until 1917 but also became the object of study of every student of law in Europe for centuries to come. More immediately and within the conciliar context, the canons exercised influence on regional synods of the late twelfth and early thirteenth centuries and on the Fourth Lateran Council (1215) of Innocent III. They can also be shown to have influenced the penitential literature of the day. The imprint of the legislation of Lateran III on the law and practice of the church, therefore, proved to be greater and swifter than that of any other previous general council, and, through that reception, the

(*Rolls Series* 51), 4 vols., London 1868-71, II, p. 172-189; Gervase of Canterbury, *The Historical Works of Gervase of Canterbury* – ed. W. Stubbs, (*Rolls Series* 73), 2 vols., London 1879. Volume I: *The Chronicle of the Reigns of Stephen, Henry II, and Richard I*, p. 278-292; *Chronicles of the Reigns of Stephen, Henry II, and Richard I* – ed. R. Howlett (*Rolls Series* 82), 2 vols., London 1884. *Volume I: Historia rerum Anglicarum of William of Newburgh*, p. 206-223.

¹⁴ On the reception described in this paragraph, cfr Duggan, «Conciliar Law», p. 338-340.

¹⁵ Duggan, «Conciliar Law», p. 334 and n.102. Cfr *Studies in the Collections of Twelfth-Century Decretals, from the papers of the late Walther Holtzmann* – ed. C. R. Cheney - M. G. Cheney (*Monumenta Iuris Canonici. Series B: Corpus Collectionorum*, 3), Città del Vaticano 1979; C. Duggan, *Twelfth-Century Decretal Collections and Their Importance in English History* (*University of London Historical Studies* 12) London 1963; Alberigo, *Conciliorum Oecumenicorum Decreta*, Bologna³ 1973, p. 207-209.

¹⁶ On the rapid incorporation of the canons into decretal collections by canonists and their resulting swift dissemination, cf. G. Fransen, «Les canonistes et Latran III», *Le troisième concile de Latran (1179): Sa place dans l'histoire* – ed. J. Longère, Paris 1982, p. 33-40.

influence of Rolandus Bandinelli/Alexander III, no legal expert himself, on the law of the church proved ultimately to be of more significance than that of the Master Rolandus, Bolognese master, with whom he was misidentified for many years.¹⁷

Walther Holtzmann directed a doctoral dissertation of Walter Herold on the canons of Lateran III in the late 1940's. Herold produced a very good edition of the canons based on all the known manuscripts at that time.¹⁸ When Professor Claudio Leonardi first edited the canons for the first edition of the *Conciliarum oecumenicorum decreta* in 1962, he decided not to follow the suggested order of the canons in Herold's edition. We have also decided not to follow that order, although we, as Leonardi did, have indicated in the notes in which order Herold placed them. Our primary reason for following the order of the canons established by scholars since the sixteenth century is to limit the confusion in the scholarly literature that would be caused by a reordering. A second reason for adopting the traditional order is that we think the manuscript tradition proves that the canons were not promulgated in a certain order. Consequently, the evidence of the manuscripts makes any certain conclusions problematic. Leonardi also decided not to follow the readings of what Herold considered to be the best manuscripts. Rather he edited the text on earlier printed editions, especially the edition of Pierre Crabbe that was published in 1551.¹⁹ After studying the texts carefully, we decided to adopt Herold's text with only a few exceptions. There are two major reasons for our decision. The first is that, as our edition of the canons demonstrates, many readings in Crabbe's and then Leonardi's edition, signified by L in

¹⁷ J. T. Noonan, «Who Was Rolandus?», *Law, Church, and Society: Essays in Honor of Stephan Kuttner* – ed. K. Pennington - R. Somerville, Philadelphia 1977, p. 21-48.

¹⁸ *Die Canones des 3. Lat.-Konzils (1179)* (Ph.D Dissertation 1950). Copies of the dissertation are very rare. The editors are very grateful to Professor Peter Landau and to the Stephan Kuttner Institute of Medieval Canon Law in Munich for providing us with a copy. A summary of Herold's work is, however, readily accessible. Cfr S. Kuttner, «Concerning the Canons of the Third Lateran Council», *Traditio* 13 (1957), p. 505-506. Herold's edition was based on 36 manuscripts. As of 1982, 20 more had been identified. Cfr Fransen, *Les canonistes*.

¹⁹ *Secundus tomus conciliarum omnium tam generalium quam particularium* (Coloniae Agrippinae 1551). Leonardi outlined his editorial principles in COD³, p. 209-210.

the following edition, are not supported by any of the extant manuscripts. Second, the legal terminology in a number of the canons in Crabbe's edition that were maintained in Leonardi's edition were either corrupt or seriously misleading.

We have consulted two more manuscripts for this edition that Herold did not use: CITTÀ DEL VATICANO, Biblioteca Apostolica, ms. Reg. lat. 596 (*Va*) and 984 (*Vb*).²⁰ In many cases, they confirm Herold's readings. We have given an occasional variant reading from these manuscripts when we thought it necessary. Herold's edition gave detailed readings from all the manuscripts, and we have incorporated his readings into our apparatus. These readings are noted with the siglum "*codd. H,*" i.e. readings not in Herold's text but in his apparatus and supported by the witness of many manuscripts.

The importance of the Third Lateran Council canons was established by their incorporation into Bernard of Pavia's *Compilatio prima* (1190) and later into the *Decretals* of Gregory IX (1234) compiled by Raymond de Peñafort.²¹ Bernard inserted all the canons into his collection; Raymond omitted two small sections of c.21 and c.27. A primary goal of our edition was to illustrate the transition of the canons into the law schools and courtrooms. The canonists did not make major changes in the texts of the canons, but they did make them more precise and also improved the terminology of the canons. A good example that confirms the quality of Herold's text and illustrates the adjustments that the canonists made to the text can be seen in c.16. Pope Clement III quoted a slightly awkward text in c.16 in a decretal letter (1187-1191), which the canonists changed to make its meaning more clear.²² Clement's decretal is the only one known to us in which a canon of Lateran III is quoted. This process of "editing" was not

²⁰ *Vb* contains all the canons and *Va* contains cc. 1, 3, 4, 6, 7, 10, 11, 19, 20, 21, 25 (not in that order). The order of the canons in both manuscripts is different from every other extant manuscript; see Herold, *Canones* 27a-27b.

²¹ On Bernard of Pavia and the *Compilatio prima*, cf. K. Pennington, «The Decretalists, 1190-1234», *The History of Medieval Canon Law*, 211-227.

²² Line XXX of c.16, together with note 58.

unique to conciliar canons. Every papal decretal went through the same vetting.²³ We have used six early manuscripts of *Compilatio prima* to establish a secure if not critical edition of Bernard's collection.²⁴ We used Friedberg's edition of the Decretals of Gregory IX to note the changes that Raymond de Peñafort made in the texts. We checked Friedberg's readings against several manuscripts of the *Liber extra*, especially against a very good manuscript dated 1240.²⁵ We determined that Friedberg's text and apparatus were very reliable guides to the text of the canons that was accepted into the tradition of canon law until 1917.

In addition to the abbreviations used in this volume, the following abbreviations are used in the critical apparatus of the canons:

COD = Leonardi's text in the first three editions of *COD*.

He = Herold's text.

HeApp = readings in Herold critical apparatus.

lComp. = Text of *Compilatio prima*.

codd.lComp. = variant readings in manuscripts of *lComp.*

Fr = Friedberg's text of the canons in the Decretals of Gregory IX.

FrApp = Friedberg's critical apparatus.

²³ See the discussion of this point in K. Pennington, «The Making of a Decretal Collection: The Genesis of *Compilatio tertia*», *Proceedings of the Fifth International Congress of Medieval Canon Law, Salamanca 1976*, Città del Vaticano, 1980, p. 67-92.

²⁴ In order of importance: LISBON, Biblioteca Nacional (would you please explicit this siglum?), ms. Alcobaça 173; MELK, Stiftsbibliothek, ms. 190; ADMONT, Stiftsbibliothek, ms. 55; PARIS, Bibliothèque Nationale, ms. lat. 3932, ALBA IULIA, Bibliothèque Batthyanyana, ms. II.5. In addition we also consulted the following manuscripts when a reading was in doubt: ADMONT, Stiftsbibliothek, ms. 22, BRUSSELS, Bibliothèque Royale, ms. 1407-1409; GRAZ, Universitätsbibliothek, ms. 106, 138, 374; PADOVA, Biblioteca Antoniana, ms. N.35; CITTÀ DEL VATICANO, ms. Vat. lat. 1377 and 2509. On the complicated textual tradition of *Compilatio prima* see G. Fransen, «Les diverses formes de la *Compilatio prima*» – *Scrinium Lovaniense: Mélanges historiques Étienne Van Cauwenberg*, Louvain 1961, p. 235-253.

²⁵ MUNICH, Staatsbibliothek, ms. lat. 26301. We also used Munich, Staatsbibliothek, ms. 2935 (ca. 1275).

Bibliography: For earlier bibliography see COD³ p. 210 and notes to Prolegomena. U.-R. Blumenthal, «Das Dritte Laterankonzil, seine Beschlüsse und die Rechtspraxis», *Die Ordnung der Kommunikation und die Kommunikation der Ordnung im mittelalterlichen Europa*, vol. 2, *Zentralität: Papsttum und Orden im 12. und 13. Jahrhundert*– hrsg. C. Andenna - K. Herbers - G. Melville (*Aurora*, 20), Stuttgart 2011, forthcoming; A. J. Duggan, «Conciliar Law, 1123-1215: The Legislation of the Four Lateran Councils», *History of Medieval Canon Law in the Classical Period, 1140-1234* – ed. W. Hartmann - K. Pennington (*History of Medieval Canon Law* 6) Washington 2008, p. 318-366; C. R. Cheney, «The Numbering of the Lateran Councils of 1179 and 1215», *Medieval Texts and Studies* – C. R. Cheney, Oxford 1973, p. 203-208; R. Engl – A. A. Larson, «Ein unbeachtetes Zeugnis zum dritten Laterankonzil: Bernardo Maragones *Annales Pisani*», *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 97 (2011), p. 357-368; R. Foreville, *Latran I, II, III, et Latran IV (Histoire des conciles oecuméniques* 6) Paris 1965; R. Foreville, «Procédure et débats dans les conciles médiévaux du Latran (1123-1215)», *Rivista di Storia della Chiesa in Italia* 19 (1965), p. 21-37; *Le troisième concile de Latran (1179): Sa place dans l'histoire* – J. Longère, Paris 1982; J. T. Noonan, «Who Was Rolandus?», in *Law, Church, and Society: Essays in Honor of Stephan Kuttner* – ed. K. Pennington - R. Somerville, Philadelphia 1977, p. 21-48; R. Somerville, *Pope Alexander III and the Council of Tours: A Study of Ecclesiastical Political and Institutions in the Twelfth Century*, Berkeley-Los Angeles-London 1977.

