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THE CANONICAL COLLECTION OF THE FARFA REGISTER

by

BRYAN STEPHEN PEDEAUX

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF

DOCTOR OF PHILOSOPHY

Thesis Director's signature:

Houston, Texas

May 1976
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5L F. Fornasari, Collectio Canonum in V Libris, CCCM, VI (Turnholt, 1970).

5L 1339 Collectio quinque librorum (Cod. Vat. lat. 1339).

74T J.T. Gilchrist, Diversorum patrum sententiae sive Collectio in LXXIV titulos digesta (Vatican City, 1973).
INTRODUCTION

To call the conflict involving Empire and Papacy between 1059 and 1122 the 'investiture controversy' is misleading. The substance of this struggle lay rather in the determination of who was to exercise final authority in Western Christendom. The papal hierocrats for their part claimed that the pope was the final authority in all secular and spiritual affairs because it was he, via the Petrine commission, who was responsible for the ultimate goal of Christian life—salvation of men's souls. Supporters of the emperor claimed, to the contrary, that Christ had recognized the legitimacy, as well as the divine origin, of secular authority and that therefore princes were agents of God on earth and subject to judgment by no human person or institution.

Historically, however, bishops had become instruments of royal policy in Germany, and by the second half of the eleventh century these churchmen were an imperial bulwark against centripital forces which were threatening the very existence of centralized monarchy in the Empire. Therefore, when the Hildebrandine party in Rome declared its intention of bringing all appointments of churchmen under the control of the papacy, the Emperor Henry IV had little choice but to resist this threat to his entire system of royal government. The test case for this new assertion of papal prero-
gatives came in a contested episcopal election in Milan where the papacy refused to recognize the legitimacy of Henry's investment of his own candidate. It is thus from this precipitating event of the crisis that the terms 'investiture controversy' or 'struggle' or 'conflict' derive, and not from the larger question of ultimate authority in the Christian world. When this is understood, however, there is no reason that these terms not be used in discussing the events of that period. One might, of course, devise other expressions; but this would not contribute to a clearer understanding of these already too complex events.  

It must also be noted that the terms 'church' and 'state' as they are presently understood had no comparable meanings in the eleventh century. Medieval society could not be so compartmentalized because no medieval thinker could divide the social entity, which was then considered as one with the corpus Christi, into distinct parts. What was recognized, however, was a distinction between the temporal, earthly sphere, and the spiritual, heavenly one. And the problem of the eleventh century was to determine precisely how these two spheres could be associated in a single social entity. There was indeed a brief period in which Henry IV entertained the idea of a distinction between Church and state, but he soon recognized the extraordinary nature of this position and quickly abandoned it.
The intensity of this conflict engendered a remarkable body of theoretical and polemical literature on both sides of the question. It also led to the collecting and organizing of canon law by the papacy in support of its widest claims to European dominance. The major collections of Cardinal Deusdedit, Anselm of Lucca and Ivo of Chartres were all compiled to justify the Gregorian position that the pope held ultimate authority in Christian society. There is only one canonical collection, however, which might be considered pro-imperial. Compiled at the Benedictine monastery of Farfa in Sabina in the 1090's, this minor collection is an attempt to demonstrate less that the emperor should be supreme in both secular and spiritual affairs, than that the secular order is indifferent to Christianity. As such it indicates that its author was within that ecclesiastical tradition whose foundations lay in St. Augustine's *De Civitate Dei*.

This collection has not been edited nor carefully studied. Paul Fournier did a brief analysis of the collection in 1894, and later repeated those conclusions in his *Histoire des collections canoniques en Occident*. In this latter work he also claimed that this collection was reactionary, and possibly anachronistic, when it appeared, and that it exerted no influence on the future development of canon law.

But, as suggested above, the collection does indicate
a view of the proper function of the Church in the world which, while foreign to the Gregorians, was certainly defensible through patristic literature. Also, while Gregory of Catino makes no reference to the *De Civitate Dei*, it seems that the thesis can be supported that Western monasticism exhibited an essential indifference to the specific form of the secular order and that this Farfa monk was repeating precisely this concept in his support of the emperor, Henry IV.

Again, what the Farfa collection suggests is not that the emperor should be supreme in both secular and spiritual matters, but rather that the function of the prince is to insure secular peace and well being. In the face of the secular chaos that followed in the wake of Henry IV's excommunication and deposition by Pope Gregory VII, it could not but appear to Gregory of Catino that the papacy was determined on a course which would only disrupt the peace of Christianity and thus work to the disadvantage of all Christian life. He therefore took the position that if the Church was in a state of corruption because churchmen had become too much involved in secular affairs, then the key to reform lay in removing the Church from secular cares rather than attempting to dominate such affairs on the pretext of establishing a truly Christian order in the world. In regard to ultimate authority within the Church itself, he also disagreed with the Gregorians in that he considered
the office of bishop as fundamental to the Church hierarchy, and bishoprics as self-contained administrative and spiritual units in which no other churchman might interfere. To the papacy he allowed ultimate appellate jurisdiction over bishops, but not the right to initiate trials, and certainly not the right to interfere in episcopal appointments.

Almost all of the pre-Gratian canon law collections are now in print. Also, all of the works of Gregory of Catino have been edited, except for this collection and the Floriger.⁴ For these reasons both a more thorough study and an edition of this canonical collection are justified.
NOTES

1. For an excellent summary of the various terms used to describe this period, see Sandy Hicks, "The Investiture Controversy of the Middle Ages, 1075-1122: Agreement and Disagreement among Historians," Journal of Church and State, XV (1973), 5-20.


4. MS Farfa 3, Bibliotheca Nationale Romana. The prologue of this MS was edited by Ugo Balzani in RF, I, pp. 121-123.
CHAPTER I

THE ROLE OF BISHOPS IN ELEVENTH CENTURY GERMANY

The investiture controversy was to have disastrous consequences in medieval Germany because Germany's constitutional development had been such that high churchmen, and especially bishops, had become essential officials in the Saxon and Salian monarchies. For two centuries these kings had been determined on a course which would unify Germany under a single monarch, and primary to that course was the elimination of ducal powers in which lay great potential for the creation of independent principalities.¹ The policy of the Saxon house was to rely on personalized government which placed counts directly beneath the knig, thus precluding their subservience to the dukes in royal administration and preventing these latter from consolidating their duchies into distinct states. In theory, royal administration came to consist of only king and counts and the office of duke was rendered non-functional. In practice, however, the dukes continued to be recognized by the crown and, because of their extensive land-holdings, usually continued to administer through viscounts several, but no longer all, of the old Carolingian counties within their duchies.²

Also, since both monastic institutions and bishoprics had fallen into ducal control during the early tenth cen-
tury, the Saxon kings took the additional step of bringing these institutions into the royal sphere thus reducing ducal authority still further. They royalized monasteries by granting them immunity; that is, they freed them from their proprietary lords and placed them under the munde-burdium of the crown via the feudal device of abbots commending themselves to royal protection. The powers of counts were in many cases conferred on bishops, and bishoprics were also granted immunity. 3

The key to this whole policy, however, was its 'personal' nature. Since Germany was not strictly feudal in this period, the appointive office of count implied no act of fealty and no grant of land except for the administration of royal estates. The Saxon house had therefore to rely only on the personal loyalty of its appointees, who more often than not were related to the royal dynasty. Similarly, as episcopal powers were expanded to include secular administration, and as monasteries came to be relied on heavily for troop levies, bishops and abbots were appointed from this same group of families. 4

Unfortunately for the monarchy, by the reign of Henry II (1002-1024), the last of the Saxons, these dynastic appointees, both secular and clerical, were becoming jealous of their independence and conscious of themselves as a class. Furthermore, although bishoprics and monasteries had been royalized, since bishops and abbots were royal appoint-
ees, these institutions were allowed considerable independence as counterweights to ducal powers. Yet not only had these high ecclesiastics begun to consider themselves as one with the class of independent-minded counts, but they had also extended their authority over substantial areas of the royal demesne. Moreover, when a monastery was granted immunity, a secular *advocatus* came to perform the administrative and juridical duties within the immunity. While this official might either be appointed by the crown or chosen by the abbot, he was always constituted in office by the king and was therefore theoretically a royal official. However, the advocacies of the great royal monasteries relied on for troop levies had fallen into the hands of nobles whose sentiments were also local rather than royal.

Conrad II (1024-1039), the first of the Salians, responded to these decentralizing forces by developing a corps of civil servants, the royal *ministeriales*, which he drew from the servile classes, and which, being creatures of the king, could be relied on to uphold the royal point of view. While such men could not be used actually to replace counts and dukes, by placing them in charge of crown lands in the domains of these nobles the king reduced the independence of these regions and introduced into them a fulcrum for centralization. He also began to replace the increasingly independent monastic advocates with *ministe-
riales. As had been done with crown lands in the counties and duchies, he also wrested such lands in bishoprics from episcopal control, thus greatly increasing royal authority while at the same time rebuilding the fisc.6

At the accession of Henry III to the throne in 1039, the German monarchy was at its financial and political apex. But it is the paradox of his reign that in exercising his political powers he laid the groundwork for those disruptions of the emerging German state which were to plague his son and successor, Henry IV. Politically, Henry III continued the anti-ducal policies of his predecessors. Of the six duchies he had inherited control of four; only Saxony and Lorraine remained out of his hands. In Saxony he was confronted by the rising Billunger dukes whose ambitions had been unchecked since the disappearance of the royal Saxon line in 1024. He set about undermining their power both by erecting castles within the duchy, including that at Goslar which he intended to transform into his capital, and by placing crown lands in the duchy under Adelbert, Archbishop of Bremen, with the probable intention of substituting this archbishopric for the duchy itself. In Lorraine he was unable, in a decade of intermittent war, to subdue the irrepressible Duke Godfrey.

Henry's failure to complete the Saxon enterprise and his embarrassment in Lorraine were not in themselves significant threats to his rule. Yet both were to create almost
insoluble problems for his successor. The Saxons were alerted and alarmed by his policy and therefore took strong action to reassert their particularistic ambitions during the minority of Henry IV. Godfrey's machinations during his wars of rebellion introduced equally dangerous elements into the German equation. The position of his duchy almost inevitably suggested the expedient of alliances with the princes of the Netherlands and the French king, and he was not reluctant to become the first German prince to resort to foreign politics as a means to his narrower ends. Of even greater consequence was his marriage to Beatrice, the widowed marchioness of Tuscany and mother of countess Mathilda. By this act he gained entrée into Italian and papal anti-imperial circles which were to come to the fore at the death of Henry III.  

Henry's policy in regard to the Church was equally ill advised. As Roman Emperor he considered Church reform to be within his particular competence and undertook that reform not only in Germany, but in Rome as well. To this end he worked in tandem with those representatives of reform associated with the Lotharingian houses of Gorze and Brogne in purifying the older imperial institutions and in insuring proper management of the plethora of new houses which were being founded by the local aristocracy as a means of reclaiming waste and colonizing lands to the east. To the royal monasteries he returned a great many proper-
ties which Conrad II had absorbed into the fisc, and he gave renewed attention to enforcing monastic immunities against secular and episcopal encroachments. Regarding the new establishments, however, he seems not to have perceived that they were a potential threat to central government. Since most of these new houses were noble foundations, Henry encouraged them to the great detriment of his successor because the independent minded nobility thus acquired additional leverage against the crown.

His episcopal policy caused some resentment among bishops, particularly his insistence on monastic immunities which he enforced often at their expense, but he nonetheless continued to use these high ecclesiastics as a royal bulwark against noble particularism, as the case of Adelbert, Archbishop of Bremen, in Saxony clearly shows.

At Rome the papacy had long been in the possession of the local aristocracy and was the ultimate prize in rampant factional disputes. Henry found an opportunity to rectify this situation in 1046 when there were three claimants to that office. At a synod called at Sutri in that year the issue was settled in favor of a new imperial nominee, and by 1055 Henry had successfully nominated three successive popes and effectively freed that office from Roman aristocratic control. But here again, Henry's actions in the ecclesiastical field, in which he considered himself fully competent, were to have completely unexpected repercussions.
In appointing reform-minded popes he was attempting to free the See of St. Peter from secular Roman interests, but he failed to appreciate that the extent of his success in desecularizing election to that office at the Roman level would in the end be in direct proportion to later papal resistance to imperial election as well. This extension of the idea that the papacy should be free from Roman control to the much broader one that it should be free from all secular control, including that of the emperor, was not made by Henry. Yet certain of the reformers that followed his papal appointees to Rome were anxious that precisely this be done. One of these, the monk Hildebrand, came to the fore in 1047 as an advisor to Leo IX, former Bishop of Toul and an appointee of Henry.

With the premature death of Henry III in 1056 and the following minority of Henry IV the centripital forces in German society became manifest. Perhaps the most significant of these followed from the non-feudal nature of Germany's social structure. By the time of the Carolingian Empire, there had arisen a small group of several hundred very powerful aristocratic families which controlled immense landed estates and considered themselves an absolutely closed caste. Of equally free status, but certainly of a lower class, were the freemen whose allodial properties, when they had such, were seldom larger than a few hides. Finally, there was the dependent class of serfs. These
classes appear to have remained stable until the mid-
eleventh century.\textsuperscript{12}

These classes, especially the first two, also deter-
mined the complexity of German constitutional development. All free Germans, nobles and freeman alike, were members of the indigenous hundred organization, with its court and elected officer. Unlike France, however, where the terri-
torial counties of contiguous hundreds persisted, Germany, after the collapse of the Carolingian Empire, had returned to the more localistic and independent hundreds as the basic governmental unit. But at the same time it appears that the higher aristocracy, through the prestige of vast estates, came to exercise a predominance in those hundreds in which they held lands. As for the duchies, these were not legitimate administrative territories of the crown, but rather areas in which ducal families exercised control because of their lands and consequent military powers. Thus at the advent of the Saxon dynasty there was no viable territorial or administrative unit comparable to the French county, and the Saxons re-invigorated the office of count to fill this void.

The new Saxon count was a royal official similar to the Carolingian count in that he functioned as head of the various hundred courts within his jurisdiction when hearing royal cases. But he differed in that his office involved neither homage, repugnant to the German aristocrat because
it implied a condition of subservience, nor the granting of a fief. Also, being a royal agent, he was free from ducal control or interference. This last factor, the creation of a counterweight to ducal powers, was in fact the real purpose of the counts in Saxon, and later Salian, royal policy.

However, in their preoccupation with weakening the duchies, the German monarchs failed to deal with the independent nobility which by the eleventh century had in turn come to constitute a threat to central government. And again, this threat arose primarily because Germany was not genuinely feudal until the period of the Hohenstaufen. The aristocrat viewed himself as equal to all other members of his class and subject only militarily to the king, and in special cases to the king's agent, the count. Furthermore, in a manner still unclear, this class had acquired certain jurisdiction (sometimes including even capital cases) over both the free peasantry and serfs inhabiting its estates.

Also, since counts were of this class and were in fact indistinguishable from other non-comital aristocrats in terms of social position and even wealth, it was difficult for the counts to exercise effective control over their peers in the counties. So that unlike France, in which a feudal hierarchy dependent on office, land and subinfeudation existed within the aristocracy itself, Germany retained an independent nobility without any such hierarchy and one
moreover with jurisdiction over people on its estates which approximated that of the royal counts.

Yet a more significant threat to royal government was that by the eleventh century the counts had turned their originally appointive office into a hereditary one, a transformation which had occurred because of the royal policy of depending on and so courting the favor of this class in opposition to ducal independence, while at the same time having no effective means, outside of personal loyalty to the crown, of disciplining the counts.

In regard to the Church, the policy instituted by Otto I of granting immunities to bishoprics and monasteries was continued through the Saxon and Salian periods, but here again an anti-ducal policy was in the end to create another anti-royal factor since the advocates of these immunities, as well as the bishops and abbots, were also appointed from the aristocratic class, and the office of advocate also tended to become hereditary. In addition, Henry III, in his enthusiasm for Church reform, encouraged the foundation of new monasteries, especially in reclaimed and colonized areas of Germany. These new houses differed, however, from the old Ottonian royal monasteries in that they were not granted immunity and so remained outside the royal sphere and in the possession of their founders.

The result of these trends was that in 1056 the small class of aristocrats was in control of almost all organs of
government. Building from the jurisdiction which they had somehow come to possess during the ninth and tenth centuries over the populations of their estates, they then added royal comital powers over freemen with small allodial holdings. They acquired similar powers, via the advocacy, over episcopal and monastic immunities and gradually transformed the offices of both count and advocate into hereditary positions. They filled as well the ranks of bishops and abbots. Finally, they came to control the plethora of new monasteries being founded in unclaimed waste and colonial lands to the east.

With such authority and without a feudal hierarchy or even a conception of a social hierarchy within the noble class, it is no wonder that this patchwork of jurisdictions promoted an attitude of hostility among the nobility, who took any royal encroachments on their powers as an attempt to reduce their rights as free German nobles, and thereby degrade their status. In effect, at the death of Henry III Germany was at a constitutional impasse in that the nobility exercised increasingly hereditary jurisdictional powers similar to those of the French feudal hierarchy, while at the same time men of this class were neither bound to the king through vassalage, nor did they hold their lands from him as fiefs.

This consolidation of power was not, to be sure, unnoticed by the crown. Henry II had perceived early in the
eleventh century the independent-mindedness of the bishops and had responded by turning the court chapel into an episcopal school, hoping thereby to instill in bishops a royal point of view. His successor, Conrad II, began the policy, which was to typify Salian government, of appointing servile royal ministeriales to administer crown lands, as well as advocacies. Henry III's support of monastic reform also had the effect of raising to ab dacies men of serious religious motives who were not necessarily of the aristocratic class.

Yet it was precisely such continuing efforts at centralization that brought into focus the division in German government. The untimely death of Henry III provided the nobility with the opportunity to turn its powers against a crown whose intent they now saw was to control its own organs of administration and reduce their independence.

The nobility moved immediately to take advantage of Henry IV's minority and by 1065, when the young king began his personal rule, the monarchy had suffered severe reversals. During the ten years of regency the Billunger dukes of Saxony managed to strip the royal advisor, Adelbert of Bremen, of two thirds of the lands that he had held in 1056. Other Saxon nobles, learning quickly from Henry III's policy, began constructing their own castles throughout the duchies. Princes and bishops in other areas confiscated royal estates almost at will. Godfrey of Lorraine gained
almost complete control not only of his duchy, but of northern Italy as well.

Therefore, when Henry IV came of age he was confronted immediately by a very unstable political situation as well as a substantially reduced fisc. He directed his efforts first to regaining control of Saxony and, after an early set-back in 1066 in which the princes forced him to dismiss Adalbert of Bremen as an advisor, he moved ahead steadily. His imposition of taxes and revindication of crown lands, commons, forests and waste in Saxony precipitated a rebellion there in 1070 of both peasants and nobles, but this was quickly put down. He then proceeded with an extensive program of castle building in the duchy to solidify his position. In 1072, on the death of the Duke of Saxony, he refused to recognize the succession of Magnus Billung, heir to the duchy, and again precipitated civil war. In the three years following, Henry once more crushed the Saxons and wasted the duchy to the point of exhaustion. In a gesture of conciliation, he then appointed Otto of Nordheim, a co-leader with Magnus Billung of the insurrection, as royal viceroy in a probable attempt to win the good will of the Saxons and to transform the duchy into a stronghold of the monarchy with its permanent seat at Goslar.

There is every reason to suppose that in the brief period in 1075 between October 25, when the Saxon army sub-
mitted to Henry, and December 8, when Pope Gregory VII first threatened the king with excommunication, Germany was on a political course which would have brought it to centralized monarchy. Henry's program, which he pursued relentlessly for the first ten years of his reign, was to reverse the fracturing of royal authority which had proceeded almost unchecked during his minority, and true to Saxon and Salian policy he strove to bring all jurisdiction under the crown. Unlike his predecessors, however, his efforts were necessarily directed at a wider spectrum of problems than merely ducal independence.

From his father he had inherited not only ducal resistance in Saxony and Lorraine, but a whole new anti-royal sentiment among the aristocracy, many of which were now as vigorously opposed to any further aggrandizement of the crown as the Billungs and Godfrey of Lorraine. In constitutional terms, then, Henry had only two clear choices of policy. He could have attempted to legitimize, through vassalage and fief, the system of jurisdiction which had grown out of the anti-ducal policies of his predecessors. Yet this course, eventually put into effect by the later Hohenstaufen, would no doubt have met with serious resistance over the question of homage, a principle detested by the free German nobility. The other course, which he chose, was to bring all jurisdiction directly into his own hands by rejecting the principle of hereditability of office, by
the extensive use of ministeriales as royal advisors and administrators, and by continued reliance on high ecclesiastics as instruments of royal policy. Had Henry been left alone to consolidate his victory in Saxony in 1075, there is little reason to suppose that he could not have established a unified Germany in which the monarchy would have overseen all organs of government. With the entrance of the pope into the fragile peace of 1075, however, this opportunity was lost and the ensuing civil turmoil which wracked Germany for the next half century permanently reversed two centuries of Saxon and Salian efforts toward unity. 16

It is unlikely that Gregory VII either intended or foresaw that such would be the results of his actions. Yet the events immediately following his threat to depose Henry over the questions of investiture and clerical celibacy were to re-open the Saxon conflict and throw the whole of Germany into civil war.

The immediate cause of the dispute between pope and emperor grew out of a contested episcopal election in Milan. 17 Henry set aside the two contenders and appointed a third as archbishop. When the anti-imperial faction in the city elected, with papal approval, another candidate, the emperor refused to yield and sent troops to Milan to support his appointee, even though Gregory had by this time informed Henry that he would no longer tolerate lay inves-
titure. It was Henry's insistence on his own candidate that inspired the pope to threaten him with deposition on December 8, 1075. Henry responded to this threat by calling a synod at Worms on January 27, 1076, where he and the assembled bishops declared Gregory's election void. Gregory thereupon excommunicated Henry and suspended him from government; to which Henry responded, perhaps too hastily through an exaggeration of his strength after the Saxon defeat, by excommunicating the pope. He soon understood the weakness of his position, however, and appeared in October before the Diet of Tribur where he was forced by the German princes to agree to free himself from excommunication within four months, within which period he was to be suspended from government, or face the loss of his crown. Henry then secretly undertook his trip to Canossa where he received absolution from the pope. The princes took this to be a breach of the Tribur agreement and on March 13, 1077, they met at Forchheim and elected Rudolph of Swabia king. From that moment until his death in 1106, Henry IV remained at civil war, except during the decade of 1092 to 1103.18

The vicissitudes of the king's struggle with the papacy and with anti-royal factions within Germany are of little significance here. What must be noted is rather the general system of alliances which prevailed throughout this period and the impact which this prolonged unrest had on the social and political structure of Germany.
Geographically, northern and southwestern Germany were generally against the king, while the middle lands were with him. Within these general regions, however, there were also class interests and exceptions to these interests, which defy simplification. The episcopacy, long cultivated by the German monarchs, generally sided with the crown since they perceived the Gregorian program as opposed to their independence, although some, including the powerful bishops of Halberstadt, Magdeburg, Mersburg and Paderborn, opposed the king. Parish priests throughout the country tended to be in the royal camp over the Gregorians' insistence on celibacy for all clergymen, although those in Saxony tended to side with the anti-royal peasantry. With a few exceptions the Benedictine monasteries remained loyal since they felt themselves threatened by the reform-minded and papally supported Cluniacs. The king enjoyed general support from the lower aristocracy and by definition the entire class of royal ministeriales. Finally, the Rhenish towns, a new factor in German society, were on the royal side.

In the opposite camp were to be found most of the upper nobility, though the intensity of their opposition varied geographically. Similarly, the free Saxon peasants were against Henry for his harsh use of them during the rebellions of 1070 and 1072, as well as for his revindication of forests and imposition of taxes. But the peasantry in
other regions was on the whole indifferent to the struggle. The new Cluniac monasteries were pro-papal as were the nobles who had founded these houses and been appointed by the papacy as their advocates. 19

What becomes obvious in this complex system of alliances is that while generally one can speak of a royal-papal dichotomy, the fact is that there was instead a compendium of competing particularistic interests. This in large part explains the confusion and severity of the conflict. The Saxon nobility, for example, were less pro-papal than simply anti-royal. They therefore considered the events at Canossa to be a betrayal of their cause by both king and pope, and so decided to elect Rudolph of Swabia king without papal approval. Gregory's policy was more conciliatory, as his hesitation in recognizing Rudolph for three years after the pretender's election clearly shows. Yet the actions of the nobility, at first given impetus by Gregory's excommunication of the king, soon outstripped those of the pope in novelty and inflexibility and pulled the pope finally into the extreme position of having to chose between a king and a pretender. 20 This was perhaps the most significant instance in which different interests of allies led to a situation which frustrated the intended results of both, but it is typical of the whole civil war. The peasants and nobles of Saxony united against the crown in the earlier Saxon rebellions, but the two classes were often
at war with each other in later years of the conflict. Pro-papal monasteries were often seized and pillaged by anti-royal nobles. The lower nobility was often at odds with the royal ministeriales since the nobles considered these men to be mere servants and felt that military service with a lower class was degrading. Such internecine conflicts simply exacerbated the general disruptions of the civil war. And to this must be added the havoc of parochial disputes, brigandage and outlawry. When Henry IV finally overcame the opposition in 1092 Germany had suffered almost total destruction.\textsuperscript{21} Moreover, although the king was eventually victorious, the disruptions of the war effectively reversed the political direction of the German state toward unity.

Two centuries of royal efforts to suppress ducal independence had indeed succeeded, but only with the result of having created an even greater number of smaller principalities with designs for autonomy similar to those of the former duchies, and of having feudalized Germany. With the disappearance of effective royal authority during the civil war the upper aristocracy, both lay and ecclesiastic, came to represent the only visible focus of local authority and both the lesser nobles and free peasants began to attach themselves to these men through feudal ties. Since the free peasantry was becoming unable to arm itself properly as military tactics changed, the use of ministeriales as
soldiers by nobles became widespread. While this class had originally been of servile origin, many freemen now entered its ranks to avoid the by now frequent fate of economic ruin and loss of free status through war and increased royal taxation. By the beginning of the twelfth century the ministeriales had entered the lower nobility and had become the equivalent of the French knight. Castle building became rampant and castles became not only refuges for protection, but bases of feudalization as well since castle-holders were now able to acquire vassals and knights in return for security. Counties, the basis of Saxon and Salian government, survived, but they now fell under princely rather than royal control.

While this feudalization of Germany's social and political structure was not completed until the mid-twelfth century, by the end of the war it had proceeded so far as to be irreversible. Mid-eleventh century Germany with its generally homogeneous aristocracy and free peasantry, both of whose properties were alodial and whose only political loyalties were to the king, had changed into a highly feudalized country. The stronger nobles and bishops had become princes ruling compact territories in which lesser nobles were now vassals dependent on lands held from these princely overlords. The ministeriales had become a knightly class dependent on the lower nobility and engaged in castle watch. The free peasants had either risen by becoming
ministeriales or fallen into serfdom. The constitutional policy of legitimizing through feudal institutions that fracturing of authority which had manifested itself during the minority of Henry IV and finally been rejected by him in favor of a more centralized government, nonetheless became too firmly established during the chaos of the civil war to be turned back, even by the king's military victory.