CONCILIUM LATARANENSE III (1179)

CANONES

5
1. Licet de vitanda discordia in electione Romani pontificis manifesta satis a praedecessoribus nostris constituta manaverint, quia tamen saepe post illa per improbae ambitionis audaciam gravem passa est scissuram ecclesia, nos etiam ad malum hoc evitandum, de consilio fratrum nostrorum et sacri approbatione concilii aliquid decrevimus adiungendum. Statuimus igitur ut si forte, inimico homine superseminante zizania, inter cardinales de substituendo pontifice non potuerit esse plana concordia, et duabus partibus concordantibus tertia pars concordare noluerit aut sibi alium praesumpserit nominare, ille absque ulla exceptione ab universa ecclesia Romanus pontifex habeatur, qui a duabus partibus electus fuerit et receptus. Si quis autem de tertiae partis nominatione confisus, quia rem non potest, nomen sibi episcopi usurpaverit, tam ipse quam qui eum receperint, excommunicationi subiaceant et totius sacri ordinis privatione mulctentur, ita ut viatici etiam eis, nisi tantum in ultimis, communicatio denegetur, et nisi resipuerint, cum Dathan et Abiron, quos terra vivos absorbit, accipiant portionem. Praeterea, si a paucioribus aliquis quam a duabus partibus electus fuerit ad apostolatus

13 inimico – zizania] cfr Matth. 13, 25 **24/25** Dathan – absorbit] cfr Deut. 11, 6 (and also Num. 16, 30-33)

6/34 Licet – haberi] c. 1 in *codd.1Comp*; 1 *Comp.* 1.4.15 (11) (X 1.6.6: Fr 2, 51) **7/8** a – manaverint] cfr especially c. 1 conc. Rom. (1059) held under Pope Nicolas II (*Mansi* 19, 897; 907) and the same bull *In nomine Domini* (*Mansi* 19, 903-904; *MGH Leges II*, 2, 177-79); D.79 c.1 (Fr 1, 276) and D.23 c.1 (Fr 1, 77-79)

6 vitanda] evitanda *COD* | Romani] summi *COD* **7** praedecessoribus nostris] nostris praedecessoribus *COD* **8** quia tamen] tamen quia *COD* **9/10** scissuram ecclesia] ecclesia scissuram *COD* **12** decrevimus] decernimus *He 1Comp Fr*, decrevimus *HeApp* **13** zizania] zizaniam *He*, zizania *HeApp* **14** pontifice] summo pontifice *al.codd.1Comp. Fr*, Romano *al.codd.1Comp.* | esse – concordia] concordia plana esse *COD* **15/16** concordare noluerit] noluerit concordare *COD* **16** nominare] ordinare *COD* **16/17** absque – ecclesia] *om. COD HeApp* **18** electus fuerit] fuerit electus *COD HeApp* **19** rem] de ratione esse *1Comp Fr* **20** nomen sibi] sibi nomen *COD Fr* **22** etiam eis] eis etiam *COD* **26** electus fuerit] fuerit electus *COD HeApp*

officium, nisi maior concordia intercesserit, nullatenus assumatur et praedictae poenae subiaceat, si humiliter noluerit abstinere. Ex hoc tamen nullum canonicis institutionibus et aliis ecclesiis praeiudicium generetur, in quibus maioris et sanioris partis debet praevalere sententia, quia quod in eis in dubium venerit, superioris poterit iudicio definiri. In Romana vero ecclesia speciale aliquid constituitur, quia non potest ad superiorem recursus haberi.

35

2. Quod a praedecessore nostro felicitis memoriae papa Innocentio factum est innovantes, ordinationes ab Octaviano et Guidone haeresiarchis necnon et Iohanne Strumensi, qui eos secutus est, factas, et ab ordinatis ab eis, irritas esse censemus, adicientes etiam ut, qui dignitates ecclesiasticas seu beneficia per praedictos schismaticos acceperunt, careant impetratis. Alienationes quoque sive 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 contraire praesumpserit, excommunicationi se noverit subiacere. Illos autem, qui sponte iuramentum de tenendo schismate praestiterunt, a sacris ordinibus et dignitatibus decernimus manere suspensos.

50

36/49 Quod – suspensos] c. 2 in *codd. IComp*; 1 Comp. 5.7.2 (X 5.8.1: Fr 2, 790); cfr also C.12 q.2 c.37 (Fr 1, 699) **36/37** a – est] cfr conc. Lat. II (1139) c. 30. *Vide supra* p. xxx **37/38** Octaviano – Strumensi] Octavianus i.e. Victor IV antipope (1159-1164), Guido i.e. Paschalis III antipope (1164-1168), Iohannes abbas Strumensis i.e. Callistus III antipope (1168-1178) **42** impetratis] cfr also An. Laud., *chron. un.*, 449 (MGH *Scriptores* XXVI, 449); Sigebert. Gembl., *cont.*, 417 (MGH *Scriptores* VI, 417)

30 institutionibus] constitutionibus *COD HeApp IComp Fr* | ecclesiis] ecclesiasticis *COD* **31** sanioris] senioris *COD* | praevalere sententia] sententia praevalere *COD* **32** in²] *om. COD* **33** speciale aliquid] aliquid speciale *COD* **34** ad – recursus] recursus ad superiorem *COD* **36** papa] *om. COD HeApp* **38** et¹] *om. IComp FrApp* **40** qui] si qui *COD* **41** acceperunt] receperunt *COD* **42** sive] seu *COD* | quae] *om. FrApp* **43** sive] *add. quae FrApp* **48** praestiterunt] praestiterint *COD HeApp al.codd. IComp.* | decernimus] decrevimus *COD HeApp*

3. Cum in cunctis sacris ordinibus et ecclesiasticis ministeriis; et aetatis maturitas et gravitas morum et litterarum scientia sit quaerenda, multo fortius in episcopo haec oportet inquiri, qui ad curam positus aliorum, in seipso debet ostendere qualiter alios in domo Domini oporteat conversari. Eapropter, ne quod de quibusdam ex necessitate temporis factum est, in exemplum trahatur a posteris, praesenti decreto statuimus, ut nullus in episcopum eligatur, nisi qui iam trigesimum annum aetatis egerit et de legitimo matrimonio sit natus, qui etiam vita et scientia commendabilis demonstratur. Cum autem electus fuerit et confirmationem electionis acceperit et ecclesiasticorum bonorum 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, utpote decanatus, archidiaconatus et alia quae animarum curam habent annexam, nullus omnino suscipiat, sed nec parochialium ecclesiarum regimen, nisi qui iam vigesimum quintum annum attigerit, et qui scientia et moribus commendandus existat. Cum autem assumptus fuerit, si archidiaconus in diaconem, decanus et reliqui admoniti non fuerint praefixo a canonibus tempore in presbyteros ordinati, et ab illo removeantur officio et alii conferatur, qui et velit et possit illud convenienter implere; nec prosit eis appellationis diffugium, si forte in transgressione constitutionis istius per appellationem voluerint se tueri. Hoc sane non solum de

51/87 Cum – ordinentur] c. 3 in *codd.1Comp*; cfr conc. Trid. (1545-1563), s. 7; 24. *Vide COGD III* p. 43, 1062; 139, 4263; 1 *Comp.* 1.4.16(12) (X 1.6.7: Fr 2, 51-52) **73** a – ordinati] D.60 c.3 (Fr 1, 226-227)

51 cunctis] *om. COD* **51/52** ecclesiasticis ministeriis] ministeriis ecclesiasticis *COD* **52** gravitas morum] morum gravitas *COD* **53** litterarum scientia] scientia litterarum *COD* | quaerenda] inquirenda *COD 1Comp Fr FrApp* **53/54** in – haec] haec in episcopo *COD* **54** positus aliorum] aliorum positus *Fr* **57** in – posteris] trahatur a posteris in exemplum *Fr* **59** annum aetatis] aetatis annum *COD* | egerit] attigerit *FrApp* **66** utpote] ut puta *COD HeApp 1Comp Fr* **70** annum] *add. aetatis COD HeApp al.codd.1Comp. Fr* **71** commendandus existat] existat commendandus *COD* **72** diaconem] diaconum *COD HeApp al.codd.1Comp. Fr* | decanus] et decani *COD 1Comp*, et decanus *HeApp Fr* **74** alii] alii *1Comp Fr* **74/75** velit – possit] velint et possint *1Comp Fr* **75** illud convenienter] illud convenienter *Fr* | eis] illis *COD*, ei *HeApp* **76** diffugium] refugium *al.codd.1Comp. Fr*, remedium *al.codd.1Comp. transgressione] transgressionem COD al.codd.1Comp. Fr*

80 promovendis, sed de his etiam qui iam promoti sunt, si
 sane si contra formam istam quemquam elegerint, et eligendi
 tunc potestate privatos et ab ecclesiasticis beneficiis triennio
 se noverint suspensos. Dignum est enim ut, quos Dei timor a
 malo non revocat, ecclesiasticae saltem coerceat severitas
 85 disciplinae. Episcopus etiam, si aut fecerit contra hoc aut
 consenserit fieri, in conferendis praedictis officiis potestatem
 suam amittat, et per capitulum aut per etiamsi capitulum
 concordare nequiverit, ordinentur. 10

90 4. Cum apostolus se ac suos propriis manibus
 decreverit exhibendos, ut locum praedicandi auferret
 pseudoapostolis et illis quibus praedicabat non existeret
 onerosus, grave nimis et emendatione dignum esse
 dinoscitur, quod quidam fratrum et coepiscoporum
 nostrorum ita graves in procurationibus subditis suis existunt,
 95 ut pro huiusmodi causa ipsa interdum ecclesiastica
 ornamenta subditi exponere compellantur et longi temporis
 victum brevis hora consumat. Quocirca statuimus, ut 20
 archiepiscopi parochias visitantes pro diversitate
 provinciarum et facultatibus ecclesiarum XL vel L evectionis
 100 numerum, episcopi vero XX vel XXX, cardinales vero XX

89/92 apostolus – onerosus] cfr I Thess. 2, 9; cfr II Thess. 3, 7-8; cfr also II Cor. 11, 9

85/86 praedictis – etiamsi] cfr D.63 c.36 (Fr 1, 247) **89/124** Cum – indultam] c. 6 in *codd. IComp*; 1 Comp. 3.34.6 (X 3.39.6: Fr 2, 623); cfr also D.94 c.3 (Fr 1, 331) and C.10 q.3 c.8 (Fr 1, 625); cfr conc. Trid. (1545-1563), s. 21; 24. *Vide COGD III* p. 94, 2755; 134, 4109

81 tunc potestate] potestate tunc *COD* **82** se noverint] noverint se *Fr* Dei timor] timor Dei *COD* **84** etiam] autem *COD IComp Fr* **84/85** si – fieri] si cui fecerit aut fieri consenserit contra hoc *COD*, si fecerit contra hoc aut consenserit fieri *IComp*, si contra haec fecerit aut consenserit fieri *Fr* **85** praedictis officiis] *add.* et beneficiis *Fr* | officiis] *om. COD* **86** etiamsi] si *COD* **87** ordinentur] ordinetur *al.codd. IComp. Fr* **89** ac] et *COD HeApp* **92** dignum esse] fore dignum *COD* **94** graves] *add.* etiam *Va* | subditis suis] suis subditis *COD HeApp* **95** ipsa] *om. COD HeApp* **95/96** ecclesiastica ornamenta] ornamenta ecclesiastica *COD* **96** exponere compellantur] compellantur exponere *COD* **97** ut] quod *COD HeApp IComp Fr* **99** XL – L] quadraginta vel quinquaginta *COD*, quadagesimum vel quinquagesimum *HeApp* **100** numerum] *add.* non excedant *COD* | episcopi – XXX] cardinales vero viginti vel viginti quinque *COD* | XX¹ – XXX] vicesimum vel tricesimum *HeApp* **100/101** cardinales – XXV] episcopi viginti vel triginti *COD* **100/101** XX² – XXV] vicesimum vel vicesimum quintum *HeApp*

vel XXV nequaquam excedant, archidiaconi vero quinque
 aut septem, decani vero constituti sub ipsis duobus equis
 contenti existant, nec cum canibus venatoriis et avibus
 proficiscantur, sed ita procedant, ut non quae sua sunt sed
 quae Iesu Christi quaerere videantur; nec sumptuosas epulas
 105 requirant, sed cum gratiarum actione recipiant quod honeste
 ac competenter illis fuerit ministratum. Prohibemus etiam ne
 subditos suos talliis et exactionibus episcopi gravare
 praesumant. Sustinemus autem pro multis necessitatibus,
 10 quae aliquotiens superveniunt, ut si manifesta et rationabilis
 causa extiterit, cum caritate moderatum ab eis valeant
 auxilium postulare. Cum enim dicat apostolus: *Non debent
 filii thesaurizare parentibus sed parentes filiis*, multum longe
 a paterna pietate videtur, si praepositi subiectis suis graves
 existant, quos in cunctis necessitatibus pastoris debent more
 115 fovere. Archidiaconi autem sive decani nullas exactiones vel
 tallias in presbyteros seu clericos exercere praesumant. Sane,
 quod de praedicto numero evectiois secundum tolerantiam
 dictum est, in illis locis poterit observari, in quibus ampliores
 20 sunt redditus et ecclesiasticae facultates. In pauperioribus
 autem locis tantam volumus teneri mensuram, ut ex accessu
 maiorum minores merito non doleant se gravari, nec sub tali
 indulgentia illi, qui paucioribus equis hactenus uti solebant,
 plurium sibi credant potestatem indultam.

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5. Episcopus, si aliquem sine certo titulo, de quo necessaria vitae percipiat, in diaconem vel presbyterum

104/105 quae – videantur] cfr Phil. 2, 21 112/113 II Cor. 12, 14

126/131 Episcopus – habere] c. 5 lines 17-23 in *codd. IComp*; 1 Comp. 3.5.5 (X 3.5.4: Fr 2, 465); cfr conc. Chalc. (451) c. 6. *Vide COGD I* p. 141; cfr conc. Trid. (1545-1563), s. 21. *Vide COGD III* p. 94, 2755

101 vero] *om. COD* 103 contenti existant] existant contenti *COD*
 104 sua sunt] sunt sua *COD* 105/107 nec – ministratum] *om. HeApp*
 106 requirant] quaerant *COD* 107 ac] et *COD* | illis fuerit] fuerit illis
COD 113 filii – parentibus] parentibus filii thesaurizare *COD*
 114 subiectis suis] suis subditis *COD*, suis subiectis *HeApp*
 115/116 debent – fovere] more fovere debent *COD, HeApp*
 120 ecclesiasticae] ecclesiae *COD* 122 minores – se] minores non
 debeant *COD* | nec] ne *COD HeApp* 123 hactenus – solebant] uti
 solebant hactenus *COD* 124 plurium] plurimam *COD HeApp*
 126 Episcopus si] *COD IComp Fr*, Praeterea si episcopus *He*
 127 diaconem] diaconum *COD HeApp Fr*

ordinaverit, tamdiu necessaria ei subministret, donec eidem
 130 in aliqua ecclesia convenientia stipendia militiae clericalis
 assignet; nisi forte talis sit qui ordinatus extiterit, qui de sua
 vel paterna hereditate subsidium vitae possit habere.

6. Reprehensibilis valde consuetudo in quibusdam
 partibus inolevit, ut cum fratres et coepiscopi nostri seu
 135 etiam archidiaconi appellaturos quosdam in causis suis
 existimant, nulla penitus admonitione praemissa,
 suspensionis seu excommunicationis in eos sententiam 10
 ferant. Alii etiam, dum superioris sententiam et disciplinam
 canonicam reformidant, sine ullo gravamine appellationem
 140 obiciunt et ad defensionem iniquitatis usurpant, quod ad
 praesidium innocentium dinoscitur institutum. Quocirca ne
 vel praelati sine causa valeant gravare subiectos vel subditi
 pro sola voluntate sub appellationis obtentu correctionem
 valeant eludere praelatorum, praesenti decreto statuimus, ut
 145 nec praelati, nisi canonica commonitione praemissa,
 suspensionis vel excommunicationis sententiam proferant in
 subiectos, nisi forte talis sit culpa, quae ipso suo genere 20
 suspensionis vel excommunicationis poenam inducat; nec
 subiecti contra disciplinam ecclesiasticam ante ingressum
 150 causae in vocem appellationis erumpant. Si vero quisquam
 pro sua necessitate crediderit appellandum, competens ei ad
 prosequendam appellationem terminus praefigatur, infra
 quem, si forte prosequi neglexerit, libere tunc episcopus
 auctoritate sua utatur. Si autem in quocumque negotio aliquis
 155 appellaverit et, eo qui appellatus fuerit veniente, qui

133/164 Reprehensibilis – iniunctum] c. 12 in *codd. IComp*; 1 Comp. 2.20.42 (X 2.28.26: Fr 2, 418-419); cfr conc. Trid. (1545-1563), s. 24. Vide *COGD III* p. 147, 4558

128 necessaria ei] ei necessaria *IComp Fr* **128/129** eidem – ecclesia] in aliqua ei ecclesia *COD HeApp*, in aliqua ecclesia ei *IComp Fr* **130** forte – sit] nisi talis forte *Fr* | *sit*] *om. COD HeApp* | extiterit] *om. Fr* | qui²] *om. Fr* **131** vel] *om. HeApp* | hereditate] *add.* vel de alia honesta causa *HeApp* **134** cum] *om. COD* **135** appellaturos quosdam] quos appellaturos *COD* **137** seu] vel *COD*, sive *HeApp al.codd. IComp. 137/138* sententiam ferant] ferant sententiam *COD*, ferunt *HeApp* **141** praesidium] subsidium *COD* **142** sine – valeant] valeant sine causa *COD* **143** sola] sua *COD, HeApp* **147** suo genere] genere suo *COD HeApp* **148** suspensionis vel] *om. COD HeApp* **150** erumpant] prorumpant *COD HeApp* **153** libere – episcopus] tunc episcopus libere *IComp Fr* **154** auctoritate sua] sua auctoritate *COD IComp*

appellaverit venire neglexerit, si proprium quid habuerit, competentem illi recompensationem faciat expensarum, ut hoc saltem timore deterritus, in gravamen alterius non facile quis appellet. Praecipue vero hoc in locis religiosis 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 eis fuerit iniunctum.

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7. Cum in ecclesiae corpore omnia debeant ex caritate tractari et quod gratis receptum est gratis debeat impendi, horribile nimis est, quod in quibusdam ecclesiis locum venalitas perhibetur habere ita, ut pro episcopis vel abbatibus seu pro quibuscumque personis ecclesiasticis ponendis in sede sive introducendis presbyteris in ecclesiam necnon pro sepulturis et exsequiis mortuorum et benedictionibus nubentium seu aliis sacramentis ecclesiasticis aliquid requiratur, et non possit ille qui indiget ista percipere, nisi manum implere curaverit largitoris. Putant autem ex hoc plures sibi licere, quia legem mortis de longa invaluisse consuetudine arbitrantur, non satis, quia cupiditate caecati sunt attendentes quod tanto graviora sunt crimina quanto diutius infelicem animam tenuerint alligatam. Ne igitur hoc de cetero fiat et vel pro personis ecclesiasticis deducendis ad sedem vel sacerdotibus instituendis aut sepeliendis mortuis seu etiam benedicendis nubentibus seu aliis sacramentis aliquid exigatur, districtius inhibemus. Si quis autem contra

166/192 Cum – habeatur] c. 4 in *codd. IComp* **178/179** graviora – alligatam] C.1 q.3 c.15 (Fr 1, 418) and D.8 c.5 (Fr 1, 14)

156 appellaverit] appellat *Fr*, appellaverit *FrApp* | proprium quid] quid proprium *IComp Fr* | habuerit] habuit *COD* **157** illi] ei *COD*, **I do not understand what the comma means** *HeApp* **158** deterritus] perterritus *COD HeApp*, territus *Fr* **159** hoc] religiosis hoc *COD* **161** regularem] regulam *HeApp*, rationem *FrApp* **162** et capituli] apostolicam *Vb^{a.c.}*, *om. FrApp* **163** sua] *add. utiliter COD* | eis fuerit] fuerit eis *HeApp* **167** debeat] *om. COD*, **I do not understand what the comma means** *HeApp* **170** pro] *om. COD HeApp* **171** sive] seu *COD HeApp* **172** exsequiis] obsequiis *Va* **173** ecclesiasticis] *om. COD HeApp* **174** requiratur] exigatur *COD* | non – percipere] ille qui indiget non possit percipere *COD* **175** autem] *om. COD* **175/176** ex – plures] plures ex hoc *COD HeApp* **176** mortis] moris *COD* **177** caecati] excaecati *HeApp* **179** infelicem animam] animam infelicem *COD* | hoc] haec *Fr* **181** sepeliendis mortuis] mortuis sepeliendis *COD HeApp* **182** benedicendis nubentibus] nubentibus benedicendis *COD* | seu²] *add. etiam COD*

185 hoc venire praesumpserit, portionem cum Giezi se noverit
 habiturum, cuius factum exactione turpis muneris imitatur.
 Prohibemus insuper, ne ab episcopis vel abbatibus aliisve
 praelatis novi census imponantur ecclesiis nec veteres
 augeantur nec partem reddituum suis usibus appropriare
 190 praesumant, sed libertatem, quam maiores sibi conservari
 desiderant, minoribus quoque suis bona voluntate
 conservent. Si quis autem aliter egerit, irritum quod fecerit
 habeatur.