The failure of Henry's policy can largely be attributed to the intervention of Gregory VII at the most critical stage of his struggle with the nobility; that is, when he was trying to recoup the reverses of his minority, particularly in Saxony, and moving to rebuild the fisc and establish a more comprehensive form of royal government based to a large degree on his ministeriales. Was it Gregory's policy then to undermine the German monarch? Was his prohibition of royal selection and investiture of bishops a part of some larger attempt by the Church and German nobility to render less effective imperial power? And did Henry react so strongly to Gregory's threat of deposition over the Milanese episcopal election as to declare Hildebrand a usurper in order to maintain his right to appoint bishops, admittedly key administrators in royal government? Both the Milanese incident at the opening of the conflict and the settlement at Worms in 1122 would indicate that the
issue did in fact revolve around the questions of episcopal
election and investment.

Yet it would not only be a simplification, but a mis-
taken one as well, to conclude that the Gregorian reform
had merely, or even primarily, to do with weakening the
emperor in Germany and Italy by removing from him competence
to appoint an important class of royal officials. The real
significance of the bishops in the controversy was rather
that they were the most obvious conjunction between two
competing conceptions of the world order.

In the most practical terms, the loss of episcopal
appointments would of course have threatened Henry's po-
sition even in the best of times. They had formed an es-
sential element in royal administration since the Ottonian
period. Henry II had transformed his chapel into an epis-
copal school where these high ecclesiastics could be trained
for royal service. While some bishops shared aristocratic
ambitions for greater independence, by and large the class
remained faithful to the kings, and certainly during the
early years of Henry IV's reign it was to the bishops that
he turned for his most active and effective support. Once
Gregory had threatened and then excommunicated the king, it
was again the bishops, now fearful for their own position
as well as the king's, who signed Henry's declaration that
the pope's election was invalid. They thereby declared
their allegiance for the upcoming civil war, and without
them Henry could not for long have withstood the aristocratic onslaught on his authority.

These acts of episcopal loyalty were, however, only the manifestation of a long developing and doubly based idea of theocracy in Germany. On the one hand, the historical development of the Eigenkirche had firmly established royal proprietorship over the German church during the period of the Saxon kings. The legal device by which this was accomplished was the 'immunity' which placed churches, and especially bishoprics, under the mundiburdium of the crown. The implications of this process, which were to be central to the later settlement at Worms, were that the king as protector came to exercise powers over these churches which are generally associated with ownership. Revenues, except for those specified for upkeep and charity, came to the crown; when a vacancy occurred it was filled by royal appointment; while the office was vacant, the church reverted to the crown until a new appointment could be made. The right to transfer a church, though seldom exercised by the crown, was certainly an aspect of the wider system of proprietary churches which also prevailed at a local level. The effect of proprietorship was that it blurred the distinction between lay and clerical, and in the case of the king it re-inforced another theoretical consideration which was to be of even more consequence during the investiture controversy. This was that the king was
hierocratically a church functionary. 24

This second aspect of royal theocracy was exemplified in its most complete form in the person of Henry III. Always a deeply religious man, Henry responded enthusiastically to that reform movement generally associated with Cluny and brought his imperial power to bear on the problems of purifying not only monastic institutions, but the secular clergy as well. Moreover, he extended his efforts to place in bishoprics and abbeys men of suitable character and devotion even to the bishopric of Rome, and personally placed four successive popes on the Throne of Peter. His justification for this authority over high ecclesiastics, and indeed the highest ecclesiastic, the pope, was that as Roman emperor he was charged by God with the proper ordering of Christian society and that therefore when this order was deviated from it was both his prerogative and duty to restore that order. In fact and effect, he was acting as rex-sacerdos, as the highest official in the societas Christiana in both the secular and ecclesiastical realms. This did not mean that Henry thought himself competent to administer the sacraments, the unique priestly function. 25 It did, however, mean that as the agent of God on earth responsible for the maintenance of the correct social order, he was indeed competent to appoint suitable men to exercise this priestly function. This position was neither articulated by Henry III nor seriously challenged during
his reign since the reform-minded clergy of the time were no less interested than he in the moral regeneration of the Church. It was instead to Henry IV that the burden of having to defend this position fell, and this at a time of political unrest at home and papal aggrandizement in Rome.

In this context then, Gregory's prohibition of episcopal appointment by the emperor takes on dimensions which justify the assertion that "the investiture controversy constitutes the first of the great world revolutions of western history." The principle which Gregory asserted was less that the emperor should have no say in the election of bishops than that the pope was the final authority in the arrangement of Christian society. And Henry IV's response of setting aside the pope was an expression of his equally firm conviction that as rex-sacerdos he was exercising that function of correctly ordering society which was his alone as emperor.

The controversy over bishops was thus only the obvious point of friction between two foci of authority in Christian society. Moreover, spokesmen for neither pope nor emperor would have hesitated to define that society as unitary. Both pope and emperor conceived of themselves as ruling by divine dispensation and therefore as responsible to God alone for their actions, subject to judgement and control by no
other human person or agency. On the other hand, it would have been inconceivable to defenders of either that the other had no function in that society and could be dispensed with. It was around this question of who was to be the final arbiter in Christendom that all of the polemical literature and law collections of the period were to revolve.
NOTES

1. The following summary is based substantially on Geoffrey Barraclough, *The Origins of Modern Germany* (Oxford, 1947), and on J.W. Thompson, *Feudal Germany* (Chicago, 1928).


5. Barraclough maintains that since kingship was divine the Church was necessarily a royal instrument for the proper ordering of Christian society, and that it is therefore erroneous to speak of an 'alliance' between two distinct elements, Church and crown, against a third, lay princes, *Medieval Germany, I*, p. 64. The fact remains, however, that the powers of the German Church were consciously expanded and used by the kings to counteract ducal independence.


8. See below, pp. 30 for a full discussion of Henry III's conception of rex and sacerdos.


10. See below, p. 16.

11. Feudal institutions predominated in Bavaria and Lorraine, but they were almost unknown in the other duchies, particularly Saxony. Yet even in Bavaria, the most feudalized part of Germany, vassalage was not the mark of a free man as in France, but was rather viewed as a condition of servitude. Barraclough, *Origins*, p. 85. For Saxon social organization, see Thompson, *Feudal Germany*, pp. 177-183. Feudalism is here taken to mean the association of vassalage with
fiefholding, with the administration of the powers of the state, and with the hereditability of such powers. Thompson considers the essence of feudalism to be "the delegation or seizure of the sovereign power of the state . . . by public officials or vassals." Strictly speaking, this would suggest that in Saxony, for example, where jurisdiction was held by the local nobility over even freemen, a feudal system existed. But Thompson denies that this was a genuinely feudal system since such powers of jurisdiction appear to have developed independently, and were neither delegated by the crown nor usurped by the nobility.


13. Barraclough, Origins, pp. 28-29; "In the twelfth century, the story was told in Welf circles that one of the ancestors of the house, having heard of the homage done by his son to the king, had been so incensed by this act, which he regarded as a blemish on the 'nobility' and 'freedom' of his line, that he retired into a monastery and refused to his dying day to see the offender again. The story, which contains genealogical errors, is not of established authenticity. It is none the less symptomatic; nothing like the attitude it reflects is to be found elsewhere in the feudal world," Marc Bloch, Feudal Society, trans. by L.A. Maynon (Chicago, 1961), p. 180.

14. Barraclough, Medieval Germany, I, pp. 89-91; II, pp. 15-16. But Barraclough's later view was that the aristocracy acquired jurisdiction over freemen via the advocacy, Origins, p. 88.

15. There were some 600 monasteries founded by the nobility between 973 and 1073; of royal houses, there were 108 in 973 and probably only a very few more by 1073, Barraclough, Origins, p. 88.


CHAPTER II
THE GREGORIAN HIEROCRATIC THEORY

The contrast between Henry III's exercise of complete and unquestioned control of the Church and his son's protracted struggle to exercise similar powers would seem to indicate that a complete transformation in political theory had occurred during the minority of Henry IV. Yet this transformation appears less striking when it is realized that the young emperor's difficulties resulted simply from the application at Rome of the long developing, and in the second half of the eleventh century almost irrefutable, idea that proper government in the societas Christiana was papal government.¹

The bases of this hierocratic theme of papal supremacy, which the Gregorians were to inflate to its extreme dimensions, were even at the time of Henry III more fully developed than the opposite theory of the emperor as rex-sacerdos would ever be in the West. Henry III had been able to play the role of rex-sacerdos because at that particular juncture of actual reform and reform theory, i.e. 1045-1056, only an imperial act, legitimate or not, could have succeeded in purifying the papacy. As Henry IV would soon learn, however, the very men whom his father had elevated in Rome brought with them an entourage of reformers determined to raise the papacy to that pinnacle of absolute au-
authority in the governance of Christendom to which they felt it to be fully entitled. For this task they were equipped with centuries of unapplied, albeit to their eyes real, tenets of hierocratic theory with which to construct the papal edifice of power.

The contrast, therefore, between the powers of Henry III and Henry IV vis-a-vis the Church which immediately appears so revolutionary resulted less from any assertion of a new concept of government and society than from the effective application by the papacy of political and social concepts which had developed over centuries and which Henry IV and his supporters were never able effectively to rebut. An interesting possibility which Henry IV tended toward early in the struggle was the idea of a separation of Church and state, a solution which would find acceptance centuries later. But such a solution could hardly have been acceptable in a completely Christo-centric culture which viewed the body politic as one with the corpus Christi and which therefore would brook no such division. Henry himself soon saw the anomaly of this position and abandoned it.

Indeed, it was precisely on this notion of society as the indivisible corpus Christi that the whole hierocratic program rested. By the fifth century it had been established as dogma that the single Christ was both completely God and completely man. As such, he combined in one person the highest and most perfect powers and attributes of
both divine and human natures and therefore was the essence of all authority in both the divine and human realms. Furthermore, through the Pauline concept of the mystical body, all Christians became by baptism members of Christ's body, but this not in any figurative or analogical sense, but in fact. They were actual parts of the corpus Christi. As such they functioned as parts of that body and were responsible for maintaining the health of the entire body by a correct exercise of those particular functions for which they were designated. If Christendom was to remain healthy and fulfill its telos, which was to bring all Christians eventually to God, then each member of that society had to insure that his role or function was properly carried out. But to this end it was also necessary that these functional qualifications and duties be defined and regulated by some authority whose judgment could be accepted as final.5

If Christ in His divine nature was the source of all authority, in His human nature He was the final arbiter of both the temporal and spiritual aspects of man; in medieval terminology, He was both rex and sacerdos, king and high priest, the archetype of all human authority both physical and spiritual. How then were these two aspects of authority to be made manifest in Christian society? Were they to be held in common by one representative of Christ on earth? Or were they to be held separately; and if separately, which was to take precedence over the other when there was
disagreement as to the correct exercise of these powers? Finally, by what device were these powers to be conferred by Christ on whomever was to exercise them on earth? It was in their responses to these questions that successive popes had developed over a millennium the theoretical bases for that dominance over both secular and spiritual affairs which Gregory VII was determined to turn into a reality.

In the period of the pre-Constantinian Church civil authority was merely suffered, but already Christ's injunction to "render to Caesar what is Caesar's," his comment to Pilate that God was the source of his authority, and the Pauline exhortation that every soul must be subject to higher powers, all gave legitimacy to the exercise of secular authority. 6 With imperial acceptance of Christianity, however, the relationship between secular and spiritual powers took on new dimensions. While Paul had admonished Christians to suffer the actions of princes as a form of retribution for their sins, this new amalgamation of Christianity and Empire into a single Christian entity gave to the secular rulers a different and more pregnant legitimacy. Pharaoh was raised up by God to demonstrate His power to the Hebrews and punish them for sin. 7 So too, the Caesars were a scourge to Christians. But this exercise of power, admittedly having God as its ultimate source, was purely negative. Once emperors became Christians, and Christianity became the state religion civil authority could
no longer be conceived of as simple retribution for sin. It now took on the positive aspect of ordering society for Christian ends. The prince was no longer to be suffered, but obeyed. He was no longer to be compared to pestilence and famine, disinterested phenomena sent by God to punish moral failure, but was now become an agent in the proper management of Christian society, an active participant in the corpus Christi responsible for promoting the correct secular order.

The conflicts inherent in this novel association of Church and state were not immediately recognized. From the Christian point of view, both pope and emperor legitimately exercised powers held from God. But what were the parameters of these powers? In the first century of imperial approval, Christians called upon emperors not only to suppress heretical and pagan sects, seemingly legitimate acts of a Christian secular authority, but also to function in the spiritual sphere by calling councils to settle disputed points of dogma. However, what was obviously recognized, though not articulated, during the fourth and early fifth centuries was that there were indeed two vaguely defined seats of authority at work: the imperial-temporal and the papal-spiritual.

This division of powers, which was to typify all of Western medieval political theory, was not precisely formulated until the last decade of the fifth century. Yet as
early as Pope Leo I (440-461), the relationship of the pope to other bishops was being expressed in terms that were to be of great significance to later hierocrats. Leo's contribution to the hierocratic theory was that, while insisting on the doctrine that the claves regni had been given directly by Christ to Peter and by Peter to the other apostles, he added the idea that the Church was the principatus of the pope. Since the pope was Peter's successor in the Apostolic See of Rome, it therefore followed that the pope should be the final judge as to what was to be bound or loosed in Christendom which he now defined in the familiar imperial term of principatus.

Nor did Leo use this expression of a monarchic conception of the Church hollowly. At the Council of Chalcedon of 451 he showed himself to be indeed in almost complete control of Church government. This council was initiated by Leo to settle a controversy involving the monophysite heresy which had resulted in the condemnation and excommunication of several anti-monophysite bishops at an earlier council called by Theodosius II at Ephesus in 449. These bishops appealed to Rome, whereupon the pope declared the proceedings at Ephesus void and sent delegates to the East to arrange another council where the cases of these bishops were to be reviewed. At this Council of Chalcedon (451) the bishops were eventually restored to communion and monophysitism was declared heretical.
These proceedings at Chalcedon established precedents for the primacy of the Bishop of Rome which were to form the first blocks in the edifice of medieval hierocratic theory. By declaring the Council at Ephesus void Leo established the principle that the decisions of Church councils, even when called by the emperor, could only be legitimized by the Roman Pontiff. By his insistence that the papacy was the final court of appeal in all ecclesiastical cases, he affirmed that churchmen could only be removed from office with approval of the pope. Finally, he asserted that all questions of dogma were within the pope's competence. While the Council ruled, in canon 28, that the Patriarch of Constantinople held a position in the East equal to that of the Roman Pontiff in the West, Leo once again asserted his primacy and declared this canon void.

Leo's idea of the Church as a papal principatus and therefore as subject to a papal monarch encountered little immediate opposition within the Western Church. In the Eastern Church it was the controversial canon 28 which was to be the basis of continuing friction between Rome and Constantinople in the fifth century, and even centuries later it was to provide separatists with the theoretical justification to break finally with Rome in 1054. Yet the Leonine position in regard to the association between Church and Empire was never clearly articulated. Further
clarification, however, was to be demanded within the next 50 years.

Leo was perhaps fortunate that the emperor Theodosius II died just when he had declared the Council at Ephesus void and was petitioning the emperor to call the Council of Chalcedon. The next emperor, Marcian, insisted on this second council in order to put an end to the politically disruptive controversy surrounding Ephesus. Thus, while Theodosius opposed Leo's action in setting aside the judgments of Ephesus, a confrontation between pope and emperor, which would no doubt have forced Leo to spell out more fully the ultimate inferences of his position, was avoided. 14

It was to Pope Gelasius I (492-496) that fell the necessity of formulating precisely what was meant by Leo's use of the term *principatus* to describe the Church, as well as what was implied in his assertion that the pope was supreme in ecclesiastical affairs.

As secretary to his predecessor, Felix III, Gelasius had been involved in a dispute with the Eastern emperors as to whether the imperial condemnation and removal from office of two bishops for the crime of treason was legitimate. The emperor had acted with the approval of the patriarch, and when the papacy protested, Zeno issued his *Henoticon* to support his authority in these cases. 15

In this document Zeno took the position, supported by
the centuries-old principle of oriental-hellenistic divine kingship, that the emperor stood in a particular relationship to the deity in the government of the Empire and therefore had ultimate responsibility for insuring that the divine will be instituted and maintained on earth. Since the Empire had become Christian and since even Christ had admitted that imperial power came from God, this responsibility now entailed not only the formulation of Christian dogma, but also the appointment of qualified persons to, and the removal of unqualified persons from, Church offices. Therefore, as rex-sacerdos the emperor had a clear right to depose bishops whom he considered unsuitable for office. Such a defense of imperial rights prefigured the imperial-ecclesiastical system which was to develop in the Byzantine Empire.

Gelasius, however, was to spend the greater part of his pontificate in refuting this theory. His efforts were, of course, directed to the entire Church and Empire, but as Rome and Constantinople drifted further apart culturally and politically after the fifth century, his ecclesiology was to gain currency only in the Western half of the Empire.

The substance of his rebuttal to Zeno, and indeed of his whole perception of the exercise of authority on earth, was summarized in his statement of the two powers.
There are two things, august emperor, by which this world is principally governed: the sacred auctoritas of the pontiff, and the potestas of the king. Concerning which things, that of the priesthood is the greater since they will have to give account before divine judgment even for the acts of kings. 18

Brief and simple as it is, this statement of Gelasius provided in skeletal form almost the whole of the later hierocratic argument.

First and most important, Gelasius established firmly the principle that there were two aspects of earthly authority in a Christian society. He thus recognized the state of affairs extant since the Christianization of the Empire. From the papal point of view, this was in perfect accord with scripture since while on the one hand Christ had recognized secular power, on the other He had admonished churchmen not to involve themselves in secular affairs. 19 Since Christ had seen fit to justify a pagan emperor as the guardian of political order, then how much more so should the emperor have a right to rule now that he was a Christian prince? Thus the pope could hardly have eliminated the imperial office or absorbed it into the papacy. As for the papacy, if it governed Christians spiritually during the pre-Constantinian period, should it then be absorbed into the imperial office now that that office was Christianized? Zeno claimed that precisely this had happened when Christianity became the official state religion, but Gelasius could not have allowed this interpretation to prevail without doing irreparable damage to the papal office.
For not only would this have turned the Bishop of Rome into an official of the emperor, but it would eventually have reduced him to a less influential position than that held by the Patriarch of Constantinople. Gelasius, therefore, of necessity allowed that there were two distinct spheres of government.

Second, the pope reinforced the Leonine concept of the Church as the *principatus* of the papacy by stating that the government of the world was entrusted to two parallel monarchical structures: that of the emperor and that of the pope. The world, he said, is 'governed' (regitur), and in Roman political theory this implied government by a supreme prince. Thus, as the emperor was ruler of the organs of secular government, so the pope was to preside over the ecclesiastical hierarchy, including episcopal appointments.

The third principle dealt with the association of these two repositories of authority in a Christian society. The pope, he said, is to exercise *auctoritas*, while the emperor holds only *potestas*. In Roman juristic terms, this meant that the pope was responsible for defining correct Christian living, while the emperor was only to put these definitions into practice. This, according to Gelasius, necessarily followed from the Petrine commission which gave Peter and his successors the responsibility for defining what was to be bound or loosed on earth. Since the pope was also prohibited from dealing in secular affairs, then
there must be some agent by which papal decisions could be put into effect; and this agent was the emperor. Admittedly, the emperor was the ultimate authority in the temporal sphere. Yet how could an emperor be qualified to know what the true Christian order might be. For this he had to turn to the pope who had the auctoritas to determine the true faith.

Finally, to insure that there be no confusion about the relative importance of the two spheres of government, Gelasius added the further clarifying statement that of the two powers, that of the sacerdotal order was the greater, since the popes would ultimately be responsible before God for acts of princes.

There is nothing in this that would give a pope the authority to remove a prince from office, a power indeed claimed by the Gregorians. Yet a century later Isidore of Seville was to supply the final block of the hierocratic edifice which would provide at least the theoretical basis for such an act. For Isidore, as for Gelasius, the function of the prince in a Christian society is to put into effect through his potestas that mode of living defined as proper by the auctoritas of the pope. But he goes further. The prince's function in the corpus Christi is auxilliary to that of the sacerdotal order; that is, it operates only when the auctoritas of the priesthood is ignored or opposed by the people. Presumably, if all Christians followed
faithfully the mandates of the *sacerdos*, the office of the prince would be rendered useless because there would then be no occasion for the exercise of his *potestas*. What Isidore suggests is almost a revival of the Pauline concept of the prince excercising only a negative power as retribution for sin. But his position differs from the Pauline one in a very significant way: whereas Pharoah might have been an agent of God's wrath, he was not a conscious agent; the Christian prince is not only conscious of his role as an agent of retribution for sin, but he also is dependent on decisions of the sacerdotal order as to what constitutes an offence against Christian living. He must enforce justice, but in a Christian society, justice cannot be determined by the *potestas* of the prince, but only by the *auctoritas* of the pope.

What happens, then, if the prince fails to maintain justice? Isidore does not address the question. Yet it is not far to go to use the notion of *potestas* as a negative function in Christian society as a springboard for the more comprehensive idea that if the prince misuses this power, then his acts are invalid. Since only the *sacerdos* can properly judge the content of Christian justice, then by implication, he can also judge princes.

By the early seventh century, then, the substance of the hierocratic theme of papal government had been formulated. In the East, however, it was never to be effective,
and under Justinian, the Eastern Church definitely took on that form of imperial rule set forth by Zeno in his Henoticon. Also, in the West, these theses, while not quite remaining a dead letter were little used during the early middle ages. The early medieval papacy was, to be sure, consistently aware of the possibilities for conflict between Church and state, and time after time in dealing with Western princes it strove to make the papal point of view prevail. This is obvious not only in such acts as papal approval of Pipin and the coronation of Charlemagne and succeeding emperors, but also in the continued acceptance by successive popes of such documents as the forged Donation of Constantine and the fabricated papal letters of the Pseudo-Isidore. But throughout this period, the papacy was either unable or unwilling to push its theoretical superiority to the limits. Certainly in the tenth century, the Theophylact popes were little inclined to be concerned with such universal questions, and the Magyar, Viking and Saracen disruptions of European stability left both the upper and lower clergy in a state of advanced decay. But as the barbarian incursions were gradually checked and as European society began to stabilize, the corruption of the Church became obvious. By the first half or the eleventh century monastic reform was in full swing and monastic reform was soon to lead to a cry for reform of the entire Church.
It was in this climate that Henry III's exercise of authority over the Church becomes intelligible. In the interest of reform, his right to act as the *rex-sacerdos* in appointing popes was subjected to little scrutiny. But when the reformers whom he appointed found themselves in a position to move ahead with their more sweeping reforms, the basis for the authority which the emperor had exercised unopposed was now subjected to analysis and found wanting.

In fact, the question of the emperor's right to appoint popes was raised almost immediately in the wake of Sutri; an anonymous tract, the *De ordinando pontifice*, appeared from across the Alps perhaps as early as 1047. In it was raised the central question concerning imperial power: "Where, indeed, is it found that the emperors have obtained to the place of Christ?" By what authority did the emperor act in making such appointments to the See of Peter, the highest office of the Church, which Christ Himself bestowed on Peter, and which Peter gave to his successors? This was to be an essential question in the investiture contest and one, moreover, which the imperial theorists would never succeed in answering satisfactorily.

It was not until a decade after the appearance of this tract, however, that the first great anti-imperial work appeared. Probably in 1058, Cardinal Humbert published his famous tract, *Adversus simoniacos*. The subject was basically lay interference in ecclesiastical affairs, of
which the emperor, with his pretensions of being *rex-sacerdos*, was the most obvious offender. And this was most apparent in the proprietary church system. For Humbert, the investment of churchmen by laymen, including the king, was a usurpation of sacerdotal rights and therefore to be prohibited. His reason for this assertion was that the correct order of society demanded that each member perform only those functions for which he was qualified; otherwise confusion would result. To sustain this assertion he drew on those hierocratic tenets which had been prepared for over a millenium, including Gelasius, Isidore, the "Donation of Constantine," and the *False Decretals* of the Pseudo-Isidore. In spite of its containing nothing new, the impact of this work was startling, since it so precisely defined the questions which were to constitute the substance of the investiture contest. Yet, as concise and pointed as Humbert's ideas were, it was Gregory VII himself who was to give the hierocratic theory its most complete and powerful expression.

In his *Dictatus papae*, Gregory wrote that "it is lawful for [the pope] to depose emperors"; but, "[the pope] is to be judged by no one."23 Here then, is the apex of hierocratic thought in its most mature form. And beneath it lay the theoretical accretions of the centuries since Leo I.

Gregory considered the Church to be the *corpus Christi* and all Latin Christians to be members of that *corpus*.24
The pope, via the Petrine commission, is the head of the Church and therefore all members owe obedience to him. But what, then, is the function of the prince? Again, the *corpus Christi* is a body with both a spiritual and temporal aspect; just as the pope is the head of the spiritual realm, so the prince is the head of the temporal. Since the soul gives direction to the body, so the prince must be obedient to the priesthood. There is no question but that the prince is the governor of the temporal aspect of the *societas Christiana*, but just as the flesh, left to its own appetites will fall into sin, so the temporal prince, left to his own decisions, will lead society into corruption. He, as the ruler of the body, necessarily needs direction from the pope, the ruler of the soul.

Here appears the Pauline idea of the *corpus Christi*, the Leonine Church as *principatus* of the pope, and the Gelasian duality of government. Yet even allowing this much, there is nothing in it addressed immediately to the problem of who should prevail in the case of a disagreement between pope and emperor.

For this Gregory reiterated the Isidorean theme of functional qualification. Since Christians are members of the body of Christ, each, therefore, has a function to perform to insure the correct ordering of the whole body. The function of the prince is to maintain *justitia* which manifests itself in *jus*. Since justice, and consequently
law, is divine justice in a Christian society, how then is the prince to understand it except that he be taught by the pope? The prince, to be sure, exercises potestas which comes from God, but if he misuses that potestas, then he is not fulfilling his proper function within the corpus Christi and therefore is creating disorder within the body. The pope then as the vicar of Peter, must be the final arbiter as to what constitutes justice, and as such he may judge the actions of the prince.

Princes, indeed, had been recognized as legitimate in the pre-Constantine period, but this legitimacy was dependent on the fact that the Empire was pagan. Princely authority could still be legitimate without papal approval, but only in non-Christian societies, since in such societies justice referred only to what could be determined by natural law. In a Christian society, justice was instead divine law and therefore the prince who acted beyond this law disqualified himself from rule by abrogating his proper function and so became illegitimate. Since, moreover, a Christian prince acting beyond justice did so either from ignorance or perversity, it was within the competence of the pope first to instruct the prince and then to reprimand him. But if reprimand was not effective, then the pope had no recourse but to remove him from office.