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195 8. Nulla ecclesiastica ministeria seu etiam beneficia vel
 ecclesiae alicui tribuantur seu promittantur antequam vacent,
 ne desiderare quis mortem proximi sui videatur, in cuius
 locum et beneficium se crediderit successurum. Cum enim id
 in ipsis etiam gentilium legibus inveniatur inhibitum, turpe
 nimis est et divini plenum animadversione iudicii, si locum
 200 in ecclesia Dei futurae successionis expectatio habeat, quam
 ipsi etiam homines gentiles condemnare curaverunt. Cum
 vero praebendas, ecclesias seu quaelibet officia in aliqua
 ecclesia vacare contigerit vel si etiam modo vacant, non diu
 205 maneant in suspenso, sed infra sex menses personis, quae
 digne administrare valeant, conferantur. Si autem episcopus,
 ad quem spectaverit, sine rationabili causa conferre distulerit,

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184 portionem – Giezi] cfr IV Reg. 5, 20-27

185/192 cuius – habeatur] 1 Comp. 5.2.8 (X 5.3.9: Fr 2, 751); cfr also C.1 q.1 c.100 (Fr 1, 398) **191/192** irritum – habeatur] 1 Comp. 3.34.7 (X 3.39.7: Fr 2, 623) **194/212** Nulla – disponat] c. 5, 1 in *codd.1Comp*; 1 Comp. 3.8.2 (X 3.8.2: Fr 2, 498); cfr conc. Trid. (1545-1563), s. 24. *Vide COGD III* p. 146, 4528 **198** gentilium – inhibitum] C.11 q.1 c.41 (Fr 1, 638-639) and C.1 q.1 c.37 (Fr 1, 372-373) **201** homines – curaverunt] *Cod.Th./J.?* 8.38(39).4 and *Cod.Th./J.?* 8.34(35).3

185 exactione – muneris] turpis muneris exactione *COD* **186/187** ab – census] novi census ab episcopis vel abbatibus aliisve praelatis *COD*, ab abbatibus vel episcopis vel aliis praelatis novi census *Fr* **189** libertatem quam] libertates quas *COD* | maiores sibi] sibi maiores *COD* | conservari] conservare *HeApp 1Comp Fr* **189/190** conservari desiderant] desiderant conservari *COD* **191** egerit] fecerit *HeApp Fr* **191/192** irritum – habeatur] irritum habeatur quod fecerit *HeApp* **191** fecerit] egerit *Fr* **196** sui] *om. COD HeApp* **197/198** id – etiam] id etiam in ipsis *COD HeApp* **198** inhibitum] prohibitum *COD* **199** nimis] *om. 1Comp Fr* **200** ecclesia Dei] Dei ecclesia *COD* **201** ipsi – condemnare] etiam damnare ipsi gentiles homines (gentiles homines *HeApp*) *COD HeApp* curaverunt] curarunt *Fr* **202** ecclesias] ecclesiasticas *COD* **203** si etiam] etiam si *COD HeApp* **206** ad quem] ubi ad eum *COD 1Comp Fr* spectaverit] spectat *1Comp Fr* | sine – causa] *om. COD HeApp*

per capitulum ordinetur. Quod si ad capitulum pertinuerit
 electio et infra praescriptum terminum similiter hoc non
 fecerit, episcopus secundum Deum hoc cum religiosorum
 virorum consilio exsequatur, aut si omnes forte neglexerint,
 metropolitanus de ipsis secundum Deum absque illorum
 contradictione disponat. 210

9. Cum et plantare sacram religionem et fovere
 plantatam modis omnibus debeamus, numquam melius hoc
 10 exequimur, quam si nutrire ea quae recta sunt et corrigere ea
 quae profectum virtutis impediunt commissa nobis a Deo
 auctoritate curemus. Fratrum autem et coepiscoporum
 nostrorum vehementi conquestione comperimus, quod fratres
 Templi et Hospitalis et alii quoque religiosae professionis,
 220 indulta sibi ab apostolica sede privilegia excedentes, contra
 episcopalem auctoritatem multa praesumunt, quae et
 scandalum faciunt in populo Dei et grave pariunt periculum
 animarum. Proposuerunt enim quod ecclesias recipiant de
 manibus laicorum, excommunicatos et interdictos ad
 225 ecclesiastica sacramenta et sepulturam admittant, in cunctis
 20 ecclesiis suis praeter eorum conscientiam et instituant et
 amoveant sacerdotes, et, fratribus eorum ad eleemosynas
 quaerendas euntibus, cum indultum sit eis ut in eorum
 adventu semel in anno aperiantur ecclesiae atque divina in
 230 eis celebrentur officia, plures ex eis de una sive de diversis
 domibus ad interdictum locum saepius accedentes,
 indulgentia privilegiorum nostrorum in celebrandis officiis et

214/269 Cum – habeatur] c. 8 in *codd.1Comp*; 1 Comp. 5.28.3 (X 5.33.3:
 Fr 2, 849-850)

207/208 pertinuerit electio] electio pertinuerit *COD HeApp*
 208 praescriptum] praedictum *COD HeApp* | similiter] *om. COD HeApp*
1Comp Fr 209 secundum – hoc] hoc secundum Deum *COD HeApp*
 209/210 religiosorum virorum] virorum religiosorum *COD*
 214/215 fovere plantatam] plantatam fovere *COD HeApp 1Comp Fr*
 215 melius hoc] hoc melius *COD HeApp 1Comp Fr* 216 exequimur]
 exequemur *COD HeApp* | ea¹] *om. COD HeApp* | ea²] *om. COD 1Comp*
Fr 217 virtutis] veritatis *COD HeApp* | a Deo] *om. COD* 220 et²] *om.*
COD HeApp 221 privilegia excedentes] excedentes privilegia *COD*
 223 faciunt] generant *COD* 224 Proposuerunt] Proponunt *COD*
 226 cunctis] *om. COD HeApp* 227 conscientiam] conscientias *He*
 229/230 eorum adventu] adventu eorum *COD* 230 aperiantur ecclesiae]
 ecclesiae aperiantur *COD* 230/231 divina – eis¹] in eis divina *COD*
 231 de²] *om. COD Fr* 232 interdictum locum] locum interdictum *COD*
 233 nostrorum] *om. COD HeApp Fr* 233/234 et – mortuis] *om. COD*
HeApp

235 sepeliendis mortuis abutuntur et tunc mortuos apud
 interdictas ecclesias sepelire praesumunt. 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 voluerint se conferre. In his
 240 autem, quia non tam de maiorum conscientia vel consilio
 quam de minorum discretione exceditur, et removenda ea in
 quibus excedunt et quae dubitationem faciunt decernimus
 declaranda. Ecclesias sane et decimas de manu laicorum, 10
 sine consensu episcoporum, tam illos quam etiam
 245 quoscumque alios religiosos recipere prohibemus, dimissis
 etiam quascumque contra tenorem istum moderno tempore
 receperunt. Excommunicatos et nominatim interdictos tam ab
 illis quam ab omnibus aliis, iuxta episcoporum sententiam
 statuimus evitandos. In ecclesiis suis, quae ad eos pleno iure
 250 non pertinent, instituendos presbyteros episcopis
 repraesentent, ut eis quidem de plebis cura respondeant, ipsis
 vero pro rebus temporalibus rationem exhibeant
 competentem. Institutos autem, inconsultis episcopis, non 20
 audeant remove. Si vero Templarii seu Hospitalarii ad
 255 ecclesiam interdictam venerint, non nisi semel in anno ad
 ecclesiasticum officium admittantur nec tunc ibi corpora
 sepeliant defunctorum. De fraternitatibus autem hoc
 constituimus ut, si non se praedictis fratribus omnino
 reddiderint, sed in proprietatibus suis duxerint remanendum,
 260 propter hoc ab episcoporum sententia nullatenus eximantur,
 sed potestatem suam in eos sicut in alios parochianos suos
 exerceant, cum pro suis excessibus fuerint corrigendi. Quod
 autem de praedictis fratribus dictum est, ab aliis quoque 30

248/249 iuxta – evitandos] C.11 q.3 c.16-18 (Fr 1, 647-648) 251 ut –
 respondeant] C.16 q.2 c.6 (Fr 1, 787)

235 interdictas] praedictas *COD HeApp* 239 voluerint – conferre] volunt
 accedere et se conferre *COD* 240 autem] *om. COD* 241 discretione]
 indiscretione *COD HeApp*, *add.* quorundam *COD HeApp*
 242 dubitationem] dubietatem *COD* | decernimus] decrevimus *COD*
HeApp Fr, declaranda decrevimus *COD* 244 etiam] *om. COD HeApp*
 246 quascumque] quas *COD HeApp* 251 repraesentent] praesentent
COD 253 inconsultis episcopis] episcopis inconsultis *COD* 254 Si
 vero] Quod si vero *IComp* | seu] sive *COD HeApp*, vel *Fr HeApp*
 256 officium admittantur] admittantur officium *COD HeApp*
 257 fraternitatibus] confratribus *Fr* | autem] *om. COD* 258 constituimus]
 statuimus *COD HeApp* 259 proprietatibus suis] suis proprietatibus *COD*
 263 ab] de *COD*

religiosis, qui praesumptione sua episcoporum iura
 praeripiunt et contra canonicas eorum sententias et tenorem
 privilegiorum nostrorum venire praesumunt, praecipimus
 observari. Si autem contra institutum hoc venerint, et
 ecclesiae in quibus ista praesumpserint subiaceant interdicto,
 et quod egerint irritum et vacuum habeatur.

10 270
 10. Monachi non pretio recipiantur in monasterio, non
 peculium permittantur habere, non singuli per villas et
 oppida seu quascumque parochiales ponantur ecclesias, sed
 in maiori conventu aut cum aliquibus fratribus maneant, ne
 soli inter homines saeculares spiritualium hostium
 conflictum exspectent, Salomone dicente: *Vae soli, quia si*
ceciderit non habet sublevantem. Si quis autem exactus pro
 sua receptione aliquid dederit, ad sacros ordines non
 ascendat; is autem qui receperit, officii sui privatione
 mulctetur. Qui vero peculium habuerit, nisi ab abbate fuerit
 ei pro iniuncta administratione permissum, a communione
 removeatur altaris, et qui in extremis cum peculio inventus
 fuerit et digne non penituerit, nec oblatio pro eo fiat nec inter
 fratres accipiat sepulturam, quod etiam de universis religiosis
 praecipimus observari. Abbas autem qui diligenter ista non
 curaverit, officii sui iacturam se noverit incursum.
 Prioratus quoque seu oboedientiae pretii datione nulli
 tradantur, alioquin et dantes et recipientes a ministerio fiant
 ecclesiastico alieni. Priores autem, cum in ecclesiis
 conventualibus fuerint constituti, nisi pro manifesta causa et

276/277 Eccle. 4, 10

271/294 Monachi – transferendi] c. 9 in *codd. 1Comp*; 1 Comp. 3.30.2 (X
 3.35.2: Fr 2, 878)

267 institutum hoc] hoc institutum *COD HeApp* 269 et vacuum] *om.*
COD, irritum habeatur et vacuum *HeApp 1Comp Fr* 273 seu] *add.* ad
COD, *add.* per *1Comp Fr* 274 ne] nec *COD HeApp 1Comp Fr*
 275 homines saeculares] saeculares homines *COD HeApp 1Comp Fr*
 276 conflictum] conflitionem *COD* 279 receperit] receperit *COD*
 280 Qui] Si *COD HeApp* 280/281 ab – iniuncta] ei ab abbate pro iuncta
COD 283 et – penituerit] *om.* *COD HeApp* 284 accipiat] recipiat *COD*
HeApp | universis] diversis *COD HeApp* 285 autem] etiam *COD*
 diligenter ista] ista diligenter *COD* 287 seu] sive *COD* 288 recipientes]
 accipientes *COD HeApp 1Comp Fr* 289 autem] vero *COD*
 289/290 ecclesiis conventualibus] conventualibus ecclesiis *COD HeApp*,
add. per electionem capitulorum suorum canonice *Fr* 290 constituti]
 instituti *HeApp Fr*

rationabili, non mutentur, videlicet si dilapidatores fuerint, si
incontinenter vixerint aut tale aliquid egerint, pro quo
amovendi merito videantur, aut si etiam pro necessitate
maioris officii de consilio fratrum fuerint transferendi.

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11. Clerici in sacris ordinibus constituti, qui
mulierculas in domibus suis sub incontinentiae nota
tenuerint, aut abiciant eas et continenter vivant, aut a
beneficio et officio fiant ecclesiastico alieni. Quicumque
autem in incontinentia illa, quae contra naturam est, propter
quam *ira Dei venit in filios diffidentiae* et quinque civitates
igne consumpsit, deprehensi fuerint laborare, si clerici
fuerint, eiciantur a clero et ad agendam poenitentiam in
monasteriis retrudantur; si laici, excommunicationi subdantur
et a coetu fidelium fiant penitus alieni. Monasteria praeterea
sanctimonialium, si quisquam clericus sine manifesta et
necessaria causa frequentare praesumpserit, per episcopum
arceatur, et, si non destiterit, a beneficio ecclesiastico
reddatur immunis.

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12. Clerici in subdiaconatu et supra, et in minoribus
quoque ordinibus, si stipendiis ecclesiasticis sustentantur,
coram seculari iudice advocati in negotiis secularibus fieri
non praesumant, nisi propriam vel ecclesiae suae causam
fuerint persecuti aut pro miserabilibus forte personis, quae
proprias causas administrare non possunt. Sed nec

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301 Eph. 5, 6 **301/302** quinque – consumpsit] cfr Gen. 19, 24-25

296/305 Clerici – alieni] 1 Comp. 3.2.12 (X 5.31.4: Fr 2, 836); cfr also C.32 q.7 c.13 (Fr 1, 1143) **296/309** Clerici – immunis] c. 10 in *codd.1Comp*; cfr conc. Trid. (1545-1563), s. 25. *Vide COGD III* p. 153, 4773 **305/309** Monasteria – immunis] 1 Comp. 3.1.8 (X 3.1.8: Fr 2, 453); cfr also conc. Lat. II (1139) c. 6-8. *Vide supra* p. xxx **311/316** Clerici – possunt] 1 Comp. 1.28. 1 (X 1.37.1: Fr 2, 210), cfr C.15 q.2 c.1 (Fr 1, 750) **311/326** Clerici – attemptare] c. 11 in *codd.1Comp* **316/326** Sed – attemptare] 1 Comp. 3.37.3 (X 3.50.4: Fr 2, 658)

291 dilapidatores fuerint] fuerint dilapidatores *COD* **291/292** fuerint – incontinenter] nec continenter *COD* **297** mulierculas] *add. suas COD suis*] *sub om. COD (???)* **298/299** a – ecclesiastico] ab officio et beneficio ecclesiastico fiant *COD HeApp 1Comp Fr* **300** autem] *om. COD HeApp | in] om. COD HeApp* **301** ira – venit] venit ira Dei *COD* **303** et] vel *COD HeApp |* agendam poenitentiam] poenitentiam agendam *COD* **304** retrudantur] detrudantur *COD HeApp 1Comp Fr* **305** penitus] prorsus *COD HeApp* **313** secularibus] *om. COD HeApp*

procuraciones villarum aut iurisdictiones etiam saeculares
sub aliquibus principibus et saecularibus viris, ut iustitiarum
eorum fiant, clericorum quisquam exercere praesumat. Si
quis autem contra hoc venire temptaverit, quia contra 320
doctrinam Apostoli dicentis, *Nemo militans Deo implicat se*
negotiiis saecularibus, saeculariter agit, ab ecclesiastico fiat
ministerio alienus, pro eo quod, officio clericali neglecto,
fluctibus saeculi, ut potentibus placeat, se immergit.
Districtius autem decernimus puniendum, si religiosorum 325
10 quisquam aliquid praedictorum ausus fuerit attemptare.

13. Quia nonnulli, modum avaritiae non ponentes et
diversas dignitates ecclesiasticas et plures ecclesias
parochiales contra sacrorum canonum instituta nituntur 330
acquirere ita ut, cum unum officium vix implere sufficiant,
stipendia sibi vindicent plurimorum, ne id de cetero fiat,
districtius inhibemus. Cum igitur vel ecclesia vel
ecclesiasticum ministerium committi debuerit, talis ad hoc
persona quaeratur, quae residere in loco et curam eius per 335
20 seipsam valeat exercere. Quod si aliter actum fuerit, et qui
repperit quod contra sacros canones acceperit, amittat, et qui
dederit largiendi potestate privetur.

14. Quia in tantum iam quorundam processit ambitio, 340
ut non duas vel tres sed sex aut plures ecclesias perhibeantur
habere, cum nec duabus debitam possint provisionem
impendere, per fratres et coepiscopos nostros hoc emendari

321/322 II Tim. 2, 4

328/338 Quia – privetur] c. 14, lines 1-10 in *codd.IComp*; 1 Comp. 3.4.3
(X 3.4.3: Fr 2, 460); cfr also D.70 c.2 (Fr 1, 257); cfr conc. Trid.
(1545-1563), s. 7. Vide *COGD III* p. 43, 1076 340/347 Quia – sublevari]
c. 14, appended to c. 13 in *codd.IComp*; 1 Comp. 3.5.6 (X 3.5.5: Fr 2,
465)

317 procuraciones] procuratores *HeApp* 318 et] vel *COD* 319 exercere]
assumere *COD* 320 autem – temptaverit] adversus hoc tentaverit *COD*,
autem adversus haec venire tentaverit *IComp Fr* | contra¹] adversus
HeApp | quia] quoniam *COD* 321 dicentis] est dicentis *COD*
322 saeculariter] et saeculariter *COD* 324 placeat] saeculi placeat *COD*
325 decernimus] decrevimus *COD HeApp* 326 ausus fuerit] audeat *COD*
328 et] *om. COD Fr* 329 diversas dignitates] dignitates diversas *COD*
IComp Fr 333 vel¹] *om. COD HeApp Fr* 336 seipsam] seipsum *COD*
HeApp | actum fuerit] fuerit actum *Fr* 337 acceperit] accepit *COD*
al.codd.IComp. Fr 340 Quia] Et quia *He, Et om. HeApp COD Fr (????)*
342 cum] *om. COD HeApp* 343 hoc] *om. COD*

praecipimus, et de multitudine canonibus inimica, quae
 345 dissolutionis materiam et vagationis inducit et certum
 continet periculum animarum eorum, qui ecclesiis deservire
 valeant, indigentiam sublevari. Praeterea, quia in tantum
 quorumdam laicorum processit audacia, ut episcoporum
 auctoritate neglecta clericos instituant in ecclesiis et
 350 removeant etiam cum voluerint, possessiones quoque atque
 alia ecclesiastica bona pro sua plerumque distribuunt
 voluntate, et tam ecclesias quam homines earum talliis et
 exactionibus gravare praesumant, eos qui amodo ista 10
 praesumpserint, anathemate decernimus feriendos. Presbyter
 355 autem sive clericus, qui ecclesiam per laicos sive patronatus
 obtentu sive alio quocumque modo sine proprii episcopi
 auctoritate receperit, communione privetur, et si perstiterit, a
 ministerio ecclesiastico et ordine deponatur. Sane quia laici
 quidam ecclesiasticas personas et ipsos etiam episcopos
 360 iudicio suo stare compellunt, eos qui de cetero id
 praesumpserint, a communione fidelium decernimus
 segregandos. Prohibemus insuper ne laici, decimas cum
 animarum suarum periculo detinentes, in alios laicos possint 20
 aliquo modo sine sui episcopi consensu transferre. Si quis
 365 vero receperit et ecclesiae non reddiderit, Christiana
 sepultura privetur.

347/358 Praeterea – deponatur] 1 Comp. 3.33.5 (X 3.38.4: Fr 2, 610); cfr
 also C.16 q.7 c.20 (Fr 1, 806) **347/366** Praeterea – privetur] c. 16, lines
 13-29 in *codd.1Comp* **358/362** Sane – segregandos] 1 Comp. 2.2.6 (X
 —) **362/366** Prohibemus – privetur] 1 Comp. 3.26.23 (X 3.30.19: Fr 2,
 452)

346 qui] *add. in HeApp* | ecclesiis] *add. digne COD FrApp*
346/347 deservire – sublevari] valeant deservire volumus ecclesiasticis
 beneficiis indigentiam sublevari *COD* **347** indigentiam] *add. volumus Fr*
351 ecclesiastica bona] bona ecclesiastica *COD* **351/352** distribuunt
 voluntate] voluntate distribuunt *COD HeApp*, voluntate plerumque
 distribuunt *Fr* **352** ecclesias] *add. ipsas COD HeApp Fr* | homines
 earum] earum homines *COD* **353** gravare praesumant] praesumant
 gravare *COD* **354** praesumpserint] commiserint *COD* **355/356** sive² –
 modo] *om. COD Fr* **357** receperit] *add. tenendam COD* **360** iudicio
 suo] suo iudicio *COD* **362** insuper] etiam *COD* **364** sine – consensu]
om. COD HeApp 1Comp Fr **365** reddiderit] tradiderit *COD*

15. Cum in officiis caritatis primo loco illis teneamur
 obnoxii, a quibus beneficium nos cognoscimus recepisse,
 econtra quidam clerici, cum ab ecclesiis suis beneficia multa
 perceperint, bona per ecclesiam adquisita in alios transferre
 praesumunt, hoc igitur quia et antiquis canonibus constat
 inhibendum, nos etiam nihilominus inhibemus, et indemnitati
 ecclesiarum providere volentes, sive intestati decesserint sive
 aliis conferre voluerint, penes ecclesias eadem bona
 praecipimus remanere. 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.