As to the question of whether the pope himself could err, Gregory responded, again in his Dictatus papae, that
"the Roman Church has never erred, nor by witness of the scriptures, will it ever do so." 25 This merely followed from the words of the Petrine commission that whatever Peter bound on earth would be bound in heaven and whatever he loosed on earth would be loosed in heaven. To the objection that this commission only applied to spiritual matters, Gregory responded that if the pope was authorized to bind and loose things in heaven, how much more so was he empowered to govern merely temporal matters. And further, if the prince acted outside of Christian justice, then did not this constitute a threat to the health of the whole Christian corpus and endanger the whole telos of the Church which is to bring all Christians to God? By removing such a prince was not the pope then acting in his highest capacity as the spiritual head of all Christians? He therefore had not only the right, but indeed the duty, to depose such a prince and free his subjects from obedience to him. 26

To such arguments, the defenders of imperial authority were unable to respond convincingly. It was the use made by the hierocrats of the Petrine commission which frustrated time after time any effective rebuttal to the hierocratic principle of ultimate papal authority in a Christian society. In later centuries the attack on papal monarchy was to make headway by attacking the entire exegesis of the commission as set forth by Leo and his successors. But Henry IV's theoreticians failed to strike effectively at this foundation
of the hierocratic edifice and so failed completely in establishing their case.

To be sure, it was exactly on this point of the Petrine commission that the anonymous author of the York Tracts took the hierocrats to task.\textsuperscript{27} For this author, the Church is indeed the one corpus Christi.\textsuperscript{28} This unity, however, rests not in obedience to the pope as the reigning monarch of the Church, but rather in one faith and one baptism. Moreover, the head of the Church is not the Bishop of Rome, but Christ himself. This, of course, was where the hierocrats also made their case since they held that Christ had created Peter as his vicar on earth by bestowing on him the keys of the kingdom. And since the popes were successors, and therefore vicars of Peter, they enjoyed a similar power of rule in the societas Christiana.

He argues, however, that the hierocrats have misread the commission. The keys were, instead, given to all of the apostles and Peter only received the words of the commission for the Twelve. He was, therefore, not above the rest of the apostles, but rather all were equal. Also, the word petra refers not to Peter at all, but to Christ Himself. Finally, there is no reason, except for Peter and Paul having preached there, that the Roman see should take precedence over all other churches. True, it was the capital of the Empire, but by that fact, should not Constanti-
nople have acquired a similar status when the seat of Empire
was transferred there? If any see could be said to hold primacy, would it not rather be Jerusalem, since it was here that Christ had spent his time on earth? Therefore, the so-called biblical foundation of papal supremacy is based on a false interpretation of Scripture, and the Bishop of Rome holds no unique position in the Church.

But even if the primatial claims of the hierocrats could be discounted, this still left the author with the more difficult problem of showing how the emperor could now claim a similar position himself. By what instrument had the prince been given sovereignty over the corpus Christi by Christ? His solution was to invert the order of precedence between king and pope by claiming that care of the physical element of the corpus Christi must precede and provide for the correct ordering of the spiritual.

Christ, he agrees, is both rex and sacerdos. Yet it is from the Father that flows the particularly regal power, and since Christ shares uncreated being with the father, it is in His role as rex that His divine nature is most clearly expressed. On the other hand, Christ as sacerdos came into being only when he became man, and it was in this nature that He allowed Himself to suffer at the hands of an earthly royal power. He promised, moreover, not an eternal priesthood of heaven, but a kingdom, and at the final judgment He would sit not in His priestly function, but as a royal judge. Also, man's redemption was possible only be-
cause Christ the King had the power to transform the nature of fallen man. Redeemed man is able to share in the corpus Christi by means of Christ's death and resurrection as sacerdos. But as members of that body men become instead subjects of Christ the King and not Christ the Priest. Christ as sacerdos is the means to membership; the essence of membership is participation in the regnum of Christ as rex.

Since the prince as rex is the image of Christ as king, should he not then exercise final authority over the pope who merely shares in Christ's human, priestly nature? Moreover, since Christ as rex and sacerdos is one person, does the prince not also function in both capacities on earth? He does indeed, since he is truly a rex-sacerdos. But just as Christ while in his human, priestly nature undertook no secular affairs, thus distinguishing His royal and sacerdotal powers, so the prince divides his powers by delegating priestly functions to the sacerdotal order. Pope Gelasius did nothing more than recognize this division, but he both inverted correct order by placing the sacerdos over the rex, and misunderstood the nature of the See of Rome.

For the specific manner in which this authority was given to the prince, the author seized upon the visible act of anointment at the coronation ceremony. Through the
chrism the king becomes sanctified, and this empowers him not only to rule as Christ on earth, but to perform the unique priestly functions of administering the sacraments. Also, since the Petrine commission has been dismissed as a basis of papal authority, there is no reason that there should be a Church hierarchy subject to Rome. Instead, the king is fully empowered to appoint and remove bishops, including the Bishop of Rome, to call councils, and even to define dogma.

As subtle as the case of the York Tracts might have been, it suffered from two major flaws. First, it did not succeed in overpowering the force of the hierocratic interpretation of the Petrine commission because it did not provide an equally firm Scriptural case for the monarchy. Its Christological speculations were theological rather than Scriptural and certainly in the West they lacked the force of any theoretical tradition which might have permitted them to prevail. Second, by relying on anointment with chrism it noted neither that this chrism differed from that used in priestly ordination,\(^{29}\) nor that it was the popes who anointed emperors. In spite of Henry III having selected popes, he nonetheless had been anointed emperor at Rome by a pope, and the novelty of his interference in papal affairs did little to strengthen his son's case. Moreover, even after having appointed the anti-pope Clement III, Henry IV felt constrained to travel to Rome to take his
crown from this ostensible successor of Peter.

A second tract, less elaborate but of equal interest here, is the "Defense of King Henry," by Peter Crassus of Ravenna. While not denying that Christian society is united in the fellowship of the corpus Christi, he nonetheless distinguishes between two orders in human society, the clerus and the populus. As there are two orders, so there must be two sets of law: canones for clerics and leges for the people. As for the leges, they have binding force on all Christians, including clerics. This follows, first, because the emperor is instituted by God to rule the world and insure order, and second, because as a divine appointee he is responsible for determining the true faith and insuring its maintenance. Since Christ had recognized imperial rule there could be no question of its legitimacy. In matters of faith, on the other hand, since Constantine, in the effluence of his imperial power, had recognized Christianity as the true religion, he must thus have had a divine dispensation which permitted him to know truth, and it followed then that he could also determine the truth of dogma. Moreover, the faith which he recognized was an established body of dogma which could not be changed. For Hildebrand, therefore, to claim that he was empowered to determine dogma and to transform this dogma into leges, the manifestation of dogma as the emperor was divinely permitted to understand it, was not only overstepping the bounds
of his competence, but also threatening the correct ordering of the world. Leges were sacred because they flowed from the Christ-given authority of the emperor over all human society. The canones, on the contrary, were formulated by the priesthood and only applied to clerics. But again, Hildebrand showed himself outside of even the canones by declaring that he was the final arbiter of canon law. This body of law was already formulated by the Church Fathers and early councils, and was not subject to change by the pope alone.

Peter's ideas were without real impact because they attacked the notion of a completely unified societas Christiana with a teleological end which encompassed the entire sphere of earthly activity, and also because he failed to show how the emperor had acquired his authority from Christ.

Thus, the apparently sudden appearance of the hierocratic idea of government in the mid-eleventh century, and the inability of Henry IV to exercise or defend that complete dominance over the Church that his father had enjoyed seems less puzzling in view of the theoretical accretions of centuries with which the Gregorians could support their case. Yet in spite of this body of theory which the papacy was so quickly able to bring to bear in its defense of a claim to ultimate authority in Christian society, there nevertheless remains the question of why indeed did the Gregorian papacy decide to assert this claim so forcefully
during this century. The need for Church reform is certainly the most obvious reason, but did reform necessarily mean that the whole tradition of centuries of Church-state cooperation had to be so forcefully and abruptly overturned? Regardless of what the Gregorians felt that they could justify by appeal to hierocratic tenets of political and social theory, what were the impulses which led them to undertake this program with such insistence and tenacity? For what the reformers were actually insisting on was a revolutionary transformation, not of theory, but of the whole role of religion in society.
NOTES


4. I Cor. 12, 4-28.


6. Matt. 22, 21; Mk. 12, 17; Lk. 20, 25; John 19, 11; and Rom. 13, 1-5.

7. Rom. 9, 17.

8. Matt. 16, 17-19 (Tu es Petrus, etc.).


15. Jalland, Church and Papacy, pp. 316-326.

16. For the development of the imperial cult, see Lily Ross Taylor, The Divinity of the Roman Emperor (Middletown, Conn., 1931); on the Christianization of the cult, see Salvatore Calderone, "Teologia politica, successione dinastica e consecratio in età constantiana," Le culte des souverains dans l'Empire Romain (Foundation Hardt, Entretiens XIX), pp. 215-269.

17. This was the first occasion on which an emperor declared that he was competent to formulate dogma, even without consulting a Church council, Ullmann, Growth of Papal Government, p. 15 n., and Jalland, Church and Papacy, p. 320.

18. Epistolae pontificum Romanorum genuinae, A. Theil, ed. (Braunsberg, 1868), Gelasius I, Epistola 12, c. 2, p. 351: "Duo quippe sunt, imperator augustus, quibus principaliter mundus hic regitur, auctoritas sacrata pontificum et regalis potestas. In quibus tanto gravius est pondus sacerdotum, quanto etiam pro ipsis regibus hominum in divino reddituri sunt examine rationem."

19. II Tim. 2, 3-4.


23. Dictatus Papae, MGH, Epistolae Selectae, II, 1, Reg. II, 55a, p. 204, c. 12: "Quod illi liceat imperatores depo-nere"; p. 206, c. 19: "Quod a nemine ipse judicari debeat." There has been argument as to the exact nature of the Dictatus papae, but it now seems generally accepted that the twenty seven sentences of the document were probably headings for a planned canonical collection, Frederick Kemph, et al., The Church in the Age of Feudalism, trans. by An-selm Biggs (New York, 1969), p. 369 and n. Regardless of the reason for which they were drawn up, since Gregory acted on these theses they obviously represented his thought. The assertion that the list was "supposed merely to provide a synopsis of the primatial rights . . .," and that "its use depended on the situation of the moment, that is, on the question to be constantly investigated anew in the concrete case, whether and to what extent the interests of God's kingdom required an intervention" (Ibid.), says nothing more than that the pope exercised discretion in the use of his power. It does not in any way indicate that the
sentences did not represent a theoretical justification for the sweeping reforms which Gregory attempted to put into effect. His actions certainly indicate that he was willing in the end to insist on the very rights spelled out in this document.

24. This summary of Gregory's views is taken substantially from Ullmann, Growth of Papal Government, pp. 262-309.


26. Dictatus papae, p. 208, c. 27: "[The pope] can release from their oath of obedience those subjected to iniquitous princes (Quod a fidelitate iniquorum subjectos potest absolvere)." Since deposition would have been ineffective if the subjects of the prince honored their oath of allegiance to him even after deposition, Gregory added this sentence.

27. It is generally accepted that these tracts had a common author, probably Gerald of York, P. de Lapparent, "Un precursur de la reforme anglaise: l'Anonyme d'York," Archives d'histoire doctrinal et litteraire du Moyen Age, XXI (1946), 149-168. For the possible authorship of William Bona Anima of Rouen, see G.H. Williams, The Norman Anonymous of 1100 A.D. (Harvard Theological Studies, XVIII, 1951). The tracts are edited by H. Boehmer in MGH, Libelli de Lite, III, pp. 642-687.


29. In the late ninth century the inferior oleum catachu-menorum was substituted for the chrisma proper which embodies the Holy Spirit and is used in priestly ordinations, Ibid, p. 227 and n.


CHAPTER III
MONASTICISM DURING THE GREGORIAN PERIOD

The acceptance of Christianity by the fourth century emperors posed a series of questions which were to occupy Christian thinkers throughout the Middle Ages, and of these, the relationship between emperor and pope was certainly one of the most important. But this question was only one aspect of the more comprehensive question of the function of religion, and specifically Christianity, in human society. Was it Christ's expectation that His preaching would find universal acceptance; or did He conceive of His followers as remaining a small pilgrim band struggling for existence on the margin of society? And if He did intend that the Church should eventually enjoy universal membership, did this imply that the leaders of that Church should use coercive methods to insure moral life? Were they to command, or were they to exhort, Christians to righteous living?

The most comprehensive patristic analysis of this question is to be found in St. Augustine. Yet it was as much his ambiguity as his concreteness on this topic which was to be the basis of much medieval political theorizing. Especially confusing was his early acceptance of coercion to the true faith as a legitimate function of secular au-
authority. Indeed, it is in this notion that he comes closest to his pupil Orosius who saw the pre-Constantinian Church as a passive preparation for, and the post-Constantinian Church as an active force in, the Christianization of the world.¹ And it is also from here that Otto of Freising in the twelfth century and Dante in the fourteenth took their notions that they were following Augustine in making secular history and the Empire a part of the divine plan for mankind.²

This, however, was a misrepresentation of Augustine's mature thought. Regardless of his accepting and even encouraging the principle that secular force was to be used in the interest of the true faith, his exposition of the relationship between the worldly and spiritual orders in his De Civitate Dei reveals that he eventually came to hold a quite different view. What, in fact, Augustine was determined to show in this later work was that the state had nothing at all to do with Christianity.³ The state was a completely distinct order which existed temporally and was therefore only concerned with so ordering the world that an approximation of human justice might prevail. This did not mean, as his adversaries in the debate, the Donatists, held, that the state, and indeed all non-Christians, were instruments of evil and so to be completely avoided. Augustine, on the contrary, was trying to show that the state was a legitimate repository of
law and authority whose competence was limited only by its terrestrial nature. Since all men, including Christians, had certainly to live in the world, they therefore should participate in the political regulation of the world, with only this stipulation: that they not engage in un-Christian acts of government. From this it followed, of course, that a Christian prince would so govern that his acts would accord as closely as possible with Christian justice. But for Augustine this in no way gave any extraterrestrial legitimacy to the state. The state, instead, was only for the regulation of temporal life and its form was completely incidental to the true faith, with no relation to, or dependence on, any divine order.

While it is true that Augustine perceived Old Testament history as a preparation for Christ the Redeemer, Christ's advent and resurrection had been the culmination of that process. Henceforth, all history was to be indifferent since the penultimate event of Christ's coming (the Last Judgment would be the last), had already been accomplished. And thus too was there no longer any transcendent necessity for any particular secular order. The Donatists claimed that the political order was not only indifferent, but indeed inimical, to Christianity and insisted that Christians therefore should have nothing to do with it. And it was to this point that Augustine's concept of the eschatology of Christianity addressed itself.
For Augustine, the "city of God" was not a present, but a future actuality. Christians, while living, were members of that city, but only in the sense that they lived in the expectation of achieving to that beatific state after death. The "earthly city," on the other hand, was composed of all those who rejected Christ, and who therefore would never be admitted to the presence of God. But since members of both cities inhabit the world in common and share in all of the temporal necessities of life, there is no reason that both kinds of men should not work together to insure a temporal order that provides for peace, security and physical needs. What Augustine presents then, is not a sociological separation of the members of the two cities, the Donatists' position, but rather an eschatological one in which the two types of men will be separated only at the final judgement. The substance of this concept, which came to be central in the investiture contest, was that it removed the essence of Christianity from the temporal world. Nor is this surprising in Augustine. As a student he had become well versed in the neo-Platonic contemplative tradition of Plotinus and his followers, and upon his conversion to Christianity it was to contemplation that he gave his attention. It was through such spiritual exercises that the Christian prepared himself for the final beatific vision after death, and here is the heart of the eremitic
impulse. Augustine, as a bishop, could not live monastically, nor is there any reason to suppose that he aspired to such a life. But he nonetheless gave impetus in his writings to the continuing development of this tradition in the Church.

The reason so much space has been given here to St. Augustine's thought is that it forms a bridge between the complete repudiation of the world, typical of the Donatists and especially eastern forms of monasticism, and the opposite position, held by Orosius and his followers, which viewed the Empire, and thus the secular order, as an essential part of the divine plan for Christianizing the world and therefore as intimately connected with the Church. It also indicates a way of living in the world while at the same time not being a part of it. As Christianity developed in the West, monasticism was to become the fullest expression of both these aspects of Augustinian thought.

The Augustinian indifference to the precise nature of the political structure came to lie at the heart of early medieval Christianity, especially as Christianity manifested itself in monasticism. With the decline of the Roman Empire in the West and the attendant social, political and intellectual decay, monasteries, and especially Benedictine monasteries, came to be the only repositories of cultural life. It was in these houses that what has
survived of the classical tradition was preserved, and instruction in letters continued. Here too were bastions of Christianity in a society which was often only marginally Christian in belief and even more often completely un-Christian in morals. Moreover, although monastic life was ostensibly a withdrawal from the world, by the time of the Carolingian Empire this withdrawal had become more theoretical than real. The discipline of the regular clergy turned monasteries into remarkably stable institutions and the surrounding social chaos of Europe only magnified this fact. Also, as monastic properties expanded, monks became the most talented administrators and agriculturalists in Europe, and their literacy, experience in social organization and often noble birth, soon brought them into secular government as advisors, clerks and chaplains.

The paradoxes of this are, first, that monasticism, by definition and intent otherworldly, had become by the eleventh century the most potent force in the social and political organization of Europe. Second, although the regular clergy came to play such a dominant role in the political sphere, they remained, or at least the best of them did, aloof from and essentially indifferent to specific political forms. Their position was thus closely akin to the Augustinian idea of the incidental nature of the secular order to Christianity. Western monks were able
both to repudiate the world and to participate in it, but their participation did not obviate the substance of monasticism, since this substance had nothing to do with worldly affairs. This, of course, is in striking contrast to the more extreme forms of eremiticism as practiced in the East, where monastic life meant a complete separation from the world.

In this balance between this-worldliness and other-worldliness the Benedictine monasteries were able to perform their greatest service to medieval society. Yet their very success in balancing the demands of the temporal and spiritual was to contribute substantially to the eleventh century crisis between Church and world. By this century the Benedictine houses had begun to lose their distinction as centers of pious life, as well as their social importance in the West. As the external invaders of Europe were checked, social and economic life became more stable and self-sufficient. The north Italian and cathedral schools began to develop and provide the administrators, advisors and clerks. Lay piety, for reasons still not clear, became a compelling force in society. And as this lay religious enthusiasm grew stronger, monasteries began to lose proportionately their claim to being the sole preservers of Christian sanctity.

Perceiving the increasing worldliness and declining importance of monasteries in society at large, monastic
critics everywhere began to cry for reform. For the Benedictines this manifested itself in the spread of the Cluny movement. But even this failed to satisfy the more aggressive reformers, and new and more extreme eremitic foundations, such as the Cistercians, sprang up. Members of these new groups were intent on reviving what they considered to be the essence of monasticism, i.e., a complete separation from all worldly concerns, the purely contemplative life, and the evangelical counsels of poverty, chastity and obedience to a rule.

This was what has been called the "crisis of Western monasticism." By becoming so immersed in the world that their wealth and secular influence were an affront to more sincere eremites as well as to pious Christians, the Benedictines lost their claim to legitimate monasticism. They could thus, their critics asserted, no longer fulfill their proper functions of preparing only for the future life while at the same time interceding with God, through prayer, for the rest of mankind. The well established Benedictines responded to such criticism by reemphasizing their attachment to the status quo, and thus became a force for reaction rather than reform. This in large part explains these houses' support of Henry IV during his struggle with the Gregorian papacy.

But if monks had become such an epitome of Christian living in the early Middle Ages, what then was the role of
the secular clergy? The theological distinction between monk and priest rests on the sacramental system. Priests receive through episcopal anointment the power to administer all of the sacraments, except ordination and confirmation which are reserved to the bishop, and baptism which can be performed by any baptized person. Monks, unless they also happen to be anointed priests, hold no such powers. Thus, while monks can pray for all Christians and through the perfection of their lives give witness to piety, their real pursuit is to grow closer to God through sacrifice and contemplation. Priests, on the other hand, are empowered to administer the sacraments by which the grace of the Holy Spirit is made available to their recipients. Moreover, the efficacy of these sacraments depends not at all on the moral character of the priest. He is simply a vehicle for transmitting grace through the sacraments. This principle of sacramental efficacy was in fact the immediate issue which prompted the Donatists to support the heretical position that the Christian community is made up only of the perfect to the complete exclusion of those, either priests or laymen, who are sinners. In the early Middle Ages priests, while ideally they should have been men of exceptional, or at least distinct, piety were oftentimes, through lack of moral or even secular education and because of the general acceptance of marriage among the clergy indistinguishable from the lay Christian. In consequence
monastic institutions came to represent the real moral centers of Christianity. Also, since many monks were also priests during this period, monastic institutions were almost the complete focus of Christianity.

The decay into which all religious institutions had fallen at the end of the tenth and beginning of the eleventh centuries was a situation which demanded reform, and the prestige of monastic life, which for centuries had been the guardian of Christian life, was the obvious point at which to begin. The Cluniacs, originating in Burgundy in 910, soon spread throughout France, into Italy, and finally by the second half of the eleventh century into Germany. Their program had as its foundation the freeing of monasteries from secular control, and toward this end they placed reformed houses under the direct control of the papacy. Thus, collaboration between the papacy and monastic reformers was early established. Yet this collaboration was, under Gregory VII, to take on dimensions which the monastic reformers neither originally intended nor eventually approved.

What the monastic reformers did intend was to reinvigorate the monastic impulse and remove monks from worldly affairs. But their success in this, especially in Germany, led them back to that equilibrium which had prevailed a century earlier between crown and cloister. The German Benedictine houses which fell under Cluny's sway were soon
quite comfortable with the political status quo and had no real objection to the proprietary church system so long as it left the monks free to pursue their true calling. As in previous centuries, the Benedictines became supporters of the secular order not so much because it was teleologically necessary, but rather because it functioned to protect the peace of Christianity. Again, they were exhibiting that ultimate disregard for political affairs which Augustine had suggested.

However, the reformers at Rome were soon to adopt quite different ideas. If monastic reform strove for removal of monks from secular affairs and freedom from secular cares in the daily routine of the cloister, that was certainly a desired end. But to the Gregorians, that was merely one part of the problem. For Christianity at large more was demanded. Thus, their constant appeal for libertas ecclesia, by which was meant freedom from secular control and interference, came to mean a transformation in the centuries-old association between Christianity and the world. And eventually it came to mean not only freedom from secular interference, but a complete subjection of the secular to the religious. The Donatists had demanded perfection only within their own small society and had cut themselves off from sinners; the Gregorians now demanded a perfection of the entire society so that sinners might be cut off from the universal societas Christiana. These
men saw the world not as a trial merely to be endured, but as a field to be conquered for Christ and henceforth governed in His name.

In pursuit of this end, their necessary beginning was not with monasticism, but with the secular clergy. While monasticism had come to be the focal point of Christian life, this to the Gregorians was a distortion of the proper operation of the Church in the world. Monks were properly to be removed from the world. Priests, on the contrary, were the real point of conjunction between God and Christian. It was through priests, and priests alone, that God's grace came to man. They held the distinct powers of celebrating the Eucharist and hearing confessions. As such, they were the essential link between earth and heaven. As such they were properly men of both the spiritual and temporal realms. And given that principle, which the Gregorians insisted on, then the rest of the papal reform program was merely an elaboration on it. Since the priest is the conjunction between world and spirit, and since spiritual matters take precedence over temporal, then priests in their spiritual capacity must prevail over any secular authority. Add to this a monarchical Church hierarchy and the concept that priests should not perform secular duties, and the whole hierocratic system emerges complete and seemingly irrefutable.

Through the Petrine commission the pope is the font
of the priesthood, and therefore of all grace. As such he must see that all the faithful obtain to their final goal--union with Christ. To insure this, however, Christian society must be so governed that divine justice prevail and occasion for corruption be eliminated in so far as is possible. But since man's nature has become perverse and inclined to sin through the Fall, there must be some instrument by which sinners can be restrained from evil. Since the pope cannot resort to physical restraint, but is limited only to removing sinners from communion with the faithful through his priestly function as the instrument by which grace is given to man, then he must depend on the prince for this restraint. The prince, however, can have no knowledge of what is to be restrained, except that he be instructed by the pope. And if he fails to act on this instruction or is contemptuous of it, then he negates his function in Christian society and declares himself unfit for office.

Beginning with Cardinal Humbert's *Adversus simonaicos*, which struck at lay control of any ecclesiastical appointments and properties, the Gregorians mounted an unrelenting attack on the whole balance of spiritual and secular life which had characterized Western Christianity for centuries. The secular clergy itself came under strict injunction to purify itself and this included the elimination of lay investiture of clerics, the swearing of oaths by
clerics to any secular person, clerical pursuit of temporal honors and wealth, and clerical marriage. To monitor and direct Church affairs throughout Europe the papal curia was transformed into an effective bureaucracy. The fisc was reorganized and tithes regularized to provide for the greater financial demands that now fell on the papacy. In and around Rome the papal patrimony was reorganized on lines which more clearly reflected the new powers of the Bishop of Rome. Finally, the collection and organization of canon law was begun in order to demonstrate the legitimacy of papal claims to absolute authority in Christendom.

With such revolutionary changes as their ultimate goal, it is no wonder that the Gregorians inspired such intense opposition, both lay and clerical, throughout Europe. Nor is the volume of anti-papal polemical literature that was produced during this period surprising. What is surprising is the scarcity of anti-Gregorian canon law collections. One such collection, however, was compiled at the Benedictine monastery of Farfa by the monk Gregory of Catino.
NOTES


3. For the following discussion, see Markus, *Saeculum*, chapt. 7, especially pp. 166-167.


CHAPTER IV

THE FARFA CANONICAL COLLECTION

The monastery of Farfa in Sabina was established in 705 under the auspices of the Lombard Duke of Spoleto.¹ It lies in the Sabine territory about 30 miles northeast of Rome. When the Carolingians replaced the Lombards as rulers of central Italy, the monastery came under imperial protection where it remained until the twelfth century, at which time it came under papal control.² In the last decade of the ninth century it was attacked by Saracens and the monks fled taking with them their voluminous book of charters. The empty monastery was then taken over and burned by a roving band of Italian marauders, but was re-built in the 920's.³ During the next 180 years the house prospered to such an extent that when the monk Gregory of Catino recopied all of the charters saved by the fleeing congregation, as well as those accumulated since the de-struction of the monastery, Farfa claimed ownership of over 300 churches and 500 properties,⁴ and the services of over 250 families and more than 100 mancipii.⁵ In wealth and influence it rivaled such better known Benedictine houses as Subiaco and Monte Cassino. It had a scriptorium, a school, and a library of at least 115 volumes.⁶

With such wealth and influence, a location so near to Rome, and enjoying imperial immunity, it would have been
surprising if Farfa had not been swept up into the storm of the investiture contest. The Sabine territory itself was first specifically claimed by Pope Hadrian V in a letter of 778 to Charlemagne. There he asserted that it had been granted to the papacy as a part of the patrimony through the 'Donation of Constantine.' The exact implications of this claim, however, were to be the cause of frequent disputes between popes and emperors. Louis the Pious had granted to the papacy complete jurisdiction in the area, but his son, Lothair, allowed the popes control only over ecclesiastical lands there. In the late tenth century the papacy reasserted its more sweeping claims to the area with some success, but the financial benefits accruing from this claim came not to the papacy, but rather to the rectors of Sabina, the Crescenzi family. Their alliance with the Theophlacts, into whose hands the papacy had fallen, permitted them to retain Church revenues from the area. When Hildebrand, as papal archdeacon, began to reorganize the papal fisc, it was against such usurpers as the Crescenzi that he moved. Families similarly dependent on Church revenues had proliferated in the patrimony, and Hildebrand was determined once more to divert Church revenues from their hands back into the papal treasury. Removing the Crescenzi from their office as rectors of the territory, he saw to it that men who would insure that all Church revenues came to Rome rather than to the local nobi-
lity be appointed in their place.\textsuperscript{10} He also introduced a novel factor into the territory by granting three towns charters in return for fixed annual payments.\textsuperscript{11} In regard to Farfa, there is no direct evidence that he interfered with its lands.