16. Cum in cunctis ecclesiis quod pluribus et sanioribus
 fratribus visum fuerit, incunctanter debeat observari, grave
 nimis est et reprehensione dignissimum, quod per quasdam
 ecclesias pauci, quandoque non tam de ratione quam de
 propria voluntate, ordinationem multorum et prudentiorum
 impediunt et ordinationem ecclesiasticam procedere non
 permittunt. Quocirca praesenti decreto statuimus, ut nisi a
 paucioribus et inferioribus rationabile aliquid obiectum fuerit
 et ostensum, appellatione remota, praevaleat semper et suum

368/376 Cum – remanere] 1 Comp. 3.22.4 (X 3.26.7: Fr 2, 540)
368/381 Cum – amittat] c. 13 in *codd. IComp*; cfr conc. Trid.
 (1545-1563), s. 25. *Vide COGD III* p. 170, 5366 **372** antiquis canonibus]
 cfr C.12 q.2 c.51 and c.66 (Fr 1, 703; 708); C.12 q.5 c.2 (Fr 1, 715)
376/381 Praeterea – amittat] 1 Comp. 5.3.2 (X 5.4.1: Fr 2, 767-768)
383/401 Cum – alienus] c. 7 in *codd. IComp*; 1 Comp. 3.10.1 (X 3.11.1:
 Fr 2, 506); cfr. conc. Trid. (1545-1563), s. 21. *Vide COGD III* p. 94, 2755

368 primo] illis primo *COD* | loco] *om. COD* **369** beneficium nos] nos
 beneficium *COD* | recepisse] accepisse *COD HeApp* **370** econtra] e
 contrario *COD* | quidam] ecclesiastici *praem. COD* | beneficia] bona *COD*
371 ecclesiam] ecclesias *COD HeApp*, eas *Fr* | alios] *add. usus COD*
HeApp **371/372** transferre praesumunt] praesumunt transferre *COD*
373 inhibemus] prohibemus *Fr, add. et He* | indemnitati] *add. itaque COD*
383 sanioribus] senioribus *COD HeApp* **385** est] *om. COD*
 dignissimum] dignum *COD HeApp*, est dignissimum *COD* **385/386** per
 – ecclesias] quarumdam ecclesiarum *COD* **387** multorum –
 prudentiorum] multoties *COD, om. HeApp* | prudentiorum] prudentium
HeApp **390** rationabile] rationabiliter *IComp Fr* | rationabile aliquid]
 aliquid rationabile *COD* **390/391** obiectum – ostensum] fuerit ostensum
COD **391** praevaleat semper] semper praevaleat *COD*

consequatur effectum, quod a maioris et sanioris consilii
 parte fuerit constitutum, nec constitutionem nostram
 impediatur, si forte aliquis ad conservandam ecclesiae suae
 395 consuetudinem se iuramento dicat astrictum. Non enim
 dicenda sunt iuramenta sed periuria potius, quae contra
 utilitatem ecclesiasticam et sanctorum patrum veniunt
 instituta. Si quis autem huiusmodi consuetudines, quae nec
 400 ratione iuvantur nec sacris congruunt institutis, iurare
 praesumpserit, donec condignam egerit poenitentiam, a
 perceptione Dominici corporis alienus.

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17. Quoniam in quibusdam locis fundatores
 ecclesiarum aut heredes eorum potestate, in qua eos ecclesia
 405 hucusque sustinuit, abutuntur, et cum in Dei ecclesia 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 decreto statuimus ut, si forte in plures partes
 410 fundatorum se vota dividerint, ille praeficiatur ecclesiae, qui
 maioribus iuvatur meritis et plurimum eligitur et probatur
 assensu. Si autem hoc sine scandalo esse nequiverit, ordinet
 antistes ecclesiam sicut melius eam secundum Deum viderit
 ordinandam. Id ipsum etiam faciat, si de iure patronatus
 415 quaestio emerit inter aliquos et cui competat infra duos
 menses non fuerit definitum.

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392/393 a – constitutum] the words cited in a decretal of Pope Clement III (1187-1191) or Celestine III (1191) (see introduction). 2 Comp. 3.9.1 (X —) citing this passage from c. 16 Con. Lat. III: "a maioris et sanioris parte consilii fuerit constitutum" **396/398** contra – instituta] C.22 q.2 c.2 (Fr 1, 867) **403/416** Quoniam – definitum] c. 16, lines 1-13 in *codd.1Comp*; 1 Comp. 3.33.4 (X 3.38.3: Fr 2, 610); cfr also D.63 c.36 (Fr 1, 247) **415/416** duos menses] cfr Glossa ordinaria on X 3.38.22 to the phrase "sex menses" and X 3.38.26 to the phrase "quatuor menses"

392/393 maioris – parte] maiori et seniori parte capituli *COD*
392 consilii] capituli *COD al.codd.1Comp. Fr, concilii HeApp, consilii al.codd.1Comp.* **393** constitutionem nostram] nostram constitutionem *COD* **395** se iuramento] iuramento se *COD* **396** periuria potius] potius periuria *COD Fr* **400** condignam] congruam *COD, dignam Fr* poenitentiam] poenam *HeApp* **401** perceptione – corporis] Dominici corporis perceptione *COD* | alienus] fiat alienus *COD* **403/404** fundatores – eorum] ecclesiarum fundatores aut heredes eorum *COD* **405** Dei ecclesia] ecclesia Dei *COD HeApp* **410** dividerint] diffuderint *COD* **411** plurimum] plurimorum *HeApp 1Comp Fr* **412** esse] fieri *COD* **413** eam] *om. COD* **415** duos] tres *COD, (is the comma correct? What did you mean?) HeApp, quatuor 1Comp Fr*

18. Quoniam ecclesia Dei, et in hiis quae spectant ad
 subsidium corporis et in hiis quae ad profectum proveniunt
 animarum, indigentibus sicut pia mater providere tenetur, ne 420
 pauperibus, qui parentum opibus iuvare non possunt, legendi
 et proficiendi opportunitas subtrahatur, per unamquamque
 cathedralem ecclesiam magistro, qui clericos eiusdem
 ecclesiae et scholares pauperes gratis doceat, competens 425
 aliquod beneficium praebeatur, quo docentis necessitas
 sublevetur et discentibus via pateat ad doctrinam. In aliis
 quoque restituatur ecclesiis seu monasteriis, si retroactis
 temporibus aliquid in eis ad hoc fuerat deputatum. Pro
 licentia vero docendi nullus omnino pretium exigat, vel sub
 obtentu alicuius consuetudinis ab eis qui docent aliquid 430
 quaerat, nec docere quemquam expetita licentia, qui sit
 idoneus, interdicat. Qui vero contra hoc venire
 praesumpserit, ab ecclesiastico fiat beneficio alienus.
 Dignum quidem esse videtur, ut in ecclesia Dei fructum
 laboris sui non habeat, qui cupiditate animi, dum vendit 435
 licentiam docendi, ecclesiasticum profectum nititur impedire.
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19. Non minus pro eorum peccato qui faciunt quam
 pro illorum detrimento qui sustinent grave nimis esse
 dinoscitur, quod in diversis partibus mundi consules et 440
 rectores civitatum necnon et alii qui potestatem habere
 videntur tot onera ecclesiis frequenter imponunt ita gravibus
 eas et crebris exactionibus premunt ut deterioris conditionis

443/445 ut – fuerit] cfr Ex. 1, 8-12

418/436 Quoniam – impedire] c. 17 in *codd.1Comp*; 1 Comp. 5.4.1 (X 5.5.1: Fr 2, 768-769); cfr also D.37 c.12 (Fr 1, 139); cfr conc. Trid. (1545-1563), s. 5. Vide *COGD III* p. 21, 335 438/469 Non – competentem] c. 15 in *codd.1Comp*; 1 Comp. 3.36.4 (X 3.49.4: Fr 2, 654-655)

418 hiis] eis *COD* 419 hiis] eis *COD* | proveniunt] veniunt *COD*
 423 cathedralem ecclesiam] ecclesiam cathedralem *COD*
 425 praebeatur] assignetur *COD* 427 seu] sive *COD HeApp* 428 fuerat]
 fuerit *COD HeApp 1Comp Fr* 431 quemquam] quempiam *COD* 433 ab
 – beneficio] a beneficio ecclesiastico fiat *COD* 436 ecclesiasticum]
 ecclesiarum *COD* 438 eorum peccato] peccato eorum *COD HeApp Fr*
 440/441 consules – civitatum] rectores et consules civitatum *COD*
HeApp, consules civitatum et rectores *HeApp 1Comp Fr* 442 onera –
 imponunt] ecclesiis frequenter onera imponunt *COD*, ecclesiis honera
 frequenter imponunt *HeApp*, onera frequenter imponunt ecclesiis *Fr* | ita]
 et ita *COD* 443 et crebris] crebrisque *COD*

sub eis factum sacerdotium videatur quam sub Pharaone
 445 fuerit, qui divinae legis notitiam non habebat. Ille quidem,
 omnibus aliis servituti subactis, sacerdotes suos et
 possessiones eorum in pristina libertate dimisit et de publico
 eis alimoniam ministravit. Isti vero universa fere onera sua
 imponunt ecclesiis et tot angariis ipsas affligunt, ut illud eis,
 450 quod Ieremias deplorat, competere videatur: *Princeps*
provinciarum facta est sub tributo. Sive quidem fossata sive
 expeditiones sive alia quaelibet sibi arbitrantur agenda, de
 bonis ecclesiarum et clericorum et pauperum Christi usibus 10
 deputatis cuncta volunt fere compleri. Iurisdictionem etiam
 455 et auctoritatem episcoporum et aliorum praelatorum ita
 evacuant, ut nihil potestatis eis in suis videatur hominibus
 remansisse, super quo dolendum est pro ecclesiis; dolendum
 est nihilominus et pro ipsis qui et timorem Dei et
 ecclesiastici ordinis reverentiam videntur penitus abiecisse.
 460 Quocirca sub anathematis districtione severius prohibemus,
 ne talia de cetero attentare praesumant, nisi episcopus et
 clerus tantam necessitatem et utilitatem inspexerint ut absque
 coactione ad relevandas communes necessitates, ubi 20
 laicorum non suppetunt facultates, subsidia per ecclesias
 465 existiment conferenda. Si autem consules aut alii de cetero
 ista commiserint et commoniti desistere forte noluerint, tam
 ipsi quam fautores eorum excommunicationi se noverint
 subiacere, nec fidelium communioni reddantur, donec
 satisfactionem fecerint competentem.
 470

450/451 Thren. 1, 1

445 qui – habebat] cfr D.12 c.12 (Fr 1, 30) and C.23 q.8 d.p.c.22 (Fr 1, 961)