However, Farfa's political activities during this period are well documented. Enjoying as it did imperial immunity, it was almost certain that as Henry IV entered Italy in 1082 Farfa would have to declare its loyalty. The abbot, Berardus I, chose to support the emperor. Already in 1078 Berardus had fallen under threat of excommunication by Gregory VII for his suspected sympathy with the Normans who were then about to invade the patrimony.\textsuperscript{12} Nothing seems to have come of this threat, but it may well have disposed the abbot toward the imperial camp.

Nonetheless, in the spring of 1082 Henry, with the as yet un-crowned anti-pope Clement III, visited the monastery and was granted full imperial honors; and these not only for a papally deposed emperor, but for an excommunicant as well. During the visit the monastery presented to Henry a pound of gold inscribed not only with his name, but also with that of Clement III.\textsuperscript{13} The abbot also successfully petitioned Henry to force one of the Crescenzi out of a castle from which he was menacing the monastery, on the grounds that as emperor Henry was responsible for protecting lands under the imperial \textit{mundiburdium}.\textsuperscript{14} Farfa thus
declared its sympathies: it flaunted the pope's political act of deposition by according Henry full imperial honors and recognizing his sovereignty over imperial immunities, and it ignored Gregory's spiritual authority be associating with an excommunicated person.

Subsequently, the emperor was received twice more at Farfa, and on at least two occasions Berardus allowed Henry to invest him with properties. On one other occasion the abbot received investment of a property from the imperial fisc in Italy, and he also received from Henry confirmation of the monastery's charter of immunity. In 1084, the abbot was so favorable to the emperor that he traveled to Rome to take part in Henry's triumphal entry into the city, and was present at his coronation, where Henry finally received the imperial crown from Clement III.

In other matters, the abbot was also not adverse to siding with men hostile to the pope. While the monastery continued to suffer from the depredations of the Crescenzi on their lands, and on the occasion mentioned above appealed to Henry IV for relief from them, Berardus was nonetheless not opposed to dealing with this now anti-papal family. On at least two occasions he contributed to the strength of the family in its battle against the papacy by trading to them certain strategic properties.

A puzzling contradiction in the abbot's actions, however, is that he dated monastic documents by the years of
Gregory VII's pontificate. This would indicate that Clement III was not recognized as pope at the monastery during most of Gregory's pontificate, even though he was received with honors there at least once in 1082. Moreover, in 1086, after Gregory's death and Henry's return to Germany, the aged abbot called together his congregation and repudiated all of his acts which might in any way have been a demonstration of disobedience to Pope Gregory. Yet Berardus had seen no apparent difficulty in attending the imperial coronation of 1084 which was performed by the anti-pope. Also, a list of popes, emperors and abbots, compiled at Farfa in the 1090's and showing Henry as emperor and Clement as pope in the same entry for 1084, indicates that Clement's legitimacy was recognized at Farfa once Henry was crowned emperor and thereby empowered to confirm a pope.

Berardus I's successor in 1089 was one Rainaldus, a monk of questionable ability who acquired the abbacy in an irregular election. Immediately preceding the death of Berardus the electors of the monastery had chosen their candidate for abbot. However, Regizio, Bishop of Sabina, who had been deposed by Gregory VII years earlier and was then enjoying the support of Clement III, put forward Rainaldus for the abbacy. The electors, made to understand that refusal to approve the bishop's candidate might lead to episcopal seizure of the monastery, confirmed this in-
competent as their new abbot.24

The immediate beneficiaries of the new abbot's incompetence were not, however, to be the bishop or the antipope, but instead the Sabine nobility. Too weak to protect monastic properties, Rainaldus instead turned to bribery; he allowed the nobility to seize certain properties and revenues in the hope that they would leave others alone. But success only encouraged further depredations, and by 1090 not even Rainaldus' supporters in the monastic ranks could fail to be apprehensive of the monastery's future. In that year, Berardus I's nephew and namesake made an appeal to Henry V, as king of Italy, to intervene and stop the advancing decay of the monastery. Henry V acted by sending several royal missi back to Farfa with the monk, who was quickly installed in place of Rainaldus as Berardus II.25

A minor but revealing incident in the career of Rainaldus was that Desiderius, former abbot of Monte Cassino and now Pope Victor III, went to Farfa to look into his administration, but the monks conspired to send Rainaldus away temporarily and conceal the nature of their complaints against him from the pope.26 Neither did they appeal to Clement III. They obviously preferred intervention by the King of Italy to that of the Bishop of Rome, be he either Victor III or Clement III.

The new abbot moved quickly against the nobility to
revindicate monastic properties. In 1092 he assigned to
the monk Gregory of Catino the task of recopying and organ-
izing the entire collection of documents held by Farfa.27
By this means Berardus hoped to establish convincingly the
monastery's claims to property and immunity, and to put a
stop to any further reduction of their holdings. This
monumental work was to occupy the monk Gregory for forty
years until his death in 1132.

Gregory was born of noble parents in the town of
Catino around 1062. When he was six years old his mother
died and he was placed in the monastery by his father to
be raised and educated.28 It was as a young monk with an
active historical interest that he witnessed the monaste-
ry's embroilment in the investiture contest and the disas-
trous abbacy of Rainaldus, and probably in the first decade
of the twelfth century he recounted these events in his
history of the monastery, the Chronicon farfensis.29 But
this work was only peripheral to his major archival enter-
prise.

The result of Gregory's archival effort appears in
three books. The first, the Liber gemniagraphus sive cle-
ronomialis ecclesiae farfensis or Register, was begun by
Gregory in 1092 and was almost completed in 1099 when be-
cause of eye trouble he turned the project over to his ne-
phew, the monk Todino.30 The basic plan of the work is
chronological. Beginning with the foundation charter of
705, it includes all subsequent donations of lands and churches, charters of immunity from emperors and recognition of these immunities by popes, results of court cases involving properties, and occasionally other incidents in the monastery's history such as abbots' deaths and elections and certain disputes within the congregation. The last entry of the work is dated 1130. In all, it contains some 1300 documents.

The second book of this group is the Largitorius or Liber notarius sive emphiteuticus, begun in about 1107. In over 1000 documents dated from 792 to 1130, it spells out the specific terms of tenancy for all of the monastery's properties. The third book, the Floriger, was written in 1132, the last year of Gregory's life. It is an alphabetical index of all donors, churches and properties mentioned in the other two books and is referenced to the documents of the Register.

What might be considered a fourth part of this project is a canon law collection which is now a part of the Register. The manuscript of the Register is today preserved in the Vatican Library as Vat. Lat. 8487. As it is now bound, four quires (folios 59-91) which appear in the first volume between documents 200 and 201, contain the canonical collection, plus lists of the monastery's churches and certain major properties, as well as other material obviously of a prefatory nature to the Register itself. As for the
canonical collection, its epilogue leaves no doubt that it was intended primarily to provide a legal basis for the monastery's claims to properties and immunities granted by the documents of the Register.

In this epilogue Gregory says that by this book, i.e., the volumen cleronomiale, he intends to demonstrate through the judgments of holy fathers and orthodox councils, and the laws of kings and emperors, that churches and especially monasteries are to enjoy complete freedom in their possessions from all lay, including imperial, interference. Furthermore, he contends that just as it is right that things of the Church be in the custody of clerics, so too laymen must do reverence to all priests of God. The stated theme of the collection then revolves around the question of the libertas ecclesiae, the right of ecclesiastical persons and properties to be unmolested by secular persons.

Yet the collection itself includes more topics than the single one of lay interference in the Church. It also covers such questions as the powers of bishops over priests, monks, churches and monasteries, and distinguishes between the personal properties of a bishop and episcopal properties under his control. It deals with trials of bishops, priests and lay persons, causes for excommunication and, briefly, the role of the prince in criminal matters. It touches as well on the rights which donors enjoy in the
churches which they have built, especially in regard to clerical appointments to these churches. It also covers such problems as the rights of masters over bondsmen who have fled to orders or sanctuary in a church, and the rights and obligations of freedmen of the Church. A number of canons deal with specific aspects of monastic life, such as age for tonsure, private cells for monks, and the disposition of properties of persons entering monastic life or transferring to another monastery.

Before analyzing this collection more carefully, however, some preliminary comments are in order. The collection consists of 272 canons divided into four books of 84, 90, 76 and 22 canons respectively. It was obviously never completed since after canon 22 of the fourth book the number 23 appears with no accompanying text. Nor can the ultimate dimensions of Gregory's plan for the collection be known. The fact that the collection is unfinished might explain why it contains almost nothing by way of defining the role of the papacy in the Church, an issue of such intense debate during the period that it could hardly have been ignored. On the other hand, the first two books deal primarily with the role of bishops in Church affairs, and it will be suggested here that the thrust of this collection is indeed toward establishing episcopal independence in the face of papal encroachments into their jurisdictions. Finally, while a good deal of contradiction is
to be found among the various canons, the analysis which follows is an attempt to point out the most salient and consistent themes of the collection.

The most prominent theme by far in the collection is the role and powers of bishops. At least 92 of the canons are given to this question. Indeed, the most repeated phrase throughout is that bishops have power over all church goods in their dioceses.\(^{35}\) No one, either clerical or secular, is allowed to interfere with this power, presumably even the pope, although there is no direct reference to this last official. However, this episcopal power is limited. The bishop must care for the goods in his possession so that they not be lost, fall into ruin, or their revenues, which are for the support of clergy, paupers, orphans, widows, and church upkeep, be diverted to other uses.\(^{36}\) A bishop may not sell or in any way alienate such goods except from necessity, and then only with approval of the clerics in his own chapter and that of the surrounding bishops, except for small and insignificant properties.\(^{37}\) All lands given to clerics or church servants for sustenance are to be held precariously, and return to episcopal control on these persons' deaths.\(^{38}\) A bishop may not will or give any properties of the Church to his family or friends. If such persons are paupers, they are to be cared for just as other paupers in the diocese.\(^{39}\) Revenues from parish churches are to be divided equally, one fourth going
each to the poor, upkeep of the churches, clerical support, and the bishop. The administration of properties must be placed in the hands of an oeconomus, appointed by the bishop from his own chapter. As for the bishop's personal property, he is allowed to own, sell, give, or will it to whomever he pleases, but strict care must be taken to distinguish between personal and church property so that disgraceful litigation at the bishop's death be avoided. Also, all such successions must be reported to the metropolitan. Lands held for thirty years without contest become the property of the bishopric unless such ownership would distort the boundaries of a neighboring diocese. Concerning monastic properties within a diocese, no bishop can sell, or in any way alienate monastic properties without the abbot's consent. He is not to designate any authority over monasteries to diocesan priests. Nor can he seize monastic properties on the pretext of a sinful or incompetent abbot.

On the exercise of other episcopal duties, the bishop is responsible for the souls of his congregation. He must spend a few days each year visiting the parishes, where he is to examine the state of the churches, and separately instruct his priests and congregations. These visits should not, however, be so long as to burden the parishes with excessive expenditures for hospitality, nor should the bishop's retinue be too large for the same reason.
must also visit monasteries a few times yearly to correct abuses. But he may not appoint abbots, remove monks from the cloister to ordain them as secular priests without the abbot's approval, or hold any public masses or ceremonies in the monastery. He may not at all ordain monks from another diocese. Bishops may not strike either clerics or laymen, except for servants who may be flogged reasonably with switches. Nor should they excommunicate anyone for any but the most grave crimes, such as those involving depredations of Church properties, and then only with absolute proof of the crime. If the judgment in episcopal court is not unanimous, the accused may appeal to a synod. Priests should not be deposed except for serious crimes and their cases must be reviewed by a synod. No person at all is to be convicted of any crime in absentia.

In the founding of new monasteries and churches, the following apply. No church is to be built or staffed by a bishop in another diocese. In the case of churches built by secular persons, he should ordain as these churches' priests those persons nominated by the donors. If he finds these candidates unworthy, he must confer with the donor about others whom he may recommend; but if he does not confer with them, the ordinations will be invalid. If the donors of a church wish to make a gift, they may do so, but this is not required. What is required is that they provide a dowry sufficient for the upkeep of the church.
If they expect a profit from the church, however, it is definitely not to be consecrated by the bishop. If a bishop wishes to build a church for his own burial, he may not spend more than a hundredth part of diocesan revenues for this. He may found monasteries on church properties only with approval of a synod, and he may expend only a fiftieth part of diocesan revenues for this.

Simony is absolutely forbidden. But a bishop may donate his personal property to the bishopric for which he has been consecrated. If a consecrated bishop has been convicted of simony, he is to do penance for two years after which he is to be returned to his episcopacy with full honors. If the crime is discovered before consecration, however, the candidate is to be refused the office.

Furthermore, a bishop accused of a crime who can produce twelve clerics to give witness to his innocence is to be released from the accusation. Also, the person bringing such a charge against a bishop must produce 72 first hand witnesses to the crime for conviction; if he cannot bring forth these witnesses, he is to be excommunicated until appropriate penance has been made.

Bishops are strictly forbidden to undertake any secular business, except in so far as the care of the poor might involve them in such things. They are to bring to the prince's attention all persons who mistreat the poor and who refuse to amend, so that those who are contemptuous of
episcopal persuasions can be forced to compliance by the power of the prince. 66 Bishops are not to appear at court, except on direct orders from the emperor, 67 nor are they ever to return to secular or military life. 68

Other miscellaneous canons prohibit hunting with dogs or falcons, gambling and incontinence. 69 Ideally, bishops should live with their chapter, rather than alone. 70 Bishoprics are not to be established in villages, castles or other insignificant places. 71 Bishops are expected to bury priests and may receive up to one pound of gold for this service. 72 Only bishops may consecrate the boundaries of sacred places. 73 Priests under their charge should be permitted to enter monastic life if there is no great necessity that they remain in secular service. 74 They may not appoint friends or relatives to abbeys, nor ordain them as priests. 75

One canon forbids that bishoprics be transferred to any other city except in cases of immediate danger, when a bishopric may be moved to a more secure city. 76 Three canons direct that the people of a diocese are to be a self-contained congregation. The bishop is the spiritual head of his congregation and is not to receive in communion persons from other dioceses without letters of recommendation from these persons' bishops. However, those fleeing persecution are to be received. 77

The second major topic of the collection, some 44
canons, concerns secular persons. Any person pillaging, stealing from, destroying, diminishing or using for secular purposes any church properties in any way is to be considered sacrilegious and excommunicated. This applies equally to church buildings, lands, vestments and utensils used at the altar.\textsuperscript{78} Properties given or bequeathed to a church or monastery may not be reclaimed on any pretext whatsoever by their donors or the donors' heirs, nor can charters legitimizing such grants be destroyed without committing sacrilege.\textsuperscript{79} It is also forbidden to conspire to withhold lands bequeathed to the church.\textsuperscript{80} Persons who are in charge of church lands may not usurp either these lands or their revenues, and they must insure that no other persons do so. Donors are similarly responsible for overseeing the proper use of lands or churches given to the Church. While all donations are in the direct control of the bishop of the diocese in which these gifts are located, the donors must bring to the bishop's attention any misuse of these goods.\textsuperscript{81} They are also responsible for nominating priests to minister in churches which they build.\textsuperscript{82} Any properties which they designate for the support of priests ministering to churches which they have founded are to remain in the church on the priests' deaths and not revert to the donor.\textsuperscript{83}

No lay person is to found a monastery without approval of the diocesan bishop.\textsuperscript{84} Nor are any churches or basilicas to revert back to the donors possession on pre-
text of their being monasteries. Any person accused of any of these acts is to be tried by 12 judges in episcopal court in the diocese in which the offense occurred. Any freedman alienating church goods is either to make compensation or return to servitude.

In regard to clerical persons of all grades, a secular person may not accuse of crime, strike, imprison, or harrass in any way men consecrated to God, under pain of exile. If ordered by a priest to leave a church he must do so. If he interrupts a mass or sermon, he is to be tried in criminal court and banished or executed.

No lay person may call a cleric into court as a witness without episcopal approval, and he may not at all call clerics for criminal cases. Nor are clerics or church servants to be charged in secular courts. No cleric or church servant may be asked by any official to take part in the administration of secular business. Any servant of a layman seeking sanctuary in a church is not to be removed by his owner, nor is this owner to seize church servants in compensation. Neither are servants manumitted by a church to be returned to servitude by anyone. Servants wishing to take orders must first be freed by their lord and receive episcopal approval, but any goods in their possession remain with the lord.

Other miscellaneous canons protect minors, invalids and persons in necessity from becoming legally bound,
guarantee that they be represented by counsel in courts and protect them from any abuse. Any precaria held from the church must be renewed every five years, and such contracts acquired in times of church necessity are invalid. Finally, no layman must in any way participate in the buying or selling of any church office.

Some 47 canons have to do with priests. All priests are under the direct control of their bishop. They may not administer sacraments or preach without episcopal approval, nor can they perform such duties in another diocese unless they have permission of their own bishop as well as the bishop in whose diocese they are ministering. They must be publicly ordained for a specific church and are not to be moved from that church except for necessity as determined by the bishop. They are to receive either stipends or sufficient lands to support themselves, but they do not gain possession of such lands, no matter how long held, but only their use. Goods donated to their churches belong to the churches for use in alms and not to the priests. Priests are not to be involved in any secular business, except that relating to care of the poor. They are not in any way to appropriate to their own uses any goods of the church or sacred vessels and vestments, and they are not to minister to more than one church. They may not alienate through sale or gift any church property without episcopal approval.
Priests are not to be accused by secular persons, except for heresy, and secular persons can never testify against them.\textsuperscript{110} They may not bring charges against other priests in any secular court, but only in episcopal court.\textsuperscript{111} Any priest convicted by a bishop's court may appeal to a synod.\textsuperscript{112} Priests are not to be struck by anyone, including the bishop, nor can they strike others.\textsuperscript{113} For no reason may they go to the emperor without episcopal approval.\textsuperscript{114} They are to refrain from gambling and hunting,\textsuperscript{115} are never to return to arms,\textsuperscript{116} and are to remaincelibate.\textsuperscript{117} They may move neither to other churches nor to monasteries without permission of their bishop.\textsuperscript{118} They are to exercise absolutely no control over monasteries or monastic goods.\textsuperscript{119} Finally, they are not to purchase offices.\textsuperscript{120}

The remainder of the collection deals with the following topics. Concerning monasteries, their goods and properties are to remain perpetually in monastic possession and are never to return to secular ownership.\textsuperscript{121} Neither are such goods and properties to be taken away by bishops.\textsuperscript{122} Monasteries are to be free from control and interference by priests, and no public masses or ceremonies are to be held therein.\textsuperscript{123} Nor are they to be subjected to any church obligations.\textsuperscript{124} Women are never to enter a monastery for any reason.\textsuperscript{125} A monastery may be moved to a more suitable location, or to avoid persecution
or oppression, but only with episcopal approval.\textsuperscript{126}

Monastic congregations have the responsibility of electing as their abbot one of their own number. If there is no suitable candidate in their own congregation, they may, with episcopal permission, select a monk from another monastery.\textsuperscript{127} Abbots are to be constituted in office by the bishop only after being elected by their congregation.\textsuperscript{128} All goods of the monastery are controlled by the abbot, but they cannot be alienated except with episcopal approval.\textsuperscript{129} He is subject to the local bishop.\textsuperscript{130} He may resign his office, but only with the bishop's approval,\textsuperscript{131} and an unworthy abbot may be removed from office by judgment of his bishop and neighboring abbots.\textsuperscript{132} An abbot may not receive monks from other monasteries,\textsuperscript{133} buy his office,\textsuperscript{134} gamble or hunt.\textsuperscript{135} Abbots are not to be called to any synod without specific reason and then only with the bishop's approval.\textsuperscript{136}

Monks are ultimately subject to their bishop, but directly subject to their abbot. They may not wander freely from place to place, and may not found other monasteries without permission from their bishop.\textsuperscript{137} They may, however, flee a corrupt monastic house or abbot.\textsuperscript{138} Several canons deal with prohibition of gambling, hunting and incontinence,\textsuperscript{139} and several others deal with properties of persons entering monastic life.\textsuperscript{140}

A very few canons relate to imperial powers in Church
affairs, and most of these are negative. An emperor may not do, or order to be done, anything against the mandates of the Church. Unjust judgments by him or his agents are invalid in the Church. He may not reclaim any goods given to churches, nor may he sell, alienate, or transfer monastic lands, except to another monastery. Deposed priests are not to appeal to his judgment, nor are clerics to bring cases to him, except with episcopal approval. His positive duty is to protect the weak and helpless from oppressors.

Aside from one canon which allows difficult cases to be appealed to the pope, and the canon already mentioned concerning trials of bishops, there is nothing in the collection which defines the position of the pope in the church.

It is clear from this summary of the collection, that Gregory was responding to certain controversies in which the monastery had been involved during the preceding thirty years. Yet taken as a whole, the collection also indicates the compiler's wider view of the nature of the Church in the world, as well as placing him within a particular school of reform.

To repeat, the silence of the collection concerning the pope seems peculiar. But if a passage of the Chronicon regarding the respective positions of pope and emperor in the world is taken in conjunction with those canons of the
collection which deal with the independence of bishoprics, it then appears that Gregory of Catino was deliberately silent on this point because it was precisely with the Gregorians' larger claims to sovereignty over both Church and world that he disagreed. Furthermore, this disagreement followed from the fact that the reform tradition which the Farfa compiler was following was that which grew out of a concern for correcting corruption in the Church rather than the more revolutionary Gregorian idea of transforming the entire nature of Christendom.

A brief discussion of one of the major Gregorian collections will demonstrate this point. If Cardinal Deusdedit's *Collectio*, compiled at the request of Gregory VII, is compared to the Farfa collection, their similarities are immediately apparent. In Deusdedit are to be found all of the prohibitions against lay interference in Church affairs, such as secular use of properties, collecting of tithes, simoniacal appointments of clerics, reclamation of properties donated to the Church, and bringing clerical persons to trial in secular courts. Similarly, Church properties are to be under the direct care of the local bishop, except that the pope has ultimate authority over such properties. But bishops may not alienate Church goods, which are held for the relief of the poor, except with their clerics' and neighboring bishops' approval. Also, monasteries are to enjoy complete freedom in the use and possession of
all their properties, including freedom from any episcopal exactions. Except for the idea of ultimate papal authority over all Church possessions, there is nothing here at odds with the Farfa collection.

But where the difference does lie, is that of Deus-dedit's 1200 odd canons, over 300 relate directly to the primacy of the Roman pontiff. Aside from supporting papal claims to ultimate authority in ecclesiastical matters, these canons also assert that the papacy is owed vassal tribute by the princes of Urgel, Hungary, Russia, Spain, Croatia and Dalmatia, as well as by Robert Guiscard and other select nobles. Moreover, there are special tributes due from England, Denmark, France and Saxony. The patrimony itself is under the complete authority of the pope and is to be administered by papally appointed rectors who are responsible to the pope alone.

Consider now Gregory of Catino's comments on the secular authority of the pope in his Chronicon.149 What Gregory expresses here is that the pope is supreme in the Church, but that this in no way implies any temporal authority. Not only does the pope not have such authority in Europe in general, but even in the patrimony he is limited only to control of Church lands. Since this area has always been under imperial control and administered by imperial agents, it is presumptuous for the pope now to claim jurisdiction in these lands. On the question of imperial
prerogatives regarding the choice of popes, the author contends that the emperors have always exercised the right to confirm popes after their election, and during the time between pope Hadrian I (772-795) and the emperor Henry III, no pope is known to have been crowned without imperial approval.

If Gregory of Catino's canonical collection is taken, then, in conjunction with this passage in the Chronicon, a conception of the structure and role of the Church in the world emerges which is clearly at variance with the Gregorians. What this author wants is reform; what the Gregorians demand is a revolution in the nature of Christianity.

For the Farfa monk, the Church is essentially a spiritual entity. It exists in the world, however, and therefore it must be supported by a minimum of earthly goods. These goods, which are to be used only to support clerics and the poor, are in the power of bishops. But they cannot be alienated or returned to any secular uses. Bishops and priests, while they may have personal property, should not pursue earthly riches, and they must remain aloof from all worldly pursuits and secular duties, especially the bearing of arms, except in so far as care of the poor demands that they administer alms. The pope is the head of the Church, but his election must always be confirmed by the emperor who is the protector of the Church. Also, the
pope's authority in the Church is only spiritual; he is not to interfere in either secular matters or in the administration of Church properties which remain in the hands of bishops. He is certainly the final court of appeal in ecclesiastical cases, but he may not condemn bishops or clerics in absentia nor, in the case of bishops, without the testimony of 72 witnesses. All churchmen should lead exemplary lives and should remain celibate. Monastic houses should follow some established rule and their properties should remain free from all lay and episcopal control and exactions.

On the very pertinent issue of confirmation of bishops Gregory makes no specific comment. Yet it seems clear that if the emperor must confirm papal elections, should he not exercise a similar authority over bishops? Also, if Gregory allows that the donors of churches should have a say in who is to be ordained for these churches' ministries, should it not also follow that the emperor, who certainly in historical practice was the donor of bishoprics, should also have a say in who was to hold these offices?

Gregory of Catino must thus be considered as a reformer particularly concerned with the purity of clerics and Church institutions, and the freedom of both from the secular world. In this he reflects the Augustinian position which would have the Church in the world, but not essentially worldly. It is a position which allows for contra-
diction, but only if Christianity is viewed as a system of
government. If considered rather as a manner of living and
a system of belief, then the contradiction evaporates be-
cause then the political order loses its teleological sig-
nificance, and therefore becomes incidental to Christian-
ity.

It could be argued, to the contrary, that by recog-
nizing an imperial right to approve churchmen Gregory was
simply reintroducing the concept of the emperor as a Church
functionary and therefore of secular government as essen-
tial to the structure of the Church. It is certainly an
inconsistency in his program. Yet given the historical con-
text, it would have been remarkable had this monk attempted
to remove the emperor completely from the Christian order
of Europe. Furthermore, his inclusion of canon I, 28, which
rejects the validity for Christians of any imperial act
which is contrary to Church mandates, allows for resistance
to such acts; but it does not provide justification for re-
moving an emperor who so acts.

His consistency, however, lies in his determination
that it was not the function of the Church or the Church
hierarchy to supplant secular government. For he saw that
it was precisely the involvement of the clergy, both monas-
tic and secular, in secular affairs during the tenth and
early eleventh centuries that had led the Church into that
very contamination from which he wished to see it cleansed.
He knew that the Gregorian program, although essentially an attempt to Christianize and reform the world, would soon lead the Church back into that preoccupation with the world from which the mid-eleventh century reformers were determined to free it, and to Gregory of Catino this seemed no solution at all.

To argue, therefore, that Gregory of Catino had no substantial political philosophy and that moreover he was a reactionary in his views on the respective roles of prince and pope, is to miss the point entirely. There is no question that when his comments are compared to the sophisticated political theorizing in which Hildebrand, Humbert or the Anonymous of York engaged, they are wanting. Yet the point of his work is precisely that political theory should have nothing to do with Christianity. In defending Henry IV he was not trying to justify the Empire on any teleological grounds, but was rather insisting that without an established and respected secular authority, peace in the temporal sphere could not be maintained; and without temporal peace, the Christian community would inevitably suffer.

Gregory of Catino was no less determined than the Gregorians that the Church be freed from secular concerns and that the monastic and secular clergy be reformed. But he also saw that in attacking Henry IV on the issue of episcopal appointments the Gregorians were disrupting the tran-
quility of the Empire and unleashing civil war. He could not have perceived, nor could the Gregorians, that the investiture contest was to have disastrous consequences for the German monarchy in that it was to reverse over two centuries of Saxon and Salian efforts toward establishing a unified monarchy. But the disastrous consequence of Henry's excommunication and deposition, civil war, was no doubt too vivid for him to take comfort in any sophisticated political theorizing.

The resolution, such as it was, of the investiture contest in Germany was reached in 1122 with the Concordat of Worms. By this settlement the election of bishops reverted to the clergy and people of the diocese, and consecration with ring and staff, the symbols of episcopal office, was henceforth exclusively an ecclesiastical affair. Investment with the scepter, symbol of control over temporalities, was left to the emperor. What this meant in practice was that the princely class in Germany, with whom Henry V was now allied, came to control episcopal appointments. This resulted because, first, most chapter clergy were aristocrats, and, second, the "people" of a diocese were subject to influence by the prince. 150

The issue of ultimate control of the world which the Gregorians had insisted on with such vehemence was not even mentioned at Worms, and the investiture question was compromised away. The point is that the settlement at Worms
was not a resolution of the question of papal authority in the world, but rather an accommodation between the spiritual and temporal aspects of Christianity. As such, it was substantially in that reform tradition represented by Gregory of Catino.
NOTES

1. RF, I, pp. 22-23. For what follows, see Ildefonso Schuster, L'Imperiale abbazia di Farfa (Rome, 1921), pp. 203-238. This is the standard history of the monastery.

2. The first Carolingian grants of immunity were made by Charlemagne in 775, RF, II, pp. 107-109. The exact relationship of the monastery to the papacy during the twelfth century is difficult to determine. Cardinal Deusdedit, in his canonical collection of the Gregorian period, says that the "monasterium Farfense b. Petri iuris est, quoniam in eius patrimonio et territorio situm est," Die Kanonessammung des Kardinal Deusdedit, Wolf von Glanvull, ed. (Paderborn, 1905), II, p. 353. Also, the Liber censum, compiled around 1192, lists Farfa, along with three other monasteries in the patrimony, as still being subject to the papacy, Le Liber censum de l'Eglise Romaine, Paul Fabre, ed. (Paris, 1889), cxviii, c. 7, pp. 346 and 358, n. 8.


4. RF, I, pp. 9-25.

5. RF, V, pp. 254-279.

6. There may in fact have been two schools at Farfa: one for laymen and one for monks, Gregory of Catino, Chronicon Farfense, Ugo Balzani, ed. (Rome, 1903), I, p. xxiii n., and I. Giorgi, "Appunti intorno ad alcuni manoscritti del Liber Pontificalis," ASRSP, XX (1897), 290 ff.

7. This letter is quoted in part in Peter Llewellyn, Rome in the Dark Ages (London, 1971), p. 239.


9. For the history of this family, see Gaetano Bossi's two articles "I Crescenzi: Contributo alla storia di Roma e dintorni dal 900 al 1012," Atti della Pont. Accademia Romana di Archeologia, XII (1915), 49-126, and "I Creszenzi di Sabina, Stefaniani e Ottavian (dal 1012-1106)," ASRSP, XLI (1918), 109-170.


13. RF, V, p. 94; Schuster, Abbazia di Farfa, p. 209.

14. RF, V, p. 94.

15. Henry returned to Farfa later in 1082 and his last visit was in 1083, Schuster, Abbazia di Farfa, pp. 210 and 212.

16. RF, V, pp. 83 and 100.

17. RF, V, pp. 93-94.

18. RF, V, pp. 95-100.


20. RF, V, pp. 80-81.

21. For dating by the Gregorian pontificate, see RF, V, p. 16.


23. The list of popes is in RF, II, pp. 10-19. The first document in the Register dated by the pontificate of Clement III is for May, 1084, two months after Henry's coronation: "anno primo pontificatus domini Clamentis summi pontificis et universalis papa" ... mense maio, die xxiii," RF, V, p. 100.

24. Chronicon, II, pp. 205-207. Little is known about Bishop Regizio of Sabina; he is probably identical with Bishop Domnizio who was replaced in Sabina by Gregory VII with a Bishop Gregory in 1078, F. Ughelli, Italia Sacra (Venice, 1717), I, nos 23-24, p. 160. Regizio was, however, recognized as legitimate at Farfa on at least one occasion, RF, V, p. 239.


27. RF, II, p. 6.

29. See note 6 above.

30. Gregory of Catino, RF.


32. MS Farfa 3, Bibliotheca Nationale Romana.

33. For a full technical discussion of this MS, see below, Appendix, pp. 118-137.

34. For the text of the epilogue, see below, Appendix, pp. 369-370.

35. Citations to the Farfa collection, appearing below in the Appendix, are by book and chapter number. Canons relating to episcopal powers over Church goods are: I, 41, 66, 67, 77; II, 1, 3, 10, 11, 12, 13, 20, 21, 23, 24, 26, 28, 35, 36, 40, 44, 54, 58, 61, 75, 76; III, 57, 65, 68.

36. II, 3, 40, 43; III, 36.

37. II, 10, 12, 13, 21, 24, 40, 43, 54, 75; III, 68, 71.

38. II, 49.


40. III, 36.

41. I, 77.

42. II, 1, 2, 11, 23, 26, 58, 61, 64, 76.


44. I, 52; III, 1, 61, 76.

45. III, 2; III, 76.

46. II, 76; III, 53.

47. II, 53.

48. III, 74.

49. I, 48, 52; III, 1.

50. I, 46.
51. I, 20, 60, 73a, 73b, 73c, 73d.
52. I, 31.
53. I, 11, 23.
54. I, 11.
55. II, 17.
56. II, 59.
57. II, 73.
58. II, 74.
59. II, 62.
60. II, 41, 62.
61. I, 15; IV, 2.
62. IV, 1.
63. I, 74.
64. I, 9b, 9c, 9d, 78.
65. I, 4, 15, 35.
66. I, 64; III, 52.
67. III, 51.
68. I, 38.
69. II, 67; IV, 19, 20.
70. III, 36.
71. I, 16.
72. II, 66.
73. III, 39.
74. I, 69.
75. II, 71.
76. III, 56.
77. I, 34, 44, 45.
78. I, 8, 24, 26, 27, 79; II, 4, 7, 8; III, 62
79. II, 5, 22, 52.
80. II, 18, 19.
81. I, 65; II 17, 58, Haec autem . . . (p. 139).
82. II, 59.
83. I, 84.
84. I, 36.
85. I, 52.
86. I, 10b, 32.
87. II, 27.
88. I, 5, 9, 10a, 13, 33; II, 5, 8.
89. I, 54.
90. I, 14.
91. I, 49, 61, 83.
92. I, 61.
93. I, 53; II, 15.
94. II, 16.
95. III, 59.
96. III, 39; IV, 15.
97. IV, 13.
98. IV, 14.
99. III, 63, 64.
100. IV, 2, 3.
101. I, 39
102. I, 17, 18, 47.
103. I, 16, 37, 40.
104. I, 50; II, 31, 39; III, 37.
105. II, 29, 42.
106. I, 35. Canon IV, 16, however, does allow both secular business and bearing of arms to Lombard priests, as is their custom.
108. I, 40.
109. II, 9, 27; III, 68, 70, 72.
110. I, 3, 5, 9, 33.
111. I, 56.
112. I, 30.
114. I, 29.
115. IV, 19, 20.
117. II, 67.
118. I, 21.
119. III, 2.
120. IV, 2.
121. I, 43; III, 3, 6.
122. II, 80; III, 1.
123. III, 1, 2.
124. III, 1.
125. III, 35.
126. III, 54, 55.
127. III, 11, 16, 75.
128. III, 74.
129. II, 30; III, 20, 61.
130. II, 37.
131. III, 16, 75.
132. III, 18, 19.
133. I, 48.
134. IV, 2.
135. IV, 19, 20.
136. III, 17.
137. I, 36; II, 37; III, 1.
139. III, 21, 22, 23, 24, 25, 26, 27.
140. II, 67; IV, 19, 20.
141. III, 58; IV, 4, 5, 6.
142. I, 28.
143. I, 70; II, 52; III, 60.
144. I, 29, 30.
145. I, 64; II, 14; III, 52.
146. II, 62.


148. For the critical edition of this collection, see note 2; for the summary that follows, see Demetrios B. Zema, "Reform Legislation in the Eleventh Century and Its Economic Import," Catholic Historical Review, XXVII (1941), 16-38.

APPENDIX
PROLEGOMENA

The Manuscript

Vatican City, Vatican Library, Vat. Lat. 8487, fols. 59-91. Gregorius Catinensis, Collectio Farfensis. c. 1090-1100.

In Latin, on parchment, 260 by 383 mm., foliated twice (one number difference) in Arabic numerals: upper right verso (used here) and upper center verso,\(^1\) written at the monastery of Farfa in Sabina in Farfa script,\(^2\) 40 lines, two columns, headings rubricated. Collation (fols. 59-91): 1\(^{10}\), 2-3\(^8\), 4\(^8\) (missing 7 and 8, 1 fol. added). For a complete description of the entire MS see Regesto di Farfa, I, xxxix-xlvii.

The materials edited here are:
1. Unnumbered epistle of Gregory I on the administration of church properties.
   (69r\(^b\)) Haec autem prudentissimus pater Gregorius . . . magis conueniat quam excuset.
2. Index to Book I.
   (84r\(^a\)) Libri I, Capitula. I. De sacramentis diuinis et uasis sacris uenerandis . . . (84r\(^b\)) LXXXIII. De presbyterorum morientium substantiis.
   (69v\(^a\)) Decreta Clementis papae. Ad Iacobum fratrem domini
. . . (76v)<sup>b</sup> si quis contra haec praesumpserit anathematizetur.

(84v)<sup>a</sup> Libri II, Capitula. I. Vt episcopi, res aecclesiatarum non tribuant . . . (84v)<sup>b</sup> LXXIX. De terrarum limitibus et antiquorum terminorum partibus.

5. End of the index to Book II (nos. LXXX-XC).
(69r)<sup>a</sup> LXXX. De monasteriorum nouorum in concussa stabilitate . . . XC. De aecclesiae rebus immobiliis emptis uel commutatis.

(59r)<sup>a</sup> De rebus et substantiis et fidelium oblationibus . . . (64v)<sup>b</sup> quam in asisterio optinere oportet.

(85r)<sup>a</sup> In nomine domini. Incipiunt capitula decretorum . . . (85v)<sup>a</sup> et societate cauenda malorum.

(77r)<sup>a</sup> In nomine domini. Incipiunt decreta beatissimi Gregorii . . . (81v)<sup>b</sup> in potestate alterius abbatis.

(82r)<sup>a</sup> Incipiunt iura legalia uenerabilibus locis eorumque ministris pertinentia . . . (83r)<sup>b</sup> poenitentiae dederit.

XXIII.

10. Epilog.
(69r)<sup>b</sup> Incipit epilogus. Igitur quoniam librum hunc . . .
(69v)<sup>a</sup> et instituta sanctorum inseruimus patrum.
All of the intervening material in these folios has been edited in RF, I, pp. 21-36; II, pp. 6-19.

**The Edition**

The system of notation employed here is generally that recommended by Stephan Kuttner, "Notes on the Presentation of Text and Apparatus in Editing Works of the Decretists and Decretalists," *Traditio*, XV (1959), 452-464. The punctuation and spelling of the MS have been reproduced here as exactly as possible. In regard to spelling, cedillas have been rendered as diphthongs, and tāquam, nūquam, quicūque, etc., have been rendered as tanquam, nunquam, quicunque, etc., since such spellings are used in the MS occasionally in unabbreviated form.³ Spelling differences which do not affect the reading have not been collated. Numbers are written out in full when there is an indication that they represent an abbreviated form of the spelled numer, e.g., xxxta is rendered as triginta, while xxx remains as such. The forms iii, viii, etc. are used in the MS, and these have been retained, except for the numbering of the canons in the texts and indices.

Whenever possible, the collation has been made with the authoritative editions of the various canons, as identified in the *apparatus fontium* of each canon. In some cases, however, when the original canons were not
identifiable, recourse was had to the compiler's probable sources, especially Burchard of Worms and the Collectio Canonum in V Libris. Also, since the last two books of this latter collection have not yet been edited and the MS (Vat. Lat. 1339) itself was not immediately available, several canons of unknown origin in the present collection which were taken from these two unedited books have not been collated. Several other canons, mainly those from the Councils of Calcedon and Antioch, appear in parallel columns with the Latin translations from the Greek of Dionysius Exiguus. The complete apparatus fontium has not been included because it is already in print and easily available.

Concerning omissions in the texts of the original canons which appear in the MS, those at the beginning and end of the original canons have not been noted unless very short, in which case they are noted as added. Shorter omissions in the middle of the canons are noted in full as added. Longer omissions are shown only by the first and last word, and the number of lines omitted, e.g. clericus--demandamus add. (13 lin.), since to include the entire passage would have been cumbersome, and not to include the number of lines would have made the task of locating this material tedious.

The order of these books is in question. I. Giorgi contends that the order, according to the number of canons
in each book, should be: 76, 22, 84, and 90. However, since the book of 84 canons is labeled Libri I in its index, and the book of 90 canons is similarly labeled Libri II, there appears no point to this dispute. The order used here is thus: 84, 90, 76, and 22.

The epistle of Gregory I Haec autem . . . (69r⁷), has been placed before the index of Book I. The epilog (69r⁷-vₐ) has been placed at the end of the collection, even though it appears in the MS before the canons of Book I. The indices are presented as they appear in the MS, and omissions and errors are noted. The index to Book III lists first all canons derived from Gregory I. It is incomplete in that it ends with number 54. Number 56 is included with the Gregorian material of the first part, but numbers 55 and 57-76 do not appear. There is no index for Book IV. It is probable also that this last book would have continued since after number 22, the number xxiii appears with no accompanying text.

Six canons appear twice: I, 64 is repeated as III, 52; II, 33 as IV, 10; II, 37 as III, 74; II, 40 as II, 54; II, 75 as III, 71; and III, 16 as III, 75.

Sources

The following sources are indicated: (see Table, pp.

1. Pseudo-Isidore.

There can be no doubt that a substantial number of
the canons were excerpted from the Pseudo-Isidore. Fournier claims to have identified a no longer extant MS from which these canons were copied on the following grounds. A fifteenth century MS of the Pseudo-Isidore, Casanatense D, III, 16, contains a polemical tract and the first two parts of the Decretales, that is the papal letters from Clement to Melchiades and the councils from Nicaea to Hispalense II. Since the polemical tract is the Orthoxoa defensio imperialis, originally written at Farfa around 1111 in defense of Henry V's episcopal policies, and since Gregory of Catino is generally assumed to be the author of this tract, Fournier concluded that Casanatense D, III, 16, was simply a copy of the now lost MS used by Gregory to which the Orthoxoa defensio somehow became attached. There is indirect evidence that this was the case in that the Farfa collection contains materials, namely numbers 54-57 of Book II, found only in certain MSS of the Decretales, of which Casanatense D, III, 16, is one. Fournier's second indirect argument is that since the Farfa collection contains only canons from the first two parts of the Decretales this lost MS could well have been, and probably was, the one used. However, number II, 86 does in fact come from the missing third part of the Decretales and does not seem to appear in any of Gregory's other probable sources. This could be explained by assuming either that the fifteenth century copy was incomplete, or that this canon was taken from
another source. Nonetheless, the presence of the *Orthodoxa defensio* seems sufficient to establish Fournier's view that the exemplar for Casanatense D, III, 16, was probably used in compiling the Farfa collection.\(^{15}\)

2. **Collectio in V Libris.**

The *Collectio in V Libris* is certainly the second major source of the Farfa collection.\(^{16}\) There are three extant MSS of this collection: Vat. Lat. 1339; Monte Cassino 125; and Vallicelliana B, 11. The last two were produced at Monte Cassino. Vat. Lat. 1339, however, appears to have been compiled at Farfa in the first half of the eleventh century and is no doubt a direct source of the present collection.\(^{17}\)

3. **Collectio in LXXIV Titulos.**

The first seven canons of Book III were probably excerpted from the *Collectio in LXXIV Titulos*.\(^{18}\) This collection had considerable circulation in Italy at the end of the eleventh century, and one MS, Casanatense 2010, was long thought to have been compiled at Farfa, perhaps by Gregory of Catino. However, this origin is now in doubt.\(^{19}\) Nor is it likely that this MS was used as a source for the present collection since it is missing c. 28 which appears here as number III, 5. Collation with the printed edition of this work does not immediately indicate which particular MS might have been the direct source of the Farfa collection.
4. **Burchard of Worms and Ivo of Chartres.**

Both Burchard of Worms and Ivo of Chartres seem to have been used. In the MS itself Burchard is cited as the source of three canons, I, 73d, II, 88, and III, 73, and Fournier contends that in addition numbers I, 73b-c, II, 88-90, and III, 57-76 were likewise taken from there. His references to Burchard for these canons are correct, except for that of II, 90, which he gives as *Decretum*, 3, c. 185.  

While these two canons are similar in content, they are too dissimilar otherwise for one to have been copied from the other. Fournier perhaps assumed that Gregory elaborated on Burchard, but if so he was mistaken. Instead, Gregory's source for this canon was no doubt Ivo of Chartres, *Decretum*, 3, c. 185.  

Also, all of the canons attributed by Fournier to Burchard appear as well in Ivo, except apparently for III, 57. Furthermore, five canons attributed by Fournier to the *Collectio in V Libris* are not found there. Of these five, the first, III, 36, appears only in Ivo, *Panormia*, and the second, III, 41, only in Ivo, *Decretum*. The last three, III, 54-56, are in both Ivo, *Decretum*, and Burchard, *Decretum*. One canon, I, 81, cited by Fournier as coming from the Pseudo-Isidore, was more probably taken from Ivo or Burchard since it appears in the third part of the *Decretaletes*, and is missing from Casanian tense D, III, 16. Collation indicates that another canon cited as the Pseudo-Isidore, I, 83, is in fact from Burchard.
In summary, then, the following canons appear in both Ivo and Burchard: I, 73b-d, 81-84, II, 88-89, III, 46, 54-56, and 58-76. Of these I, 73d, II, 88, and III, 73 are cited as Burchard in the MS and may be presumed to come from this source. Collation indicates that I, 83 comes from Burchard. Number III, 57 appears only in Burchard and so is probably similarly derived. Appearing only in Ivo, Decretum, are II, 90 and III, 41, and these may safely be assumed to have come from that collection. Number III, 36 appears only in Ivo, Panormia, and must therefore have been so derived. The remaining canons in this group have been collated with both Ivo, Decretum, and Burchard, Decretum, with inconclusive results. Since Gregory must have had access to both collections, it is impossible at this time to determine from which source these canons were extracted. 24

5. Unidentified canons.

The above sources would account for all of the canons in the Farfa collection, except for numbers I, 78-79, II, 86, and the unnumbered epistle of Gregory I, which here precedes the index to Book I. 25 Numbers I, 78-79 do not seem to appear in any known collection. 26 Number II, 86 is found in the third part of the Pseudo-Isidore, but if Fournier is correct in identifying the exemplar for Casanatense D, III, 16, as a source of the Farfa collection,
then this canon would have been taken from an as of yet unidentified source. Similarly, the source of the Gregorian epistle has not yet been identified.
NOTES


2. Ignazio Giorgi in RF, I, pp. xxx-xxxiii, claims that 'Caroline' is a misnomer for this script because it probably developed independently out of the Roman minuscule, and therefore is better described by that name. John T. Gilchrist refers to it as a 'Roman minuscule' in Diversorum patrum sententiae siue Collectio in LXXIV titulos digesta (Vatican City, 1973), p. xliii. F. Fornasari describes it as a "'Caroline minuscule' showing the peculiarities of the Roman minuscule used in the tenth and eleventh centuries at Rome and in the region bounded by the Tiber, Subiaco and Farfa," Collectio in V Libris, CCCM, VI (Turnholt, 1970), p. viii. For further discussion, see Giulio Battelli, Lezione di paleografia (Vatican City, 1939), p. 175 and n., and G. Brugnoli, "Note sulla minuscola farfense," Revista di cultura classica e medioevale, III (1961), 332-341.

3. For tanquam see fol. 62r, line 28; quicunque, fol. 62v, line 7; nunquam, fol. 71r, line 3.

4. Burchardt Wormatiensis, Decretum (PL 140); Fornasari, V Libris.

5. P. Joannou, Discipline générale antique, I, 1: Les canones des synodes oecuméniques; I, 2: Les canons des synodes particuliers (Grottaferrata, 1962). There appear to have been two distinct Latin translations of the canons of the Councils of Calcedon, Sardica and Antioch in circulation in the Middle Ages, but I have not been able to determine the source of the one used in this MS. The situation is further confused by the fact that Calcedon 26 (Book I, 77) and Sardica 7 (Book III, 51) in the MS match Dionysius' Latin translations, while all of the other canons from these councils in the MS do not. Dionysius' translations of the Councils of Carthage, Ancyra and Milevi all match those in the MS.

6. Hees, "Collectio Farfensis." Addenda to this apparatus fontium are:

| Book I, 51 | Ps (H 338) |
| 83         | B 2, 203  |

8. This same order is used by Fournier, "Collezione canonica," and Hees, "Collectio Farfensis."

9. Book I, 1-12, 15-73a, 73e-77; Book II, 1-87. The identification of sources is based to some extent on the principle of economy, i.e., it assumes one common source when there may possibly have been several. Identification has been made, of course, only after collation has revealed no impossibilities.


12. This material follows Toletanum VIII, Hinschius, Decretales, pp. xxxix, 394-397 and 394 n.


14. Number I, 81 also comes from the third part of the Decretaless, but it is found also in Ivo and Burchard. See below p. 133.

15. Casanatense D, III, 16 was not available, so any conclusions to be drawn from a collation with the Farfa collection must remain beyond the scope of this work.


17. Collation with the three edited books of this collection indicate this conclusion.


21. The possibility that Fournier's citation to Burchard, Decretum, 3, 185 was somehow confused with Ivo, Decretum, 3, 185 must be rejected since Ivo is not mentioned in the article and the text makes it quite obvious that Burchard, Decretum, was intended, "Collezione canonica," p. 194 and n.


24. Burchardi Wormatiensis, Decretum (PL 140); Ivonis Carnutensis, Decretum (PL 161), and Panormia (PL 161).


27. Cf. Hees, "Collectio Farfensis," p. 35, for II, 86, and pp. 44-45, for the Gregorian epistle. Giorgio Brugnoli, "La biblioteca dell'abbazia di Farfa," Benedictina, V (1951), 3-17, is the most complete and recent catalogue of the medieval Farfa library. It is of no help in identifying Gregory of Catino's sources since it shows no canon law collections as having been in the monastery's possession.
TABLE OF SOURCES

<table>
<thead>
<tr>
<th>Ps</th>
<th>5L</th>
<th>B</th>
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When an x would have raised a question as to when the compiler might have turned to another source, Inc. (incomplete) is used to indicate the basis of editorial judgement. Citations to the first three books of the 5L are by book and capitulum, as given in the edition of Fornasari. Those to the last two unedited books of this collection are shown by book and capitulum in parentheses, following Hees, "Collectio Farfensis."

P indicates Ivo, Panormia; Uk is unknown; ? indicates that the canon appears in this source but was probably not taken from there.
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COLLECTIO FARFENSIS
aec autem prudentissimus pater Gregorius non solum in Romana, sed per diversas aecclesias perpetualiter observuanda censebat. Vnde Iauanuario Caralitano episcoopo inter caetera scribit dicens: Indica-
tum nobis est quod laicis quibusdam curam nostri patri-
monii committentes, postmodum in rusticorum, uestrorum
depraedationibus atque per hoc exfatigationibus fue-
rint deprehensi. Quod si ita est, districte a uobis
discuti conuenit atque inter eos aecclesiaeqe uestrae
rusticos causam examinare suptilius, et quicquid in
eis fraudis fuerit inuentum, cum poena legibus sta-
tuta reddere compellantur. De caetero uero cauendum
est a fraternitate uestra, ne saecularibus uiris, atque
non sub regula uestra degentibus cuiuslibet res aeccl-
siae committantur. Sed probatis de uestro officio
clericis, in quibus si quid repperiri poterit prauit-
tatis, ut in subditis emendare quod illicite gestum
fuerit ualeatis. Quos uidelicet apud uos habitus sui
officium magis conueniat quam excuset.

Gregorius I, Reg. 9, 204 (MGH Epist. 2, 192-3).
Liber I
LIBRI I. CAPITULA

I. De sacramentis divinis et uasis sacris uenerandis.

II. Si quis contra ecclesias, uel praelatos commoueantur.

III. Si quis, sacerdos peccauerit, uel ceciderit.

IV. Si quis, sacerdotibus non oboedierit.

V. Si quis, pastor a fide errauerit.

VI. Sacramentum a summis sacerdotibus exigatur.

VII. Nullus, presbyterum uel diaconum indiscussos damnat.

VIII. Qui sint qui ad sacros ordines non prouehantur.

IX. Qui accusare sacerdotes non debeant.

X. Si quis, saecularium aecclesiam, uel clericum dehonestauerit.

XI. Si quis, clericum super criminibus pulsaerit.

XII. Si quis, doctorum uitam detrahit.

XIII. Si quis, aliquem clericum, in aliquo leserit.

XIV. Si quis, divina ministeria contrabauerit.

XV. De primitiuae aecclesiae constructione.

XVI. De episcopis, uel presbyteris, pro ciuitates, uel castella, uel titulos.
25 XVII. Vt presbyteri, uel diaconis, nichil agant sine licentia episcopi.