444 sub¹ – factum] factum sub eis *COD Fr* 446 subactis] subiectis *COD HeApp*, idest redactis *Glossa ordinaria ad X 3.49.4 s.v. subactis*
 447 possessiones eorum] eorum possessiones *COD* 449 ipsas] eas *COD HeApp* 452 alia quaelibet] quaelibet alia *COD* | arbitrantur] arbitrentur
COD HeApp 1Comp Fr 453 et¹] *om. COD HeApp* 454 compleri] compilari *COD*, complere *HeApp* 458 est] etiam *COD codd. H, om. codd. H (???)*, etiam est *1Comp Fr* | et²] *om. COD HeApp Fr*
 460/461 severius – praesumant] fieri de cetero talia prohibemus *Fr*
 461 talia – cetero] de cetero talia *COD* | attentare praesumant] praesumant
 attentare *COD* 462 et] vel *COD HeApp Fr* | inspexerint] aspexerint *COD HeApp Fr*, inspexerint *FrApp* 463 necessitates] utilitates vel necessitates
Fr 466 ista commiserint] id praesumpserint *COD* 467 fautores eorum] eorum fautores *COD* 468 fidelium communioni] communioni fidelium
COD | donec] nisi *COD HeApp*

20. Felicis memoriae papae Innocentii et Eugenii
 praedecessorum nostrorum vestigiis inhaerentes, detestabiles
 nundinas vel ferias, quas vulgo torneamenta vocant, in
 quibus milites ex conducto convenire solent et ad
 ostentationem virium suarum et audaciae temerarie
 congregiuntur, unde mortes hominum et animarum pericula
 saepeveniunt, fieri prohibemus. Quod si quis eorum
 ibidem mortuus fuerit, quamvis ei poscenti poenitentia non
 negetur, ecclesiastica tamen careat sepultura.

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21. Treugas autem a quarta feria post occasum solis
 usque ad secundam feriam post ortum solis et ab adventu
 Domini usque ad octavas epiphaniae et a septuagesima usque
 ad octavas paschae ab omnibus inviolabiliter observari
 praecipimus. Si quis autem treugas frangere tentaverit, post
 tertiam commonitionem si non satisfecerit, episcopus suus
 excommunicationis sententiam dictet et scriptam vicinis
 episcopis annuntiet. Episcoporum autem nullus
 excommunicatum in communionem suscipiat, immo scripto
 susceptam sententiam quisque confirmet. Si quis autem hoc
 violare praesumpserit, ordinis sui periculo subiaceat, et
 quoniam *funiculus triplex difficile rumpitur*, praecipimus ut
 episcopi, ad solum Deum et salutem populi habentes
 respectum, omni tepiditate seposita, ad pacem firmiter
 tenendam mutuam sibi consilium et auxilium praebeant,
 neque hoc alicuius amore vel odio praetermittant. Si quis in
 hoc opere Dei tepidus inventus fuerit, damnum propriae
 dignitatis incurrat.

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492 Eccle. 4, 12

471 Felicis – Innocentii] cfr conc. Lat. II (1139), c. 14. *Vide supra* p. xxx
 471/479 Felicis – sepultura] c. 19, lines 1-9 in *codd. IComp*; 1 Comp.
 5.11.1 (X 5.13.1: Fr 2, 804); cfr conc. Trid. (1545-1563), s. 20. *Vide supra*
 p. 179, 5498 471 Eugenii] 1 Comp. 5.11.2 (X —) 481/498 Treugas –
 incurrat] c. 19, lines 8-23 in *codd. IComp*; conc. Lat. II (1139), c. 12; 1
 Comp. 1.24.1 (X 1.34.1: Fr 2, 203). *Vide supra* p. xxx

474 convenire] venire *COD HeApp* 475 temerarie] temere *HeApp*
 478 poenitentia] venia *COD*, viaticum *IComp*. 5.11.2 (X —) 481 autem]
om. COD HeApp IComp Fr 482 post] in *COD HeApp IComp Fr*
 485 treugas] treugam *COD HeApp* 487 excommunicationis sententiam]
 sententiam excommunicationis *COD IComp Fr* 488 Episcoporum]
 Episcopus *COD HeApp*, quorum *Fr* | autem] *om. Fr* 492 difficile] non
 facile *COD* 493 ad – salutem] solum Dei et salutis *COD*
 495 praebeant] praestent *COD* 496 Si quis] Quod si quis *COD Fr*
 497 hoc] *om. COD* 497/498 propriae dignitatis] dignitatis suae *COD*

500 22. Innovamus autem ut presbyteri, clerici, monachi,
 conversi, peregrini, mercatores, rustici euntes et redeuntes et
 in agricultura existentes et animalia quibus arant et quae
 semina portant ad agrum, continua securitate nec quisquam
 alicubi novas pedaticorum exactiones sine auctoritate et
 505 consensu regum et principum statuere aut statutas de novo
 tenere aut veteres augmentare aliquo modo praesumat. Si
 quis autem contra hoc fecerit et commonitus non destiterit,
 donec satisfaciat, communione careat Christiana.

10

510 23. Cum dicat Apostolus, abundantiosem honorem
 membris infirmioribus deferendum, econtra quidam, quae
 sua sunt, non quae Iesu Christi, quaerentes, leprosis qui cum
 sanis habitare non possunt vel ad ecclesias cum aliis
 convenire, ecclesias et coemeteria non permittunt habere nec
 515 proprii iuvari 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, cum coemeterio sibi
 520 construere et proprio valeant gaudere presbytero, sine
 contradictione aliqua permittantur habere. Caveant tamen ut
 iniuriosi veteribus ecclesiis de iure parochiali nequaquam
 existant. Quod enim eis pro pietate conceditur, ad aliorum
 iniuriam nolumus redundare. Statuimus etiam ut de [ortis](#)

20

510 Cum – Apostolus] cfr I Cor. 12, 22-23 **510/512** abundantiosem –
 quaerentes] cfr Phil. 2, 21

500/508 Innovamus – Christiana] c. 19, lines 23-31 in *codd.1Comp*; 1
 Comp. 1.24.2 (X 1.34.2: Fr 2, 203); cfr conc. Lat. II (1139), c. 11. *Vide*
supra p. xxx **510/525** Cum – cogantur] c. 18 in *codd.1Comp*; 1 Comp.
 3.35.1 (X 3.48.2: Fr 2, 652); cfr conc. Trid. (1545-1563), s. 21. *Vide*
COGD III p. 94, 2755 **520/522** Caveant – existant] C.16 q.1 c.44 (Fr 1,
 774) **522/523** ad – redundare] C.14 q.5 c.10 (Fr 1, 740)

500 autem] *om. COD* | clerici monachi] monachi clerici *COD* **502** quibus
 – et²] *om. COD* **503** continua] congrua *COD HeApp 1Comp Fr*, omni
 tempore *Lat. II* **504** alicubi] alicui *COD HeApp* | pedaticorum]
 pedagiorum *COD HeApp 1Comp Fr* **504/505** et – principum] regum et
 principum consensu *COD* **506** modo] *add. temere COD* **507** fecerit]
 venire praesumpserit *COD* **511** econtra] ecclesiastici *COD* **513** vel] et
COD | ecclesias] ecclesiam *COD HeApp 1Comp Fr* **519** construere]
 constituere *COD HeApp 1Comp FrApp* | valeant gaudere] gaudere valeant
COD Fr **520** ut] ne *He*, ut *COD Va 1Comp Fr*, *lemma deest in apparatu*
He (Prof. Pennington: could we write *lemma deest in HeApp?*)
522 enim] namque *COD*

[hortis](#) et nutrimentis animalium suorum decimas tribuere non cogantur. 525

24. Ita quorundam animos occupavit saeva cupiditas, ut, cum glorientur nomine Christiano, Sarracenis arma ferrum et lignamina deferant galearum et pares aut etiam superiores in malitia fiant illis, dum ad impugnandos 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 ab ecclesiae communione praecisos et excommunicationi pro sua iniquitate subiectos, et rerum suarum per principes saeculi catholicos et consules civitatum privatione ~~multari~~ [mulctari](#) et capientium servos, si capti fuerint, fore censemus. Praecipimus autem ut per ecclesias maritimarum urbium crebra et solemnitas in eos excommunicatio proferatur. Excommunicationis quoque poenae subdantur qui Romanos aut alios Christianos pro negotiatione vel aliis honestis causis navigio vectos aut capere aut rebus suis spoliare praesumunt. Illi etiam qui Christianos naufragium patientes, quibus secundum regulam fidei auxilio esse tenentur, damnanda cupiditate rebus suis spoliare praesumunt, nisi ablata reddiderint, excommunicationi se noverint subiacere.

25. Quia in omnibus fere locis ita crimen usurarum invaluit, ut multi aliis negotiis praetermissis quasi licite

527/540 Ita – proferatur] 1 Comp. 5.5.6 (X 5.6.6: Fr 2, 773) **527/547** Ita – subiacere] c. 22 in *codd.1Comp* **544/545** secundum – fidei] D.1 d.a.c.1 according to Bernard of Pavia in his apparatus to 1 Comp. 5.5.6 **547** excommunicationi – subiacere] 1 Comp. 5.14.2 (X 5.17.3: Fr 2 808-809) **549/559** Quia – suspensus] c. 20 in *codd.1Comp*; 1 Comp. 5.15.2 (X 5.19.3: Fr 2, 811)

529 deferant galearum] galearum deferant *COD* | pares] eis *add. COD* **530** illis] *om. COD* **534** ab – communione] a communione ecclesiae *COD*, ab ecclesiastica communione *Fr* **537** privatione] *om. He*, privatione *Vb COD 1Comp Fr* **538** autem] etiam *COD HeApp Fr*, *lemma deest in apparatu He* (Prof. Pennington: could we write *lemma deest in HeApp?*) **539/540** in – proferatur] excommunicatio proferatur in eos *COD* **540/541** Excommunicationis – poenae] Excommunicationi quoque *1Comp Fr* **542** honestis causis] causis honestis *COD* **544** naufragium] naufragia *COD* **549** ita – usurarum] crimen usurarum ita *COD* **550** invaluit] inolevit *COD* | multi] multis *HeApp*

usuras exercent, et qualiter utriusque Testamenti pagina
condemnetur nequaquam attendant, ideo constituimus, ut
usurarii manifesti nec ad communionem admittantur altaris
nec Christianam, si in hoc peccato decesserint, accipiant
555 sepulturam, sed nec oblationem eorum quisquam accipiat.
Qui autem acceperit aut eos Christianae tradiderit sepulturae,
et ea quae accepit reddere compellatur et, donec ad arbitrium
diocesani episcopi satisfaciatur, ab officii sui maneat
exsecutione suspensus.