XVIII. Vt clerici, uel monachi, diuersas cellas non habeant.

XIX. Vt praelati non percutiant tyrannice subditos.

XX. Vt presbyteri, uel diaconis, non uerberent delinquentes.

XXI. Vt clericis propter luxum de officio non discedat.

30 XXII. Vt post poenitentiam ad pristinumconiugium.

XXIII. Vt episcopus, innocentes, uel pro minimis causis non excommunicet.

XXIV. Vt sacra uasa non tractentur nisi a sacratis.

40 XXV. Vt feminae sacratae, non contingant uasa sacrata.

XXVI. Vt uasa sacrata in proprios usus nemo transferre praesumat.

XXVII

45 XXVIII. Vt iudicum inustum factum regio metu, uel ab haereticis cassetur.

XXIX. Vt episcopus, uel clericus, ad imperatorem ire.

XXX. Vt episcopus, uel clericus depositus impera-

44 XXVII deest.
tori non fiat importunus.

50 XXXI. Si quis episcopus accusatus, ab aliquibus innocens uideatur.

XXXII. Vt non apud alienos iudices iudicetur, et difficiliores quaestiones.

XXXIII. Vt facta pastorum non feriantur oris gladio subditorum.

XXXV. Si quis, innocens pulsatus fugerit in aliam ciuitatem.

XXXV. Si quis episcopus, uel clericus, uel monachus, conduxerit aliquas possessiones.

60 XXXVI. Si quis, monachus, oratorium, uel monasterium constituerit.

XXXVII. Vt nemo absolute, uel passim, clericus ordinetur.

XXXVIII. Si quis, clericus ad honores saeculares per-

65 uenerit.

XXXIX. Vt clerici ubicunque constituti sub potes-
tate sint episcopi.

XL. Si quis, clericus, ab alia in aliam trans-
fertur aecclesiam.

70 XLI. De tricenali possessione, et aecclesia reno-
vata imperiali auctoritate.

XLII. Si quis clerici, uel monachi, conspicientem fecerint.

XLIII. Vt monasteria semel consecrata nunquam saecularia fiant.

XLIV. Vt nemo alterius plebis hominem usurpet.

XLV. Vt nemo in alia plebe communicet.

XLVI. Vt nemo alterius monasterii, clericum promoveat.

XLVII. Si quis, in agro oratorium habuerit.

XLVIII. Si quis, monachus, nouum monasterium funduerit.

XLIX. Vt clericus, non respondeat apud saecularem iudicem.

L. Vt clerici, accipiant debita stipendia.

LI. Vt monachus, cellam non construat uanitatis impulsu.

LII. Vt monachi, non ordinentur ab episcopo, nisi cum abbatis voluntate.

LIII. Vt clericus, ab aecclesia non extrahat discipulum, uel seruum fugientem in eam.

LIV. Si quis, iussu sacerdotis, ab aecclesia exire contemplerit.

80 In carni priiuio, vii, galinas. In pascha, cv, pigas, et x, artoares et dimidium. In assumptione sanctae Mariae, cl, pigas, et xv, artoreas marg. MS²
LV. Vt episcopus postulet, suae aecclesiae libertatem a principe.

LVI

LVII. Vt clericos, ex familia fisci nullus expetat a principe.

LVIII. Si quis, clericus, ad publica iudicia conciliium non pertrahat.

LVIII. Si quis, es seruis fiscalibus aecclesiam construxerit.

LX. Si quis, episcopus per parrochias crudeliter deseuerit.

LXI. Si quis, iudex, serum episcopi, uel clericorum in publicis occupat negotiis.

LXII. Vt omnes scelerati ad sacrum ordinem non promoueantur.

LXIII. Vt pueri, uel adolescentes, in clero nutriantur.

LXIV. Vt episcopi defendant pauperes oppressos, uel proprios sibi commissos.

LXV. Vt oblationes non in suos usus sacerdotes. Episcopi autem consequantur tertiam partem per dioceses.

LXVI. De dioecesis trigennali possessione, sine interpellatione.

96 LVI deest. 101 LVIII sic. 113 non] conuer-tantur interl. MSl.
LXVII. De conuentu territorii, et de nouiter constructis basilicis.

LXVIII. De monachorum professione.

LXIX. Vt clerici, ad monasterium libere transeant.

LXX. Vt episcopi, hichil usurpent de monasteriis, nec monachi, mancipentur opera seruili.

LXXI. Si quis, ex saecularibus, uel sponte, uel quocunquemodo conuersis, apostatauerit.

LXXII. Si quis, euentu necessitatis, conuertitur, uel metu periculi.

LXXIII. Vt prelai, non corrigant subditos incondite, uel odii liuore.

LXXIV. Vt symoniaci, ante, uel post ordinationem satisfacianet.

LXXV. De professione, uel cautione, pontificum, uel praelatorum, ante ordinantur.

LXXVI. De his, qui terrore, uel quolibet metu, ad aecclesiam confugiunt.

LXXVII. De yconomis aecclesiarum qualiter tractent facultates earum.

LXXVIII. De satisfactione episcopi accusati, et condemnatione criminantis.

LXXIX. De praedonibus rerum aecclesiarum.

LXXX. De duobus contendentibus sine testibus.

133 ante] quam interl. MS¹.
LXXXI. De episcopi uocatione ad synodum.

LXXXII. vt nullus aecclesiastici ordinis super euangelia, iuret.

LXXXIII. De saecularibus iudiciis contra clericos.

LXXXIV. De presbyterorum morientium substantiis.
I. Decreta Clementis papae. Ad Iacobum fratrem domini.

Tribus enim gradibus, commissa sunt sacramenta diuinorum secretorum. Id est presbyter et diaconus, et minister, cum timore et tremore, relictorum reliquias corporis dominici debent custodire fragmentorum, ne qua putredo in sacramento inueniatur. Et si neglienter agendo portiora corporis domini nostri Iesu Christi presbyter minora non curat admonere officia, graui anathemate percussus, digna humiliationis plaga feriatur. Certe tanta in altario holocausta offerentur, quanta populo sufficere debeant. Quod si remanerint, in crastina non reseruentur, sed cum timore et tremore clericorum et diligentia consumantur. Qui autem residua corporis domini quae in sacramento relictae sunt consumunt, non statim ad communes accipientios cibos conueniant, ne putent sanctae portioni commiss-

I. 2 domini] ep. 2 marg. MS in manu rec. 4 et om. 5 cum] qui praem. relictorum] clericorum 7 neglenter 8 portiora] portionem, portioni marg. MS in manu rec. corporis] et sanguinis domini grauis inferatur Iniuria communio enim corporis add. 9 presbyter om. 13 crastino 17 commiseri

I. Ps. Clemens, Epist. II, 3 tribus--59 sunt Cap. 45, 59 ad--76 offerenti Cap. 46, 76 nec--82 clericorum Cap. 47, 82 aeclesiae--86 grauari Cap. 53, 86 si quis--89 qui Cap. 55 (H 47-52); Epist. I, 89 maiiores--92 docebat Cap. 33 (H40), 92 episcopus--96 praedicabat Cap. 30 (H 39).
cere cibum qui per aqualiculos digestus in secessum
funditur. Si igitur mane dominica portio aeditur,
usque ad sextam ieiunent ministri qui eam consumerint.
Et si tertia usel quarta hora acceperint ieiunent usque
ad uesperum. Sic secreta sanctificatione aeterna
custodienda sunt sacramenta. De uasis sane sacris
ita gerendum est. Altaris palla, cathedra, cande-
labrum et uelum, si fuerint uetustate consumpta, incen-
dio dentur, quoniam non licet ea quae in sanctuario
fuerint male tractari, sed incendio uniuersa tradantur.
Cineres quoque eorum in baptisterio inferantur, ubi
nullus transitum habeat, aut in pariete, aut in fossis
pauimentorum iactentur, ne introeuntium pedibus inqui-
omentur. Nemo per ignorantiam clericus palla mortuum
credat obuoluendum, aut diaconus scapulas operire
uelit, quae fuit in altari, aut certe quae data est in
mensam domini. Qui haec fecerit uel leuiter quasi
nichil et negligenter habuerit ministerio, diaconus
triennio sexque mensibus a dominico erit altari graui
percussus anathemate. Quod si clericum presbyter
non admonuerit, decem annis, et quinque mensibus excom-
municatus sit, pro eo quod dominicis sacramentis, sub-
iectiora sibi non admonuerit ministeria, et postea
cum grandi humilitate matri reconcilietur aecclesiae.

I. 18 aqualiculos] qualiculos 33 uelit] uelo
35 habuerit] diuina add. 36 erit] alienus praem.
Pallas uero et uela quae in sanctuarii sordidata
fuerint ministerio, diaconi cum humilibus ministris
intra sacrarium dominicae mensae, ne forte puluis
45 dominici corporis male decidat, si sindonem foris
abluant, et erit hoc operanti peccatum, iccirco intra
sacrarium ministris praecipimus cum diligentia custo-
dire. Sane peluis noua comparetur, et praeter hoc
nichil aliud tangat. Sed non ipsa peluis uelis appo-
50 natur lauandis, quae ad dominici altaris cultum per-
tinet. Pallae in alia pelui lauentur, et in alia
uela. Ianuarum etiam cura sit hostiariis, ex admoni-
tione maiorum, ne quis negligens, aut ignarus ad uelum
ianuae domus domini manus incognite tergat, sed statim
55 cohercitus discat omnis homo, quia uelum atrii domus
domi est. Praecipimus etiam, ne cum externo aecclle-
siae siue laico, de fragmentis oblationum domini ponar-
tur ad mensam, Vnde scis tu qui passim sacrarii panes
indignis impedis, si a mulieribus mundi sunt? Ad
60 dominica autem misteria tales eligantur qui ante
ordinationem coniuges suas nouerint. Quod si post
ordinationem ministro contigerit proprium inuadere
cubile uxoris, sacrarii non intret limina, nec sac-

I. 44 sacrarium] sacrarii (uelamina add.)
45 sindone  48 hoc] haec  50 pertinens  51 pelue
54 incognite] incondite  59 impedis] unde nosti add.
60 autem om.  ni(mi)steria] ni expun. MS  63 sac-
rarii--64 portitor] sacrificii portio
rarii portitor fiat, nec altare contingent, nec ab
65 offerentibus holocausti oblationem suscipiat, nec ad
dominici corporis portionem accedat. Aquam sacer-
dotum manibus porrigat, hostia forinsecus claudat,
minora gerat officia. Vrceum sane ad altare suggerat.
Si forte quispam presbyter siue diaconus sacrarii
70 sindonem uel uelum supracta uendiderit, Iudaee similis
aestimabitur Scariothis. Qui propter cupiditatem
fecerit hoc opus, nouerit se superdicti Iudaee suscep-
turum poenam. Calicem uero ad proferendum sanguinem
domini praeparatum, cum tota ministerii munitione
75 minister praeparet, ne non bene lotus calix diacono
peccatum fiat offereni. Nec murium stercora inter
fragmenta dominicae portionis appareant, neque putrida
per negligentiam remaneant clericorum, ut conuenientes
qui accipere sibi medicinam desiderant putrida cum
80 uiderint magis cum ridiculo et fastidio uideantur
accipere, et in peccatum magis decidant per negligent-
tiam clericorum. Aecclesiae per congrua et utilia
fiant loca, quae diuinis praecibus sacrari oportet, et
in singulis sacerdotes diuinis orationibus Deo dica-
85 tos poni, quos et ab omnibus uenerari oportet, et non
a quoquam grauari. Si quis haec praecipua non integre

I. 66 accedat] sed add. 67 porrigat manibus tr.
70 sindone 73 poenam] clericus—demandamus add. (13
lin.) 76 nec] non 78 ut] et 82 ecclesiās
83 fiant] facite sacrare 85 et 1 om. 86 in-
tegra.
custodierit, sit anathema, usque ad adventum domini nostri Iesu Christi, quia haec ab ore sancti Petri apostoli accepius, qui maiores a minoribus, nec accusari nec iudicari ullatenus posse dicebat, quoniam non solum hoc divinas, sed et leges saeculi inhibere docebat. Episcopos enim uicem apostolorum gerere dominum docuisse dicebat, et reliquorum discipulorum uicem tenere debere presbyteros insinuabat. Et si quis ali- quem ex his scandalizaret, grauiissimam sibi poenam inferri debere praedicabat.

II. Anacleti papae.


II. 2 si] sed praem. autem om. 5 caritati.
minime absoluantur, antequam per satisfactionem ut iam
10 dictum est, condignam egerint penitentiam.

III. Pontiani papa.

De sacerdotibus autem domini, si qui forte cecid-
erint, a fidelibus sunt subleuandi et portandi. Accu-
sandi autem non sunt ab infamis, aut sceleratis, uel
5 inimicis, aut alterius sectae uel religionis hominibus.
Sed si peccauerint a reliquis arguantur sacerdotibus,
et a summis pontificibus constringantur, et non a
saecularibus aut malae uitae hominibus arguantur.

IV. Anterii papa.

Veteri quidem lege habetur, quicunque sacerdotibus
non optemperasset aut extra castra positus lapidabat-
tur a populo, aut gladio ceruice subiecta contemptum
5 expiabat cruore. Nunc uero inoboediens spirituali
animaduersione truncatur, aut eiectus de aeccllesia
rabido doemonum ore decerpitur. Oportet enim ut qui
Deum haereditate possident, absque ullo impedimento
saeculi Deo serviant, ut dicere possint: Dominus pars
10 haereditatis meae.

III. 2 domini] quos--ergo add. (9 lin.) qui om.
4 infimis.

IV. 5 cruorem spirituali.

III. Ps. Pontianus, Epist. I, Cap. 2-3 (H 147).
IV. Ps. Anterius, Cap. 7-8 (H 155).
V. Fabiani papae.

Sacerdotes quos sibi dominus de omnibus asciuit, et suos esse uoluit non sunt leuiter tractandi, nec lacerandi, uel temere accusandi, aut reprehendendi, nisi a magistris suis, quoniam eorum causas sibi dominus reseruari uoluit, et suo iudicio uindicari. Tolerandii enim hi sunt potius quam exprobrandi ueluti palea cum triticco usque ad ultimum uentilabrum sicut pisces mali cum bonis, usque ad segregationem quae futura est in litore, hoc est in fine saeculi. Nullatenus ergo potest condemnari humano examine, quem Deus suo iudicio reseruuit, ideoque nullus praesumat quae sibi non sunt concessa. Similiter statutum est, et nos eadem statuta firmantes statuimus, ut si aliquis clericorum suis episcopis infestus aut insidiator fuerit eosque criminari temptauerit, aut conspirator fuerit, ut mox ante examinatum iudicium submotus a clero, curiae tradatur, cui diebus uitae suae deser-
uiat, et infamis absque ulla restitutionis spe per-
20 maneat. Similiter statuentes apostolica auctoritate
iubemus, ne pastorem suum oues quae ei commissae
fuerant nisi in fide errauerit reprehendere audeant,
quia facta praepositorum oris gladio ferienda non
sunt. Si enim a fide deuiauerit, erit corrigendus
25 prius secrete a subditis. Quod si incorrigibilis quod
absit apparuerit, tunc erit accusandus ad primates
suos, aut ad sedem apostolicam. Pro aliis uero actibus
suis magis est tolerandus ab ouibus et subditis suis
quam accusandus, aut publice derogandus, quia cum eis
30 a subditis delinquitur, eius ordinationi obuiatur,
qui eos eis praetulit, dicente apostolo: Dei ordi-
nationi resistit qui potestati resistit.

VI. Cornelii papae.

Sacramentum hactenus a summis sacerdotibus uel
reliquis exigi, nisi pro fide recta minime cognouimus,
nec sponte eos iurasse repperimus. Sacramentum nan-
5 quam episcopis nescimus oblatum, nec unquam fieri debet
quoniam praeeptum est nobis a domino, non iurandum,

V. 24 deuiauerit] episcopus add.

VI. 2 sacramentum] autem add. 4 repperimus]
summpere-prealibauimus add. (19 lin.) 4 nan-
quam om. 6 quoniam] ut supra memoratum add.
est praeeptum tr.

VI. Ps. Cornelius, Epist. II, Cap. 3 (H 173).
neque per caelum, quia thronus Dei est, neque per terram, quia scabellum pedum eius est, neque per caput suum, quia nullus potest unum capillum creare. Vnus-10 quisque enim sicut ante altare stans Dei timorem habet prae oculis, et propriam conscientiam mundam seruat Deo, quod in memoriam retinetnullatenus habet inter-mittere, quoniam os quod mentitur occidit animam.

VII. Synodus Spalensis aecclesiae sacrosanctae Hiero-
solym. Episcoporum VIII. Cap. VI.

Adversus praesumptionem nostram decreimus, ut iux-
ta priscorum patrum synodali sententia nullus denuo nos-
trum sine concilio examine deiciendum quemlibet pres-
byterem uel diaconum audeat. Nam multi sunt, qui
indiscussos potestate tyrannica non auctoritate cano-
nica damnant, et sicut nonnullos gratia favoris sub-
limant, ita quosdam odio invidiaque permoti humiliant,
10 et leuae opinionis aura condemnant quorum crimen non approbant. Episcopus enim sacerdotibus ac ministris
solus honorem dare potest, auferre solus non potest.
Si enim hi qui in saeculo a dominis suis honorem

| VII. 4 synodalem sententiam | denuo om. 7 in-
| discussis | 8 gratiae favore | 10 leuæ | (ad praem.)
| leuem | auram | 11 sacerdotibus | presbyteris |

VII. Hispalense II, 6 (Vi 166-7).
libertatis adepti sunt, in seruitutis nexu non revol-
untur nisi publice apud praetores tribunali foro
fuerint accusati, quanto magis hi qui diuinis alta-
ribus consecrati honore aeclesiastico decorantur
qui pro peccato nec ab uno damnari nec uno iudicante
poterint honoris sui priuilegiis exui? Sed praesentati
synodali iudicio, quod canon de illis praeceperit defi-
niri.

VIII. Stephanus papa Hilario episcopo.

Quod consuluisti sedem apostolicam qui sunt in-
fames, aut qui ad gradus aeclesiasticos non sint ad-
mittendi, et nosse te credimus, et pro auctoritate
sedis apostolicae te informare non denegamus. Infames
autem esse eas personas dicimus, qui pro aliqua culpa
notantur infamia, id est omnes qui Christianae legis
normam abiciunt, et statuta aeclesiastica contemnunt.
Similiter fures, sacrilegos, et omnes capitalibus

10 criminibus irretitos, sepulcrorum quoque uiolatores,
et apostolorum atque successorum eorum reliquorumque
sanctorum patrum statuta libenter uiolatores, et omnes

18 pro peccato] profecto 19 poterunt.

VIII. 2 quod] uero add. 3 sint] sunt 12 sanctorum om. uiolantes

VIII. Ps. Stephanus, Epist. I, 2 quod--31 accusare
Cap 2 (H 181-2); Epist. II, 31 nullus--33 laici Cap 7
(H 184), 33 et--36 inimici Cap. 11 (H 186).
qui aduersus patres armantur, qui in omni mundo infamia notantur. Similiter et incestuosos, homicidas, pereiuros, raptores, maleficos, ueneficos, adulteros, de bellis fugientes, et qui indigna sibi petunt loca tenere, aut facultates aecclesiae abstrahunt iniuste, et qui fratres calumniantur aut accusant, et non probant, uel qui contra innocentes principum animos ad iracundiam prouocant, et omnes anathematizatos, uel pro suis sceleribus ab aecclesia pulsos, et omnes quos aecclesiasticae uel saeculi legis infames pronuntiant. Hos uero, non ordines, nec seruos ante legititam libertatem, nec poenitentes, nec dygamos, nec eos qui curiae deseruiunt, uel qui non sunt integri corpore ac sanam non habent mentem, uel intellectum, aut inoboedientes sanctorum decretis existunt, aut furiosi manifestantur. Hi omnes, nec ad sacros gradus debent prouehi, nec liberti neque suspecti, siue rectam fidem, uel dignam conversaionem non habentes, summos sacerdotes possunt accusare. Nullus alienigena aut accusator eorum fiat aut iudex. Nec seruus, nec cohabitantes inimicis, et

omnes laici, et qui non se prius probauerint innocentes, nec familiares, nec sponte confessi, atque sceleribus irretiti, nec hi qui hesterna die aut perendie, aut ante fuerunt inimici.

IX. 1. Meltiadis papae.

Eorum os accusandi sacerdotes, uel testificandi in eos obstruimus, quos non humanis, sed diuinis uocibus mortuos esse scimus quoniam infidelis homo mortuus est in corpore uiuente.

2. Item. Calixti papae.

Non de aliis causis uel negotiis testimonium dicant testes, nisi de his quae sub praesentia eorum acta esse noscuntur. Accusatores uero consanguinei aduersus extraneos testimonium non dicant, nec familiares, uel de domo prodeuntes. Sed si uoluerint, et inuicem consenserint, inter se parentes tantummodo testificentur, et non in alios. Nec accusatores, uel


IX. (1) 2 eorum] enim add. os] hos (2) 7 non] nec 8 testes om.

XI. (1) Ps. Melchiades, Epist. I, Cap. 5 (H 244); (2) Ps. Calixtus, Epist. II, Cap 17-18 (H 141); (3) Ps. Eusebius, Epist. III, Cap. 18 (H 239); (4) Ps. Eleutherus, Cap. 3 (H 126).
testes suspecti recipientur, quia propinquitatis et
familiaritatis ac dominationis affectio, uteritatem
impedire solet. Amor carnalis, timore, atque avaritiae, plerumque sensus hebetant humanos, et peruer-
tunt opiniones, ut quaestum pietatem putent, et pecu-
niam quasi mercedem prudentiae.

3. Item. Eusebii papae.

Constituimus iterum cum omnibus qui nobiscum sunt
episcopis sicut dudum decretum repperimus, ut homi-
cidae, malefici, fures, sacrilegi, raptores, adulteri,
incaesti, uenefici, suspecti, criminosi, domestici,
periuri, et qui raptum fecerunt, uel falsum testimo-
nium dixerunt, seu qui ad sortilogos diuinisque con-
currerunt, similesque eorum nullatenus ad accusationem,
vel ad testimonium erunt admittendi, quia infames sunt,
et iuste repellendi, quia funesta est uox eorum.


Nichil absque legitimo et idoneo accusatore fiat.
Nam et dominus noster Iesus Christus Iudam furem esse
sciebat, sed quia non est accusatus, ideo non est
eiectus, et quicquid inter apostolos egit, pro digni-
tate ministerii ratum mansit.

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IX. (2) carnalis] et add. timor
(3) constituimus] statuimus 26 sorti-
logos] sacrilegos 27 concurrerint.
(4) nichil] tamen add.
X. 1. Synodus Agatensis. Episcoporum XXV. Cap. XXXIII.

Si quis uero saecularium per calumniam aecclesiam aut clericum fatigare temptauerit, et uictus fuerit, 5 ab aecclesiae liminibus, et a catholicorum communione, nisi digne poenituerit coherceatur.

2. Concilium Toletanum. Episcoporum XVIII.

Cap. XI.

Si quis de potentibus clericum aut quemlibet pauperiorem, aut religiosum expoliauerit, et manda-
erit eum ad se uenire episcopus ut audiatur, et con-
tempererit, in uicem mox scripta percurrant per omnes provinciae episcopos et quoscunque adire potuerint, ut excommunicatus habeatur ipse donec audiat et reddat aliena.

XI. Felicis papae.

Si quis super quibuslibet criminiu clericum pulsandum crediderit, in provincia in qua consistit

X. (1) 4 uictus] euictus 5 ab om. 6 coher-
ceatur] arceatur
(2) 11 eum--et] (eum om.) ad ipsum (uenire om.) episcopus ut (eum add.) audiat et (is add.) 14 ipse om. audiatur et] ut.

X. (1) Agathense 32 (CCL 148, 207); (2) Tole-
tanum I, 11 (VI 22).

XI. Ps. Felix, Epist. I, Cap. 3-5 (H 198).
ille qui pulsatur suas exerat actiones, nec aestimet
5 eum accusator alibi aut longius pertrahendum ad iudicium. Ille uero qui pulsatus fuerit, si iudices suspectos habuerit, liceat appellare primates. Primates quoque accusatum discutientes episcopum, non ante sententiam proferant damnationis, quam apostolica
10 freti auctoritate, aut reum se ipsum confiteatur, aut per innocentes et canonice examinatos regulariter testes conuincatur. Irritam esse iniustam episcoporum damnationem, iccirco a synodo retractandam, ita ut oppressis ab omnibus in cunctis subueniatur causis.
15 Caueant iudices aecclesiae ne absente eo cuius causa ventilatur sententiam proferant, quia irrita erit.

XII. Anacleti papae.

Deteriores quippe sunt qui doctorum uitam moresque corrumpunt, his qui substantias aliorum praediaque diripiunt. Ipsi autem ea quae extra nos, licet nostra
5 sint auferunt. Nostri quoque detractores, et morum corruptores nostrorum, siue qui aduersus nos armantur, Proprie nosipsos decipiunt, et ideo iuste infames sunt, et merito extorres ab aecclesia fiunt.

XII. Ps. Anacletus, Epist. III, Cap. 36 (H 85).
XIII. Concilium Laodicaenum.

Quod si quis Dei sanctaeque ecclesiae extiterit contemtor, et per suae tirannidis potentiam cuius-libet gradum custodiae deputauerit, aut in aliquo lese-rit aut quod turpissimum, diabolicus spiritu agitat-tus, in episcopum, aut in presbyterum, uel diaconum, manus mittere ausus fuerit, aut de sua libera potes-tate eum auferre, et uinuclei custodiaeque tradiderit, aut in aliquo dehonestauerit, seu iniurii, aut contu-meliis affecerit hic omnibus diebus uitae suae iugiter se poenitentiae submittat, arma nulla ferens, cilio semper indutus, carnem non comedat, uinunquem non bibat, ad saecularem militiam nunquam reuertatur, neque sequauces eius, eique consentientes, sicut sancti praeci-piant canones. Vxorrem non accipiat, peregrinus exsul effectus omnibus diebus uitae suae. Et nunquam in uno loco, siue in una uilla hospitetur, sed peregrinando semper deambulet nisi grauissima infirmitate detine-atur, ut proficisci non possit. Et in ultimo, ubicun-que mors euenerit, a nullo fidei communio tribuat ur ei, neque mortuus sepeliatur, sed in sepultus iaceat. Auibus, canibus, ferisque cadauer ad deuorandum dere-

XIII. 4 deputauerit] leg. deturpauerit?

XIII. Caput incertum [inuentum in 5L 1339 4, 139, 12 (non in promptu)].
lictum, nisi heiuulando, et flendo, dignam poeniteidinem se demonstrauerit habere, qui ausu nefandissimo con-
25 temptor extitit spiritus sancti praecipientis. Nolite inquit tangere Christos meos, et in prophetis meis nolite malignari. Et quis mittit manum suam in Christum domini, et innocens erit? Et quia omnem iustitiae tramitem, legesque Christianas, diuinas mundanasque contempsert conculcando nefandissimis pedibus sanctuaria Dei, ipsumque uicarium Christi, caput suae sanctae aecclesiae, custodiae mancipando, propria dignitate pri-
uuuit immisericorditer, et ipse ut Iudas Scarioth, domini ac magistrati sui traditor, damnationis sustineat,
35 poenam cum suis omnibus. E contra, qui non Dei sanctaeque aecclesiae contemtor extiterit, sed per suae tirannidis potentiam cuiuslibet gradum affecerit contumeliis, sic tamen sollerter iuxta modum culpae pro-
uidendum est, si irreligioso, ut religiosus, si in rus-
40 tico ut rusticus iudicandum est, sicut de quibusdam grauibus de quibusdam leuibus, causis.

XIV. Justinianus.

Si quis, dum diuina ministeria celebrantur, in

XIII. 23 poenit(ei)dem] ei cancell., u add. interl. Ms1.

XIV. 2 dum om. 2 diuina--3 uel] diuinis mys-

XIV. Jul. epit. 115, 478, 52 (Ha 159).
monasterium, uel sanctam intrauerit aecclesiam, episco- 
copo, uel clericis, et aliiis ministris aecclesiae

5 iniuriam fecerit, iubemus eum tormentis subjectum in 
exilium mitti. Sed si et ipsa sancta ministeria, uel 
oratoria, uel diuina obsequia conturbauerit, uel cele- 
brare prohibuerit, capitali supplicio punitur. Hoc 
eodem obseruetur et in letaniis, in quibus episcopi,

10 uel clerici inueniuntur, ut si quidem contumeliam tantum 
fecerit, tormentis exilio tradatur. Si autem leta- 
nias conturbauerit, periculo capitali subiciatur. Ea-
que defendere uolumus, non solum ciuiles, sed etiam 
militares iudices.

XV. De primitiua aecclesia constructione.

Nemo qui scripturas diuinam legit ignorat, quod 
in principio nascentis aecclesiae discipulis in unum 
congregatis cum multitudine credentium in quibus erat 

5 cor unum et anima una, quique uendentes praedia et

\[\text{XIV. teriis (uel aliis sanctis ministriis add.)} \]
\[\text{celebrandis in (monasterium uel om.) 3 aecclesiam} \]
\[\text{et add. 4 et] uel 6 et si tr. 6 ministeria--} \]
\[\text{7 obsequia] oratoria uel (diuina add.) mysteria tr. (uel} \]
\[\text{duina obsequia om.) 7 celebrari 9 obseruando} \]
\[\text{11 exilio] et praem. 12 periculo capitali} \]
\[\text{capitale periculum tr. subiciatur] subsistat.} \]

\[\text{XV. Ps. Melchiades, Epist II (De primitiua ecclesia} \]
\[\text{et sinodo Nicena), 2 nemo--27 concederet Cap. 9-10,} \]
\[\text{27 ab--85 possidentes Cap. 12-15 (H 247-9).} \]
possessiones suas, afferebant praetia, et diuidebantur singulis prout cuique opus erat. Futurum nanque aeccle-
siam in gentibus apostoli praeuidebant, maximeque quia
dominus illis praedixerat, euntes in mundum uniuersum
praedicate euangelium, uel quia expellendi erant a
Iudea, nouerant se et in gentes dispersuros aecclesiam-
que congregandam ex rudi populo, iccirco praedia in
Iudea minime sunt adepti, sed praetia tantummodo, ad
fouendos egentes. At uero cum inter turbines et ad-
uersa mundi succresceret aecclesia, adeo usque peruenit,
ut non solum gentes, sed etiam Romani principes qui
pene totius orbis monarchiam tenebant, ad fidem Christi
et baptismi sacramenta concurrent. Ex quibus uir reli-
giosissimus Constantinus primus fidem uaeiritatis paten-
ter adeptus licentiam dedit per uniuersum orbem, suo
degentes imperio, non solum fieri Christianos, sed etiam
fabricandi aecclesias, et praedia tribuenda consti-
tuit. Denique idem praefatus princeps, donaria immensa,
et fabricam templi primae sedi beati Petri principis
apostolorum instituit, adeo ut sedem imperialem quam
Romani principes praesiderant relinquueret, et beato
Petro suisque praesulibus profutura concederet. Ab
illo etenim tempore et deinceps, uiri religiosi, non
solum possessiones et praedia quae possederant, sed
30 etiam semetipsos domino consecrabant, aedificantes
basilicas in suis fundis, in honore sanctorum martyrum
per ciuitates, ac monasteria innumeram, in quibus coetus
domino servientium conueniret. Denique reges et praesides ac magistratus, non solum hanc licentiam attri-
35 buti, sed etiam ipsi propria largiti sunt per uniuersa
terrarum regna, unde alerentur egentes qui nichil in
mundo possidebant, aeclesiaeque Dei fabricarentur, at-
que restaurarentur, Deoque et aeclesiae eius rite
famulantium, seruorumque illius supplementa absque
40 necessitate tribuerentur, ut haec accipientes, secundum
monita apostoli possint orationes, postulationes, obse-
crationes, gratiarumque actiones facere pro omnibus
hominibus, pro regibus et qui in sublimitate sunt, ut
quietem et tranquillam uitam habeant. Et hoc bonum et
45 acceptum esse coram Deo, idem magister gentium pro-
testatur, et cui sollicitudo omnium aeclesiarum
incumbebat, quique episcopos regere per spiritum san-
tum constituit aeclesias Dei, quibus ait: Pascite
qui in uobis est gregem Dei, prouidentes, non coacte,
50 sed sponte, secundum Deum, neque turpis luceri gratia,
sed voluntarie. Cui enim dicit: Nemo militans Deo,
implicat se in negotiis saecularibus, ut ei placeat
cui se probuit. Quae enim sunt negotia saecularia,
sancti canones manifestant et inhibent, dum perspi-
55 ciunt quod quidam qui in clero uidentur electi, pro-
pter lucra turpia conductores alienarum possessionum
fiant, et saecularia negotia sub cura sua suscipiant.
Dei quidem ministerium paruipendentes, saecularium
uero discurrentes domos, et propter auaritiam patri-
60 moniorum sollicitudinem sumentes. Decreuit autem sancta
synodus quae apud Niceam congregata est, nullum dein-
ceps clericum, aut possessiones conducere, aut nego-
tiis saecularibus se miscere, propter pupillorum et
orfanorum ac uiduarum, aut si forte episcopus ciui-
65 tatis aecclesiasticarum rerum sollicitudinem habere
praecipiat. Vbi liquido patet, quia alia sunt negotia
saecularia, alia aecclesiasticca. Nonne Moyses in
saeculo erat, cum crebro tabernaculum intrarer et
exiret? Qui intus contemplationem raptus, foris
70 infirmantium negotiis urguebatur? Intus Dei archana
considerans foris onera carnalium portabat. Cuius
typum sacerdotes in aecclesia agere debent, ut dum
foras exeunt, ad exercenda negotia pro necessitatibus

XV. 52 in om. 52 ut—53 probuit om. 53 sunt]
sint 54 dum om. prospicue 60 autem om.
60 sancta—61 est] supradicta synodus 63 propter]
praeter 64 ac] aut 66 ubi] ut 69 contempla-
tione 70 urgebatur
subditorum, intus ad se redeant per contemplationem mandatorum. Sicut Paulus qui caelestibus secretis insertus, et tamen per condescensionis uiscera, carnalium cubile perscrutatur. Sic et Iacob ascendentes et descendentes angelos uidit, quia uidelict rectores aecclesiae non solum Deum contemplando appetunt, sed deorum quoque ad membra illius miserando descendunt. Et dum sacerdotes horum facta imitantur, et se custodiunt, et subditorum onera portant, et uidentur tales esse, quales idem egregius praecepit, ut qui utuntur hoc mundo tanquam non utuntur, et qui gaudent, tanquam non gaudentes, et qui aemunt tanquam non possidentes.

XVI. Anacleti papae.

Episcopi non in castellis aut modicis ciuitatibus debent constitui, sed presbyteri per castella et modicas ciuitates atque uillas debent ab episcopis ordinari et poni. Singuli tamen per singulos titulos suos, et presbyter ad qualecumque locum, uel aecclesiam ab episcopo constitutam est praeficiendus, atque in ea diebus uitae suae durandus.

XV. 75 sicutque 76 insertus] interitum Deo contemplando] superna add.

XVI. 2 episcopi] autem add. 5 et] episcopus-- est add. (3 lin.) 6 presbyter] uero add. 6 ab-- 7 episcopo] quae in eo constituta.
XVII. Clementis papae.

Cunctis fidelibus, et summnopere omnibus presbyteris, diaconibus, ac reliquis clericis attendendum est, ut nihil absque episcopi proprii licentia agant, non utique missas sine eius iussu quisquam presbyterorum in sua parrochia agat, non baptizet, nec quicum absque eius permisso faciat.

XVIII. Synodus Agatensis. Episcoporum XXV. Cap. XXXVIII.

Clericis sine commendaticiis epistolis episcopi sui licentia non pateat euagandi. In monachis quoque, praesentis sententiae forma seruetur. Quos si uerborum increpatio non emendauerit, etiam inerberibus statuimus coherceri. Seruandum quoque de monachis, ne eis ad solitarias cellulas liceat a congregacione discedere, nisi forte probatis post emeritos labores, aut propter infirmitatis necessitatem, asperior abbatis regula remittatur. Quod ita demum fiet, ut intra eadem monasterii septa manentes, tamen sub abbatis potestate separantur.

XVII. 2 cunctis praepropter praem. presbyteris et add. 5 quisquam quisque.

XVIII. 5 praesentis par 10 abbatis (ab praem.) abbatibus

XVII. Ps. Clemens, Epist. III, Cap. 70 (H 57).

XVIII. Agathense 38 (CCL 148, 208-9).
ratus habere cellulas permittantur. Abbati quoque singulas diversas cellulas aut plura monasteria habere
15 non liceat, nisi tantum propter incursum hostilitatis intra muros receptacula collocare.

XIX. Concilium Bracarense. Cap. VI.

Cum beatus apostolus, arguere, obsecurare, uel increpare in omni patientia praecipiat, extra hanc doctrinam nouimus quosdam ex fratibus tantis, cedibus
5 in honoratos efferuescere, quanto poterant latrocinantium promereri personae. Et ideo qui gradus iam aeclesiasticos meruerunt, id est presbyteri, abbates,
siue leuitae, qui excepto grauioribus et mortalibus culpis, nullis debent uerberibus subiacere. Non est
10 dignum, ut passim unusquisque praelatus honorabilia membra sua prout uoluerit et ei placuerit uerberibus subiaceat et dolori. Ne dum incaute subdita percuit membra, ipse quoque debitam sibi subditorum reuerentiam suprahvat. Iuxta illud quod quidam sapiens dicit:
15 Leuiter castigatus, reuerentiam exhibit castiganti.

XVIII. 13 abbatibus singulis.

XIX. 3 extra--doctrinam] (extra hanc om.) (et add.)
doctrina 5 honoratos] subditos add. quantas
7 presbyteres 8 qui om. 9 non] enim add.
11 ei] quum ]2 subiaciant doloribus 14 dixit

XIX. Bracarense III, 6 (Vi 376-7).
Asperitatis autem nimiae increpationi, nec increpationem recipit, nec salutem. Et ideo si quis aliter quam dictum est praedictos honorabiles subditos licentia perceptae potestatis elatus malitia tantum crediderit 20 uerberandos, iuxta modum uerberum quem intulerit, excommunicationis pariter et exilii sententiam sustinebit.

XX. Canones Apostolorum. Cap. XXVIII.

Episcopum aut presbyterum aut diaconum percuti- entem fideles delinquentes, aut infideles inique agentes, et per huiusmodi uolentem timeri, deici ab officio suo praecipimus, quia nusquam nos hoc dominus docuit. E contrario uero ipse cum percuteretur, non repercutebat, cum malediceretur non remaledicebat, cum patere- tur, non comminabatur.

XXI. De clericó qui propter luxum uoluerit esse mona- chus. Concilium Cesaraugustanum. Cap. VI.

Lucius episcopus legit: Si quis clericus propter luxum uanitatisque praesumptum de officio sponte dis-
5 cesserit, ac uelut observatorem legis monachum uiderit, si maluerit esse quam clericum, ita de aeccliesia repellendum, ut si rogando atque obsecrando plurimos temporibus satisfecerit, non recipiatur. Ab uniuersis episcopis dictum est: ita fiat.

XXII. Quod quibusdam penitentibus. Toletanum VII. Cap. VIII.

Antiqui et sanctissimi est patris sententia papae Leonis, ut is qui in aetatis adolescentia positus dum mortis formidat casum peruenerit ad poenitentiae remedium, si coniugatus forte fuerit, incontinens, ne postea adulterii incurrat lapsum, redeat ad pristinum coniugium, quosque possit adipisci temporis maturitate continentiae statum. Quod nos sicut de uiris, ita et de feminis aequo modo censemus. Non quidem hoc generaliter et canonice praecptum, sed constat a nobis, pro humana fragilitate indultum. Ea duntaxat ratione, ut si is qui poenitentiae non est legibus deditus, antea ab hac uita decesserit, quam ex consensus ad continentiam eorum

XXI. 5 ac] se add. 5 monachum--6 maluerit] (in praem.) monaco uidere (si om.) voluerit 7 ut si] erit nisi obsecrando] observando.

XXII. 2 cap. viii] xxx episcoporum marg. MS¹ 4 is] his aetatem adolescetiae 6 forte] et praem. 8 maturitatem 10 hoc om. 11 canonice] legitime 12 is] his 13 ante hac] hoc

XXII. Toletanum VI, 8 (Vi 239-40).
unde fuerit regressus, subpraestiti non liceat denuo ad uxoris transire amplexus. Si autem illius uita extiterit suprestes, qui non acceptit benedictionem poenitentis, nubat si se continere non potest, et alterius consortio fruatur, uxoris. Quod de utroque sexu, pari modo a nobis manifestatum est, decreuisse. Ita uide-licet, ut in his omnibus sacerdotis ordinatio expec-tetur, ut iuxta quod aetatem aptam prospererit, continenciae absolutionis tribuat legem.

XXXIII. Agatense. Cap. III.

Episcopi uero, si sacerdotali moderatione post-posta, innocentes, aut minimis causis culpabiles excommunicare praesumpserint, aut ad gratiam festinantes recipere fortasse noluerint, a uicinis episcopi cuius-libet provinciae moneantur litteris, et si parere noluerint, communio illius usque ad tempus synodi a reliquis episcopis denegetur. Ne forte propter excommunicatoris peccatum, excommunicati longo tempore morte praueuientur.

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XXIII. Agathense 3 (CCL 148, 193-4).
INCIPIT DE SACRIS VASIS, ET EA IRREVERENTER TRACTAN-
TIBVS PRAELATIS SIVE MINISTRIS.

XXIV. Xystus universalis apostolicae aeclesiae episc-
copus, omnibus episcopis salutem in domino.

Cognoscat uestra sapientia karissimi fratres,
quia in hac sancta apostolica sede a nobis et reliquis
5 episcopis ceterisque domini sacerdotibus statutum est,
ut sacra uasa non ab aliis quam a sacratis dominoque
dicatis contrectentur hominibus. Indignum enim ualde
est, ut sacra domini uasa quaecunque sint, humanis
usibus seruiant, aut ab aliis quam domino famulan-
tibus eique dicatis tractentur uiris, ne pro talibus
praesumptionibus iratus dominus, plagam imponat populo
suo, et hi qui etiam non peccauerunt mala patiantur,
aut etiam pereant, quia perit iustus sepissime pro
impio.

XXV. Sotheri papae.

Sacratas Deo feminas, uel monachas, sacra uasa,
vel sacratas pallas contingere, et incensum circa alta-

XXIV. 9 quam] a add. 13 etiam om.
XXV. 3 pallas] penes uos add.

XXIV. Ps. Sixtus, Epist. II, Cap. 4 (H 108).
XXV. Ps. Sother, Epist. II, Cap. 3 (H 124).
ria deferre, omnia reprehensione et uituperatione plena
5 esse, nulli recte sapientium dubium est. Quapropter
huius sanctae sedis auctoritate haec omnia resecare
funditus censemus. Et ne pestis haec latius diuulgetur,
per omnes prouincias abstergi citissime mandamus.

XXVI. Concilium Bracarense III. Cap. II.

Omni cura, omnique studio prouidendum est, ne hi
qui locum uidentur obtinere regiminis, contumeliam
uideantur inferre caelestibus sacramentis. Etenim
5 quod et auditui horribile, et uisui exsecrable iudica-
tur, relatum est nobis quod quidam sacerdotum sacri-
lega temeritate praecipites, uasa domini in proprios
usus assumant, aepulasque sibi in eis commessuras
apponant. Quod malum et obstupentes deflemus, et
10 deflectes obstupescimus, ut illic humana temeritas
sibi aepulum praeparet, ubi spiritum sanctum cognoscitur
aduocasse. Et ibi auesc carnium crapulatus assumat,
ubi divina uisus est celebriasse misteria. Et in quibus
tanta sibi offeri sacramenta pro expiatione delictorum

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XXV. 4 deferre] perlatum est ad apostolicam sedem
quae add. 6 omnia] uobis add. 7 funditus] quan-
totius poteritis add. haec] hoc.

XXVI. 6 nobis est tr. 8 comesturis 9 obstu-
pentes] obstupee(sce interl. MS1)ntes 11 sanctum
spiritum tr. 14 tanta--sacramenta] tantae (sibi
offeri om.) (rei add.) sacramentum

XXVI. Bracarense III, 2 (Vi 374).
15 percepit, in his expleat uoluptatem ludibrii sui. Et
ideo huius de cetero praesumptionis persona, qui sciendo
diuina uasa, uel misteria, aut in usus suos, transtu-
lerit aut comedere in his uel poculum sibi sumendum
elegerit, gradus sui, uel officii periculum sustinebit.
20 Ita tamen, ut si de saecularibus fuerit, perpetua excom-
municacione damnetur. Si uero religiosus, ab officio
deponatur. Sub hac quoque damnationis sententia, et
illi obnoxii tenebuntur, qui aecclesiastica ornamenta,
uela uel quaelibet alia indumenta, uel etiam utensilia
25 sciendo in suos usus transtulerint, uel aliis uendenda,
uel donanda crediderint.

XXVII. Stephani papae.

Vestimenta aecclesiastica quibus domino ministra-
tur, et sacrata debent esse, et honesta, quibus alii usibus nemo debet frui quam aecclesiasticis in Deo
dignis officiis, quae nec ab aliis debent contigi,
aut ferri, nisi a sacratis hominibus ne ultio quae
Balthasar percussit, super haec transgredientibus, et
talia praesumentibus ueniat diuina, et corrueere eos

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XXVI. 15 uoluptatem] uoluntatem 17 ministeria
24 uel] atque 26 danda.

XXVII. 2 uestamenta] uero add.

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XXVII. Ps. Stephanus, Epist. I, 2 uestamenta--9 ima
Cap. 3 (H 183); Epist. II, 9 laicis--ll facultas Cap. 12
(H 186).
faciat ad ima. Laicis quoque quamuis religiosi sint
nulli tamen de aeccllesiasticis facultatibus aliquid
disponendi legitur unquam attributa facultas.

XXVIII. Marcelli papae.

Omne quod reprehensibile est, catholica defendit
aecclesia. Non licet ergo imperatori, uel cuiquam
pietatem custodienti, aliquid contra mandata diuina
praesumere, nec quicquam quod euangelicis propheticis-
que et apostolicae regulis obviatur agere. Iniustum
enim iudicium et definitio iniusta, regio metu, uel
iussu, a iudicibus ordinata non ualeat, nec quicquam
contra euangelicae, uel propheticae, aut apostolicae
doctrineae constitutionem siue sanctorum patrum actum
fuerit stabit, et quod ab infidelibus aut hereticis
factum fuerit, omnino cassabitur.

XXIX. Synodus Antiochena. Episcoporum triginta unius.
Cap. XI.

Si quis episcopus, uel ... Si quis episcopus aut

XXVII. 9 sint] sunt 10 nullo.

XXVIII. 1 Marcelli] ni interl. MS², siue Calixti
papae add. MS² 2 omne] enim add. inreprehensi-
bile 7 regis 8 quicquam] quod add. 10 siue
sanctorum] successorum.

XXVIII. Ps. Marcellinus, Epist. II, Cap. 3-4 (H 222-
3).

XXIX. Antiochenum 11 (Jo 1/2, 113).
presbyter, uez omnis omnino qui est sub aecclasiastica regulae constitutus, praeter consilium, uez litteras eorum episcoporum qui sunt intra prouinciam et maxime metropolitani ad imperem perrexerit, hunc abdicari et eici, non solum de communione, sed etiam propria dignitate priuari, tanquam molestum et imporationum imperialis auribus, contra aecclasiastica constituta. Si autem necessitas cogit ad imperem excurrire propter aliquam actionem, cum delibratione et consilio metropolitani ipsius provinciae, episcoporum qui in ea sunt, atque cum eorum litteris, ire debibit

presbiter aut quilibet regulae subjectus ecclesiae praeter consilium et litteras episcoporum prouinciae et praecipue metropolitani adierit imperatorem, hunc reprobari et abici oporentre non solum a communi- one, uez et ab honore cu- ius particeps uidetur existere, quia uenerandi principis auribus molestiam temptauit inferre contra leges ecclesiae. si igitur adire principem necessaria causa deposcit, ut agatur cum tractatu et consilio metropolitani et ce- terorum episcoporum qui in eadem prouincia commorantut, qui etiam proficisc centem suis consequantur epistulis.

XXX. Item. Cap. XII.

Si quis a proprio episcopo depositus presbyter, uez diaconus, aut etiam si a synodo quilibet episcopus fuerit exactoratus, molestiam imperialis auribus inferre non praesumat, sed ad maiorem episcoporum synodum sese conuerat, et quae se putat habere iusta in eorum concilio allegat, atque ab his de se expe- tet, quae fuerit depro- pta sententia. Quod si de- ficiens pusillanimitate hoc noluerit facere, sed imperatori fuerit importunus huiusmodi nullam ueniam habeat, neque locum illius assertionis suae, nec spem

Si quis a proprio episcopo presbiter aut diaconus, aut a synodo fuerit episcopos forte damnatus, et imperatoris auribus molestus extiterit, oporent ad maius episcoporum conueriti concilium, et, quae putauerint habere iusta, plurimos episcopos suggerant eorumque discussionem ac iudicium praestolentur. si uero haec paruiipen- tes molesti fuerint imperatori, hos nulla uenia dignos esse nec locum satisfactionis habere nec spem futurae restitutionis omnimodis operiri.

XXX. Antiochenum 12 (Jo 1/2, 114).
recipiendi gradus habeat
in futurum.

XXXI. Item. Cap. XIII.

Si quis episcopus de
diquibus causis crimina-
libus in iudicio episcopo-
rum fuerit accusatus, con-
tingat autem de ipsis epis-
copis provinciae qui con-
ueverunt diuersas habere
sententias, et alios quidem
innocentem eum pronunti-
are, alios reum, propter
huiusmodi itaque controver-
siam amputandam, placuit
sanctae synodo, metropoli-
tanum episcopum alterius
uciniae provinciae aduoca-
ri, et aliquantos coepis-
copos alios, qui pariter
residentes quicunque fue-
runt, dirimant quaestionem,
propter hoc ut firmum sit
iudicum, quod ab unius
proviniciae episcopis fuerit
promulgatum.

XXXII. Anacleti papae.

Quicunque causam habuerit, apud suos iudices iudicetur, et non ad alienos, causa uagandi, stimulante
protervia, suam despiciens patriam transeat, sed ad
5 xii, eiusdem provinciae iudices, ad quorum iudicium
omnes causae ciiitatum referuntur deferatur negotium.

Si autem fuerit aecclesiasticum, apud aecclesiasticos

XXXII. 7 aecclesiasticos] episcopos

XXXI. Antiochenum 14 (Jo 1/2, 115-6).

XXXII. Ps. Anacletus, Epist. I, Cap. 15-17 (H 73-4).
interueniente primate, si maior causa fuerit. Si uero minor, metropolitano. Si uero fuerit saeculare, apud 10 eiusdem ordinis uiros, iudicio tamen episcoporum, cum apostolus primatorum Christianorum causas magis ad aecclesias deferri, et ibidem sacerdotali iudicio terminari uoluit. Omnis enim oppraessus libere sacerdotum si uoluerit appellant iudicium, et a nullo pro- 15 hibeatur, sed ab his fulciatur et liberetur. Si autem difficiles causae aut maiora negotia orta fuerint, ad maiorem sedem referantur. Et si illic facile discerni non poterint, aut iuste terminari, ubi fuerit summorum congregatio congregata, quod per singulos annos bis 20 aut ter fieri solet et debet, iuste et Deo placitae coram patriarcha aut primate aecclesiastica, et coram patricio saecularia iudicentur negotia in commune. Quod si difficiliores ortae fuerint quaestiones aut episcoporum, uel maiorum iudicia, aut maiores causae 25 fuerint, ad sedem apostolicam si appellatum fuerit referantur, quoniam hoc apostoli statuerunt iussione saluatoris, ut maiores et difficiliores quaestiones, semper ad sedem deferantur apostolicam, super quam Christus uniuersam construxit aecclesiam, dicente ipso 30 ad beatum principem apostolorum Petrum: Tu es Petrus,
et super hanc petram aedificabo aecclesiam meam.

XXXIII. Eusebii papae.

Oues ergo quae pastori suo commissae fuerunt, eum nec reprehendere, nisi a recta fide exorbitauerit debent, nec ullatenus accusare possunt, quia facta 5 pastorum, oris gladio ferienda non sunt, quanquam recte reprehendenda uideantur.

XXXIV. Concilium Sardicensis. Episcoporum CCC.

Cap. XXI.

Osius episcopus dixit: Suggeste fratre et co-
episcopo nostro Olimphio, hoc etiam placuit, ut si 5 aliquid uim percessus est, et inique pulsatus, pro disciplina, uel catholica defensione, uel confessione ueritatis fugiens pericula innocens, et deuolutus ab aliam uenerit ciuitatem, non prohibeatur immorari, quandiu aut redire potuerit, aut iniuria eius reme-
10 dium acceperit. Durum est enim qui persecutiones patitur, non recipi etiam et larga beniuelentia, et

XXXIII. Ps. Eusebius, Epist. II, Cap. 11 (H 237).

XXXIV. Sardicense 17 (Jo 1/2, 184).
humanitas est ei exhibenda.

XXXV. Synodus Calcidonensis. Episcoporum DC.

Cap. III.

Decretuit igitur sancta et magna synodus neminem deinceps eorum qui in clero connumerantur, hoc est non episcopum, situe clericum aut monachum conducere possessiones, aut misceri saecularibus procurationibus, nisi forte qui legibus ad minorum aetatum tutelas siue curationes inexcusables attrahuntur, aut cui ipsius ciuitatis episcopus eaecclesiasticarum rerum commiserit gubernacula, uel orfanorum aut uiduarum quae indefensae sunt, aut earum personarum quae maxime eaecclesiastico indigent adminiculo propter timorem Dei. Si quis uero transgressus fuerit statuta, corretptioni eaecclesiasticae subiaceat.

XXXVI. Item. Cap. III.

Qui uere pure solitariam eligunt uitam, digni sunt conuenienti honor. Quia tamen quidam monachico habitu utentes, indifferenter per ciuitates, necon et monasteria seipsos praesumptione propria commendantes, placuit neminem aut aedificare, aut constituere monasteria, aut oratorii

Qui uere et sincere singularem sectantur uitam, competenti honore digni ha-beantur. quoniam uero quidam utentes habitu monachi ecclesiastico negotia ciuilliaque conturbent, circumuentes indifferenter urbes necon et monasteria sibi instituere praesumentes, placuit nullum quidem usq
domum, sine conscientia ipsius ciuitatis episcopi. Eos uero qui per singulas ciuitates seu possessiones in monasteriis sunt subjectos esse debere episcopo, et quieti operam dare, atque obsereare iunia et orationes in locis in quibus semel Deo se deuuerunt permanentes, et neque communicare ecclesiasticas neque saeculares aliguis attractare actiones, relinguentes propria monasteria, nisi forte iubentur, propert urgentes necessitates ab ipsius ciuitatis episcopo. Et neminem seruorum susci in monasterium, ut sit cum eis monachus, nisi cum domini proprii conscientia. Praetereuntem uero haec, decreimus extra communitionem esse, ne nomen domini blasphemetur. Conuenit uero ciuitates episcopo curam sollicitudinemque necessarium monasteriis exhibere.