560

26. Iudaei sive Sarraceni neque sub alendorum
puerorum obtentu, neque pro servitio vel alia qualibet causa,
Christiana mancipia in domibus suis permittantur habere.
Excommunicentur autem qui cum eis praesumpserint
565 habitare. Testimonium quoque Christianorum adversus
Iudaeos in communibus 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
570 Christianis subiacere oporteat et ab eis pro sola humanitate
foveri. Si qui praeterea Deo inspirante ad fidem se
converterint Christianam, a possessionibus suis nullatenus
excludantur, cum melioris conditionis conversos ad fidem
esse oporteat quam, antea quam fidem susciperent,
575 habebantur. Si autem secus factum fuerit, principibus seu
potestatibus eorundem locorum sub poena
excommunicationis iniungimus, ut portionem hereditatis et

10

20

551/552 utriusque – condemnetur] cfr Ps. 14, 5; cfr Ex. 22, 25; cfr Lev. 25, 36; cfr Deut. 23, 19

551/552 utriusque – condemnetur] cfr D.47 c.2 (Fr 1, 169-170)

561/579 Iudaei – exhiberi] c. 21 in *codd.1Comp*; 1 Comp. 5.5.5 (X 5.6.5, omitting the “pars decisa” Testimonium – foveri in X 5.6.5 but putting it in X 2.20.21: Fr 2, 773) **565/571** Testimonium – foveri] X 2.20.21 (Fr 2, 322) **569** quicumque – praeferre] C.2 q.7 c.26 and d.p.c.26 (Fr 1, 489)

552 condemnetur] condemnentur *COD HeApp 1Comp Fr*

555 oblationem eorum] eorum oblationem *COD* **556** eos] *om. HeApp*

557 accepit] acceperit *COD HeApp Fr* **558** diocesani] sui *COD HeApp*

Vb^{a.c.} 1Comp Fr **561** neque] nec *COD HeApp Vb* **562** neque] nec *COD*

HeApp Vb | vel] nec *COD*, aut *HeApp* **566** communibus] omnibus *COD*

HeApp Fr, communibus *al.codd.1Comp*. **570** Christianis subiacere]

subiacere Christianis *COD* **574** antea quam] antequam *COD HeApp Fr*

susciperent] acceperunt *COD* **575** Si] Cum *He*, *deest apparatus in He*

(Prof. Pennington: could we write something like: “*om. HeApp*”) | seu] vel

COD

bonorum suorum ex integro eis faciant [Prof Pennington: here](#)
 a verm is missing, *COD* has “exhiberi”

580

27. Sicut ait beatus Leo, licet ecclesiastica disciplina,
 sacerdotali contenta iudicio, cruentas effugiat ultiones,
 catholicorum tamen principum constitutionibus adiuvatur, ut
 saepe quaerant homines salutare remedium, dum corporale
 super se metuunt supplicium evenire. Eapropter, quia in
 585
 Gasconia, Albigesio, et partibus Tolosanis et aliis locis ita
 haereticorum, quos alii Catharos, alii Publicanos, alii
 10 Paterinos, alii etiam aliis nominibus vocant, invaluit
 damnanda perversitas, ut iam non in occulto sicut alibi
 nequitiam suam exercent, sed errorem suum publice
 manifestent et ad consensum suum simplices attrahant et
 infirmos. Eos, et defensores et receptores eorum, anathemati
 decernimus subiacere, et sub anathemate prohibemus, ne quis
 ipsos in domo vel in terra sua tenere vel fovere aut
 negotiationem cum eis exercere praesumat. Si autem in hoc
 590
 peccato decesserint, neque sub privilegiorum nostrorum
 quibuscumque indultorum obtentu neque sub alia quacumque
 occasione, aut oblatio pro eis fiat aut inter Christianos
 accipiant sepulturam. De Brabantionibus etiam et
 Aragonensibus, Navarriis, Basculis, et Cotereliis, qui tantam
 595
 20 in Christianos immanitatem exercent, ut non ecclesiis aut
 600

581 Sicut – Leo] cfr *Leo M. epist.* 15 (PL 54, 680); cfr C.23 q.5 c.21 (Fr 1, 937) **581/599** Sicut – sepulturam] 1 *Comp.* 5.6.6 (X 5.7.8: Fr 2, 779-780) **581/642** Sicut – obtineant] c. 23 in *codd. 1 Comp*
582/583 cruentas – adiuvatur] cfr C.23 q.5 c.20 (Fr 1, 936-937)
593 prohibemus] See K. Pennington, «Anathema, Anathematism», *Encyclopedia of the Bible and Its Reception* 1 (2009), c. 1097-1099
599/642 De – obtineant] 1 *Comp.* 5.6.7 (X —)

582 effugiat] non efficiat *COD*, refugiat *Leo M epist.* 15 (PL 54, 680A)
585 supplicium evenire] evenire supplicium *COD* **587/588** alii² –
 Paterinos] alii Patrinos (*sic*), alii Publicanos *COD* **588** etiam] *om. COD*
HeApp 1 Comp Fr **589** damnanda] damnata *COD* | alibi] aliqui *COD*
590 errorem suum] suum errorem *COD* **591** consensum suum] suum
 consensum *COD* **592** et² – eorum] eorum et receptores *COD*
 receptores] receptatores *HeApp Fr* **594** ipsos – domo] eos in domibus
COD, eos in domo *HeApp* | aut] vel *COD HeApp* **596** neque] non *COD*,
 nec *HeApp* | privilegiorum nostrorum] nostrorum privilegiorum *COD*
597 neque] nec *COD HeApp* | alia quacumque] aliacumque *COD*
598 pro – fiat] fiat pro eis *COD* **599** accipiant] recipiant *COD*, accipiat
Fr | etiam] *om. COD HeApp* **600** et] *om. COD* | Cotereliis] *add.* et
 Triaverdinis *COD* **601** non] nec *COD HeApp* | aut] nec *COD*, neque
HeApp, non *1 Comp*

605 monasteriis deferant, non viduis et pupillis, non pueris aut
 senibus, nec cuilibet parcant aetati aut sexui, sed more
 paganorum omnia perdant et vastent, similiter constituimus,
 ut ipsi et qui eos conduxerint vel tenuerint vel foverint per
 regiones, in quibus taliter debacchantur, in dominicis et aliis
 diebus solemnibus per ecclesias excommunicati publice
 nuntientur et eadem omnino sententia et poena cum
 praedictis haereticis habeantur adstricti nec ad
 610 communionem recipiantur ecclesiae, nisi societate illa
 pestifera et haeresi abiuratis. Relaxatos autem se noverint a
 debito fidelitatis seu hominii ac totius obsequii donec in tanta
 iniquitate permanserint, quicumque illis aliquo pacto tenentur
 annexi. Principibus autem cunctisque fidelibus in
 615 remissionem iniungimus peccatorum, ut tantis cladibus
 viriliter se opponant et contra eos armis tueantur populum
 Christianum. Confiscentur quoque bona eorum et liberum sit
 principibus huiusmodi pestilentes homines subicere servituti.
 Qui autem in vera poenitentia ibi decesserint, et peccatorum
 620 indulgentiam et fructum mercedis aeternae se non dubitent
 habituros. Nos etiam de misericordia Dei et beatorum
 apostolorum Petri et Pauli auctoritate confisi, fidelibus
 Christianis, qui contra eos arma susceperint et ad
 episcoporum sive aliorum praelatorum consilium ad eos
 625 decertaverint expugnandos, biennium de iniuncta poenitentia
 relaxamus, aut si longiorem ibi moram habuerint,
 episcoporum discretioni, quibus huius rei cura fuerit iniuncta,
 committimus, ut ad eorum arbitrium secundum modum

612 a debito – hominii] C.15 q.6 c.4 and c.5 (Fr 1, 756) **619** decesserint]
 De pen. D.7; De pen. D.3 d.p.c.39 and d.p.c.49 (Fr 1, 1244-1247; 1224,
 1228) **625** expugnandos] cfr C.23 q.8 c.7 (Fr 1, 954-955); Bernardus
 Papiensis glossed the word "consilium" in this canon "Argumentum
 ecclesiae auctoritati bellum committi posse." **628/629** secundum –
 tribuatur] cfr C.26 q.7 c.2 (Fr 1, 1041-1042)

602/603 non² – senibus] non senibus et pueris *COD* **605** ipsi et] *om.*
COD, ipsi *1Comp* | et] *om.* *HeApp* **607** diebus solemnibus] solemnibus
 diebus *Fr* | excommunicati] *om.* *COD* **608** nuntientur] denuntientur
COD, [Prof. Pennington: I do not understand what the comma means](#)
HeApp al.codd.1Comp. **612** seu] et *COD 1Comp* **614** Principibus] Ipsi
COD HeApp **615** iniungimus peccatorum] peccatorum iniungimus *COD*
 ut] quod *al.codd.1Comp.* **616** viriliter se] se viriliter *COD*
616/617 tueantur – Christianum] populum Christianum tueantur *COD*
617 Confiscentur quoque] Confiscenturque *COD* | bona eorum] eorum
 bona *COD* **618** pestilentes] *om.* *COD* **621** habituros] percepturos *COD*
624 sive] seu *COD* **625** decertaverint] certaverint *COD al.codd.1Comp.*
 iniuncta poenitentia] poenitentia iniuncta *COD*

laboris maior eis indulgentia tribuatur. Illos autem, qui
admonitioni episcoporum in huiusmodi parere 630
contempserint, a perceptione corporis et sanguinis Domini
iubemus fieri alienos. Interim vero eos, qui ardore fidei ad
expugnandum eos laborem istum assumpserint, sicut eos qui
sepulchrum Domini visitant, sub ecclesiae defensione 635
recipimus et ab universis inquietationibus, tam in rebus quam
in personis, statuimus manere securos. Si vero quispiam
interim eos molestare praesumpserit, per episcopum loci
excommunicationis sententia feriatur, et tamdiu sententia ab
10 omnibus observetur, donec et ablata reddantur et de illatis
damnis congrue satisfiat. Episcopi vero sive presbyteri, qui 640
talibus fortiter non restiterint, officii sui suspensione
mulctentur, donec misericordiam apostolicae sedis obtineant.

636 statuimus – securos] conc. Lat. I (1123) c. 10; C.3 q.3 d.p.c.4 (Fr 1, 510). *Vide supra* p. xxx

630 parere] parte parere *COD* **632/633** ad – eos¹] ad eos expugnandum
COD **634** Domini] Dominicum *COD* **636/637** quispiam interim]
quisquam vestrum *COD* **637** eos – praesumpserit] praesumpserit eos
molestare *COD* **638/639** ab – observetur] servetur ab omnibus *COD*,
excommunicationis subiaceat *al.codd.1Comp.* **639** observetur] servetur
HeApp al.codd.1Comp. **640** satisfiat] satisfaciat *COD HeApp*
al.codd.1Comp., iterum satisfat *COD*, ~~satisfaciat~~ *al.codd.1Comp.*
641 suspensione] privatione *COD HeApp pl.codd.1Comp.*