XXXVII. Item. Cap. VI.

Neminem absolute ordinari presbyterum, uel diaconum, nec quemlibet in ecclesiastica ordinatio-ne constitutum, nisi manifeste in ecclesia ciuitatis siue possessionis, aut in martyrio, aut in monasterio, hic qui ordinatur, mereatur ordinationis publicatae uocabulum. Eorum qui absolute ordinantur, decreuit sancta synodus, am aedificare aut constituere monasterium uel oratuirii domum praeter conscientiam ciuitatis episcopi. monachos uero per unamquamque ciuitatem aut regionem subjectos esse episcopo et quietem diligere et inten-tos esse tantummodo iunio et orationi, in licis, quibus renuntiauerunt saeculo, permanentes. nec ecclesiasticis uero nec saecularibus negotiiis communicet, uel in aliquo sint molesti propria monasteria deserentes, nisi forte his praeci-piatur propter opus necessarium ab episcopo ciuitatis. nullum uero recipere in monasteriis seruum ob tentu monachi, praeter sui domini conscientiam. trans-gredientem uero hanc definitionem nostram, excommunicatum esse decreimus, ne nomen Dei blasphemetur. uerumtamen episcopum conuenit ciuitatis competente monasteriorum prouidentiam gerere.

NULLUM absolute ordi-nari debere presbiterum aut diaconum nec quemlibet in gradu ecclesiastico, nisi specialiter ecclesiae ciuitatis aut possessiones aut martyrii aut monasterii qui ordinandus est prouintie-tur. qui uero absolute ordinantur, decreuit sancta synodus, irritam esse huiusce modi manus inpositio-nem, et nusquam posse minis-

XXXVII. Chalcedonense 6 (Jo 1/1, 74-5).
uacuam habere manus imposi-
tionem, et nusquam posse
ministrare ad ordinantis
inuriam.

XXXVIII. Cap. VII.

Eos qui semel in clero
taxati fuerint, siue in mo-
nasteriis deputati, decre-
umus neque ad militiam, ne-
que ad honores saeculares
uenire. Eos autem qui hoc
ausi fuerunt facere, et non
actum rei poenitere malue-
rint, ut ad hoc idem reuer-
tantur quod ante obtutum
Dei proposuerunt sibi, an-
athematizari.

Qui semel in clero de-
putati sunt aut monachorum
uitam expetierunt, statu-
imus, neque ad militiam ne-
que ad dignitatem aliquam
uenire, mundanam aut, hoc
temptantes et non agentes
poenitentiam, ut reedeat ad
hoc, quod propter Deum pri-
us elegerunt, anathematiz-
ari.

XXXIX. Item. Cap. VIII.

Clerici in ptochiis,
monasteriis, aut martytiis
constituti, sub potestate
sint eius qui in ea est ci-
uitate episcopus, secundum
traditionem sanctorum pat-
rum, nec per praesumptio-
nem recedant a suo episco-
po. Eos uero qui ausi fu-
erint rescindere huiusmodi
institutionem quocunque
modo, uel si noluerint sub-
iacere proprio episcopo, si
quidem fuerint clerici,
personarum ordinatione sub-
laceant condemnationibus
canonum. Si uero laici,
vel monachi fuerint, com-
munione priuentur.

Clerici, qui praefici-
untur ptochiis uel qui or-
dinatur in monasteriis et
basilicis martyrum, sub ep-
iscoporum, qui in unaqua-
ctate sunt secundum san-
torum patrum traditiones,
potestate permaneant, nec
per contumaciam ab episcopo
suo dissilient. Quo uero
audent euertere huiusmodi
formam quocunque modo nec
proprio subiciuntur episco-
po, si quidem clerici sint,
canonum correptionibus sub-
lacebunt, uel uero laici uel
monachi fuerint, communione
priuentur.

XXXVIII. Chalcédonense 7 (Jo 1/1, 75).

XXXIX. Chalcédonense 8 (Jo 1/1, 75-6).
XL. X.

Non licere clericum in aecclesiis duarum ciuitatum ordinari, sed in ea in qua ab initio ordinatus est, et cuius expeditio erat ante profugium. Et si propter uanae gloriae desiderium contigerit, ut post ad aec-

clesiam maiorem confugerit, eum indubitanter reuocari debere ad eam in qua ab ex-

ordio ordinatus est, et ibi tantummodo ministre. Si uero quis iam translatus est ab alia in aliam aec-

clesiam, nihil habeat commune cum priori aecclesia, siue sub aecclesia constituitis martyribus, siue in ptociis, uel ex synodochis, aut eorum negotiis. Eos uero qui ausi fuerint post ordinationem huius magnae et uniuersalis synodi agere quae prohibita sunt, statu-
tuit sancta synodus cadere de proprio gradu.

XLI. Item. Cap. XVII.

Per singulas aecclesi-
as rusticis parrochias siue possessiones manere immobiles apud eos qui re-
tinet eas episcopos, et maxime qui eas sine uiolen-
tia iam per triginta annos tenentes gubernauerunt. Si uero intra triginta an-

nos facta fuerit aut fiat de his altercatio, licere eis qui se dixerint lesos

Singularum ecclesiarum rusticas paroecias uel in possessionibus manere in-
concussas illis episcopis, qui eas retinere nuscentur, et maxime, si per tricenni-
um eas absque ui obtinentes sub dispensatione rexerunt: quod si intra tricennium facto de his uel fiat altercatio, licere eis, qui se laesos asserunt, apud

XL. Chalcedonense 10 (Jo 1/1, 77-8).

XLI. Chalcedonense 17 (Jo 1/1, 82-3).
propter eas mouere apud synodum prouinciae certamen. Si quis uero putauerit se a proprio metropolitano grauari, apud primatem dioceos, apud Constantinae ciuitatis sedem agat iudicium sicut dictum est. Si uero quaelibet ciuitas per auctoritatem imperialem renouata est, aut si renouatur, in posterum ciuilibus et publicis ordinatio-nibus etiam ecclesiaram parrochitarum sequatur ordinatio.

sanctam sinhodum prouinciae de his mouere certamen. quod si quis a metropolitano laeditur, apud primatem dioceos aut apud Constantinopolitanam sedem iudicetur, sicut superius dictum est. si qua uero ciuitas imperiali potestate nouata est aut si protinus inoue-tur ciuiles dispositiones et publicas, etiam ecclesiasticarum paroeciarum ordines subsequantur.

XLII. Item. Cap. XVIII.

Conurationum et conspirationum crimen, quod apud Graecos dicitur phra-trea, publicis etiam legibus certum est poenitus inhiberi, hoc multo magis in sancta Dei ecclesia ne fiat, conuenit abdicari. Si qui uero clerici seu monachi inuenti fuerint, coniurantes, aut frateras, uel factiones componentes aliquas suis episcopis aut aliis clericis, omnino cadant de proprio gradu.

Conurationis et conspirationis crimen et ab exteris legibus est omnino prohibitum, mucho magis hoc Dei ecclesiam ne fiat, amonere conueniet. si qui ergo clerici uel monachi reperti fuerint coniurantes aut conspirantes aut insidias ponentes episcopis aut concles inclusis, a gradu proprio arceantur.

XLIII. Cap. XXIII.

Quae semel consecrata fuerant monasterià cum iu-dicio sui episcopi, maneant

Quae semel dedecata sunt monasteria consilio episcoporum, maneant per-

XLI. 1Constanti(nopolita interl. MS1)nae.

XLII. Chalcedonense 18 (Jo 1/1, 83-4).

XLIII. Chalcedonense 24 (Jo 1/1, 88).
perpetuo, et pertinentes ad ea res, conservari ipsis monasteriis decreuimus.
Nec ulterius posse ea fieri saecularia habitacula. Qui uero permiserint haec fieri, subiaceant his condemnationibus quae per canones constituta sunt.

XLIV. Concilium Cartaginense Africae primi. Cap. V.
Gratus episcopus dixit: Memini in sanctissimo concilio Sardicensi similiter statutum, ut nemo alterius plebis hominem usurpet. Sed si forte erit necessarius, petat a collega suo, et per consensum habeat.

XLV. Item. Cap. VII.
Cassianus V sulensis episcopus dixit: Statuat gravitas uestra, ut unusquisque clericus, uel laicus non communicet in aliena plebe, sine litteris episcopi sui. Gratus episcopus dixit: Nisi hoc observatum fuerit, communio fiet passiu. Nam cum litteris si receptus fuerit, et concordia inter episcopos seruatur, et nemo suptilis alterius fugiens communionem ad alium latenter accedit. Vniuersi dixerunt: Omnibus prouides,

XLIV. 2 dixit] haec obseruantia pacem custodiuit nam et add. 3 similiter om.
XLV. 6 si post nam tr. 8 alium] alterum.
10 et clero et laicos consulis.

XLVI. Concilium Cartaginense V. Episcoporum LXXIII. Cap. XIII.

Placuit, ut si quis de alterius monasterio repertum, uel ad clericatum promouere uoluerit, uel in suo monasterio maiorem monasterii constituere, episcopus qui hoc fecerit, a ceterorum communione seiuectus, siue tantum plebi communione contentus sit, et ille neque clericus neque praepositus perseueret.

XLVII. Concilium Agatense. Episcoporum XXV. Cap. XXI.

Si quis etiam extra parrochias, in quibus legitimus est ordinariusque conuentus oratorium in agro habere uoluerit, reliquis festiuitatibus ut ubi missas teneat propter fatigationem familiae iuxta ordinem permittimus, pascha uero, natale domini, epiphaniam, ascensionem domini, pentecosten et natale sancti Ioannis Baptistae, et si quae maxime dies in festiuitatibus habentur, non nisi in ciuitatibus aut in parrochiis

XLVI. 3 placuit] item praem. repertum] susceptum 5 constituerit 6 siue] suae 7 plebis.

XLVII. 4 teneant 5 iusta ordinatione 8 et--maxime] uel si qui maximis

XLVI. Carthagenense V, 13 (=Codex Ecclesiae Africanae 80, Bruns I, 175).

XLVII. Agathense 21 (CCL 148, 202-3).
10 teneant. Clerici uero si qui in his festiuitatibus quas supradiximus in oratoris nisi iubente aut permittente episcopo, facere aut tenere uoluerint, a communione pellantur.

XLVIII. Item. Cap. XXVII.

Et de monachis, monasterium nouum nisi episcopo aut permittente aut probante, nullus incipere aut fundare praesumat. Monachi etiam uagantes ad officium clericatus, nisi eis testimonium abba suus dederit, nec in ciuitatibus, nec in parrochiis ordinentur. Monachum nisi abbatis sui aut permisu aut uoluntate ad alterum monasterium commigrantem, nullus abba suscipere, aut retinere praesumat, sed ubicunque fuerit, abbati suo auctoritate canonum reuocetur. Si enim necesse fuerit, clericum de monachis ordinari, cum consensu et uoluntate abbatis praesumat episcopus.

XLIX. Cap. XXXII.

Clericus nullus praesumat apud saecularem iudicem episcopo non permitente pulsare. Sed si pulsatus


XLVIII. 2 et de monachis om. 5 abbas 8 abbas 10 enim om.

XLIX. 2 nullus] ne quemquam

XLVIII. Agathense 27 (CCL 148, 205).

XLIX. Agathense 32 (CCL 148, 207).
fuerit non respondeat. Nec praeponat, nec audeat crimenale negotium in iudicio saeculari proponere.

L. Item. Cap. XXVII.

Clerici etiam omnes qui aecclesiae fideliter uigilanterque deseruiunt, stipendia Sanctis laboribus debita, secundum seruitus sui meritum, uel ordinatio-nem canonum a sacerdotibus consequuntur.

LII. Concilium Aurelianense. Episcoporum XXXIII. Cap. XVII.

Nullus monachus congregatione monasterii derelicta, ambitionis et uanitatis impulsu cellulum construere sine episcopi permissione, uel abbatis sui uoluntate praesumat.

LII. Concilium Helerdensis, in conuentu Heroense. Episcoporum VIII. Cap. III.

De monachis uero id observari placuit, quod

XLIX. 4 non om. nec\(^1\) non proponat.
L. 4 seruitii.
LI. 4 impulso cella.
LII. 3 observare

L. Agathense 36 (CCL 148, 208).
LI. Aurelianense I, 22 (CCL 148A, 11).
LII. Ilerdense 3 (Vi 56).
synodus Agatensis nescitur decreuisse. Hoc tantummodo adiciendo, ut cum pro aecclesiae utilitate aliquos probauerit episcopus in clericatus officio promouendos, cum abbatis uoluntate debeant ordinari. Eaa uero quae in iure monasterii de facultatibus offeruntur, in nullo diocesana lege ab episcopis contingantur.

Si autem ex laicis quisquam a se factam basilicam consecrari desiderat, nequaaquam eam sub monasterii specie ubi congregatio non colligitur, uel regula ab episcoopo non constituitur a diocesana lege audeat segregare.

LIII. Item. Cap. VIII.

Nullus clericorum seruum aut discipulum suum ad aecclesiam confugientem extrahere audeat, uel flagellarare praesumat. Quod si fecerit, donec digne poeniteat, a loco cui honorem non dedit segregetur.

LIV. Item. Cap. X.

Qui iubente sacerdote pro quacunque culpa ab


LIII. Ilerdense 8 (Vi 57).

LIV. Ilerdense 10 (Vi 58).
aecclesia exire contempererit, pro noxa contumaciae
tardius recipiatur ad ueniam.

LV. Synodi Toletanae III. Episcoporum XXII.
Cap. I.

De his quos voluntas parentum a primis infantiae
annis in clericatus officio uel monachi pariter sta-
5 tuimus obseruandum, ut mox cum detonsi uel ministerio
electorum contradicti fuerint in domo aecclesiae sub
episcopali praesentia, a praeposito sibi debeant erudi-
ri. At ubi octauum decimum aetatis suae compleuerint
annum, coram totius cleris plebisque conspectu, uolun-
10 tas eorum de expetendo coniugio ab episcopo suo per-
scrutetur. Quibus si gratia castitatis Deo inspirante
placuerit, et promissionem castimoniae suae absque con-
iugali necessitate responserint seruatorum, hi tanquam
appetitores artissimae uiae lenissimo domini iugo sub-
dantur, ac primo subdiaconatus ministerium habita pro-
batione professionis suae, a uicesimo anno suscipiant.
Quod si inculpabiliter ac inoffensae uicesimum et
quintum annum aetatis suae peregerint, ad diaconatus

LIV. 3 contemserint 4 recipiantur.

LV. 4 in om. uel monachi pariter] manciparat
hoc 5 cum om. 10 expectendo 12 professionem
13 sponderint 14 uiae] uitae 15 primum

LV. Toletanum II, 1 (Vi 42-3).
officium si scientes implere posse ab episcopo com-
probantur promouerìi debent. Cauendum est tamen his,
ne quando suae sponsionis immemores, ad terrenas nup-
tias, aut auortiuos concubitus ultra recurrant. Quod
si forte fecerint, ut sacrilegio rei ab aecclesia
habeantur extranei. His autem quibus voluntas propria
interrogationis tempore desiderium nubendi persuas-
erit, concessam ab apostolis sententiam auferre non
possumus, ita ut cum proyectae aetatis in coniuo
positi renuntiatus se pari consilio operibus carnis
sponderint, ad sacratos gradus aspirent.

LVI. Concilium Toletani III. Episcoporum XLVI.
Cap. VI.

De libertis autem hoc praecipit sancta synodus,
ut si qui presbyteri uel diaconi ab episcopis facti
sunt, secundum modum quo canones antiqui dant licen-
tiam sint liberi, et tamen a patrocinio aecclesiae
tam ipsi quam ab eis progeniti non recedant. Ab alius
quoque libertati traditi et aecclesiis commendati,

LV. 19 sciente 20 debent om. tamen est tr.
22 auortiuos] ad fortius concubitus 27 profec-
tae 28 consilio] consensu 29 sponderint.

LVI. 3 hoc--synodus] in Dei praecipient sacerdotes
4 presbyteri uel diaconi om. 5 quo om.

LVI. Toletanum III, 6 (Vi 127).
patrocinio episcopi colligantur, et ne cuiquam donen-
tur a principe, hoc episcopus postulet.

LVII. Item. Cap. VIII.

Iubente autem atque consentiente domino Recaredo
rege id praecipit sacerdotale concilium, ut clericos
ex familia fisci nullus audeat a principe donatos
expetere, sed traditos capitis sui tributum aecclesiae
Dei cui sunt alligati, usque dum uiuunt regulariter
administrent.

LVIII. Item. XIII.

Inolita praesumptio usque adeo illicitis ausibus
aditum patefecit, ut clerici conclericos suos relicito
pontifice suo ad iudicia publica pertrahant, proinde
statuimus, ut hoc de caetero non praesumatur. Si quis
hoc praesumpserit facere, conuentus et causam perdat,
et a communione efficiatur extraneus.

LVI. 9 episcopali regantur.

LVII. 2 domino] piissimo add. 5 traditos]
reddito tributo.

LVIII. 2 inolita] diurna indisciplinatio et
licentia praem. 3 conclericos] quum clericos
5 ut om. praesumatur] praesumsi (sed add.)
6 conuentus om.

LVII. Toletanum III, 8 (Vi 127).

LVIII. Toletanum III, 13 (Vi 129).
LIX. Item. Cap. XV.

Si qui ex seruis fiscalibus fortasse aecclesias construxerint, easque de sua paupertate dotauerint, hoc procuret episcopus praecce sua auctoritate con-

5 firmari.

LX. Item. Cap. XX.

Quia cognouimus episcopos per parrochias suas non sacerdotaliter sed crudeliter deseure, et dum scriptum sit, forma estote gregi, non ut dominantes

5 in clero exactionesque dioecesis suae uel damna infligant, ideoque censemus, excepto quod ueterum constitutiones a parrochiis habere iubent episcopos, ut alia illis quae hucusque praesumpta sunt denegentur. Hoc est neque in angariis presbyteri aut diacones, neque

10 in aliquibus fatigentur indictionibus, ne uideamur in aecclesia Dei exactores potius quam Dei pontifices nominari. Hi uero clerici tam uoclaes quam diocesani qui se ab episcopo grauari cognouerint, quaerelas

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LIX. 2 qui] quis 3 ditauerint 4 auctoritate] regia add.

LX. 2 quia] multorum querella hanc constitutionem exegit praem. 3 sed] et add. 4 non ut] neque 5 exactiones infligunt 6 ideo censemus om. 7 ut om. 8 illis om. 9 presbyteres 12 uocales] locales

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LIX. Toletanum III, 15 (Vi 129).

LX. Toletanum III, 20 (Vi 132).
suas ad metropolitanum deferre non differant, ut metro-
15 politanus non moretur eiusmodi praesumptiones cohere-
cere.

LXI. Item. Cap. XXI.

Aecclesiarum seruos et episcoporum, uel omnium
clericorum a iudicibus uel actoribus publicis in
diuersis angariis, fatigari dolemus. Propter quod
5 omne concilium a pietate gloriosissimi domini nostri
poposcit, ut tales deinceps ausus inhibeat. Sed serui
suprascriptorum officiorum in eorum usibus, uel aeccles-
siae laborent. Si qui uero iudicum aut actorum, cleri-
cum aut seruum clerici, uel aecclesiae, in publicis ac
10 priuatis negotiis occupare voluerit, a communione
aecclesiasticae, cui impedimentum facit efficiatur
extraneus.

LXII. Concilium Toletanum V. Cap. XVIII.

Eos qui non promoueantur ad sacerdotium ex regu-
lis canonum necessario credimus inserendum. Id est qui in aliquo crinone detecti sunt, qui infamiae nota aspersi sunt, qui sceleria aliqua per publicam poeni-
tentiam admisisse confessi sunt, qui in heresim lapsi sunt, qui in heresi baptizati aut rebaptizati esse noscuntur, qui semetipsos abscederunt, aut naturaliter defecta membrorum decisione aliquid minus habere nos-
cuntur, qui secundae uxoris conjuctionem sortiti sunt, aut numerosa coniugia frequentauerunt, qui uel uel ex marito relictam duxerunt, aut corruptarum mariti fuerunt, qui concubinas aut fornicarias habuerunt, qui seruili conditione obnoxii sunt, qui ignoti sunt, qui neophiti uel laici sunt, qui saeculari militiae dediti sunt, qui curiae nexionibus obligati sunt, qui inscii litterarum sunt, qui nondum ad triginta annos per-
uenerunt, qui per gradus aecclesiasticos non acces-
serunt, qui ambitu honorem quaerunt, qui muneri-
honore obtinere moliantur, qui a decessoribus in sacerdotium eliguntur. Sed nec ille deinceps sacer-
dos erit, quem nec clerus nec populus proprieae ciuit-
tatis elegit, uel auctoritas metropolitani, uel copro-
vincialium sacerdotum assensio exquisuit. Si quis

LXII. 8 naturali 9 defectu membrorum] aut add. 11 frequentarunt 12 ex om. 13 aut] ad fornicationes 17 triginta] XXXX 21 sacer-
dotio 23 coprovincialium] provincialium
25 autem deinceps contra prae dicta uetita canunum ad
gradum sacerdotum indignus aspirare contenderit, cum
ordinatoribus suis adepti honoris periculo subiace-
bit.

LXIII. Item. Cap. XXIII.

Prona est omnis aetas ab adolescentia in malum.
Nichil enim incertius, quam uita adolescentium. Ob
hoc constituendum opportuit, ut si qui in clero pueri
5 aut adolescentes existunt, omnes in una conclaudi
atrii commorentur, ut lubricae aetatis annos non in
luxuria, sed in disciplinis aecclesiasticis agant,
deputati probatissimo seniori, quem et magistrum
doctrinae, et testem uitae habeant. Quod si aliqui
10 ex his pupilli existunt, sacerdotali tutela foueant-
tur, ut et uita eorum a criminibus intacta sit, et
res ab iniuria improborum. Qui autem his praeceptis
resultauerint, monasteriis deputentur, ut uagantes
animi et superbi, seueriori regula distingantur.

LXII. 25 exquisuit] quidquumque--conuenientibus
add. (18 lin.)  26 sacerdotii.

LXIII. 4 pueri] puberes  5 uno  8 deputari.

Toletanum IV, 24 (Vi 201-2).
LXIV. Item. XXXI.

Episcopi in protegendis populis ac defendendis, impositam a Deo sibi curam non abigant. Ideoque dum conspiciunt iudices ac potentis pauperum oppressores existere, prius eos sacerdotali admonitione redarguunt, et si contemperissent emendari, eorum insolentiam regis auribus intiment, ut quos sacerdotalis admonitio inflectit ad iustitiam, regalis potestas ab inprobitate coherecat. Si quis autem episcoporum id ne-

LXV. Item. XXXII.

Auaritia, radix est cunctorum malorum. Cuius sitis, etiam sacerdotum mentes optinet. Multi enim fidelium, in amore Christi et martyrum, in parrochii

LXIV. 6 insolentias 8 inflectit] non flectet.
LXV. 2 est om. 5 sanctas om. 6 tribuunt] conscribunt
suas regere, ut nichil ex eorum iure praesumant auferre. Sed iuxta priorum auctoritatem conciliorum, tam de oblationibus quam de tributis ac frugibus, tertiam consequuntur. Quod si amplius quippeam ab eis praeceptum extiterit, per concilium restauretur appellantibus, aut ipsis conditoribis aut certe propinquis eorum, si iam illi a saeculo discesserunt. Noverint autem conditores basilicarum, in rebus quas eisdem aecclesiis conferunt, nullam potestatem habere. Sed iuxta canonum instituta sicut aecclesiam ita et dos eiuad ordinationem episcopi pertineat.

LXVI. Item. XXXIII.

Quicunque episcopus alterius episcopi diocesim per triginta annos sine aliqua interpellatione posse derit, quia secundum ius legis eius uidetur esse diocesis, admittenda non est contra eum actio reposcendi. Sed hoc intra unam parrochiam, extra uero nullo modo. Ne dum dioecesis defenditur, prouinciarum termini confundantur.

LXV. 17 aut autem 18 decesserunt 19 quasquam 21 instituta constituta dos] dotem 22 pertinere.

LXVI. 4 eius] iam add. 6 hoc] haec.

LXVI. Toletanum IV, 34 (VI 205).
LXVII. Item. Cap. XXXIII.

Sicut diocesim alienam trigennalis possessio tol-
lit, ita territorii conuentum non admittit. Ideoque
basilicae quae nouae conditae fuerint, ad eum procul
5 dubio episcopum pertinebunt, cuius conuentus esse con-
stituerit.

LXVIII. Item. Cap. XLVIII.

Monachum aut paterna deuotio, aut propria pro-
fessio facit. Quicquid horum fuerit, allegatum tene-
bit. Proinde his ad mundum reuerti intercludimus
5 aditum, et omnes ad saeculum interdicimus regressus.

LXIX. Item. Cap. XLVIII.

Clerici qui monachorum propositum appetunt, quia
meliorem uitam sequi cupiunt, liberos eis ab episco-
po in monasteriis largiri oportet ingressus, nec in-
5 terdici propositum eorum, qui ad contemplationis de-
siderium transire nituntur.

LXVII. 3 adimit 4 conditas.
LXVIII. 4 his] eis 5 omnem regressum.
LXIX. 4 ingressos.

LXVII. Toletanum IV, 35 (Vi 205).
LXVIII. Toletanum IV, 49 (Vi 208).
LXIX. Toletanum IV, 50 (Vi 208).
LXX. Item. L.

Nuntiatum est praesenti concilio, quod monachi episcopali imperio seruili opere mancipentur, et iura monasteriorum contra constituta canonum illicita praemium usurpentur, ita ut pene ex coenobio possessio fiat, atque illustris portio Christi, ad ignominiam seruitutemque perueniat. Quapropter monemus eos qui aeclesii praesunt, ut ultra talia non praesumant. Sed hoc tantum sibi in monasterio uindicent sacerdotes, quod praecepiunt canones. Id est monachos ad conversationem sanctam praemonere, abbates aliaque officia constituere, atque extra regulam facta corrigere. Quod si aliquid in monachis canonibus interdictum praesumpserint, aut usurpare quippiam de monasterii rebus temptauerint, non deerit ab illis sententia excommunicationis, qui se deinceps nequaquam sustulerint ab illicitis.

LXXI. Item. Cap. LIIII.

Quicunque ex saecularibus accipientes poeniten-

LXX. 2 concilio] eo add. 4 constituta] insti-
tuta 6 ignominium 9 monasteriiis 10 prae-

LXXI. 2 ex om.

LXX. Toletanum IV, 51 (Vi 208-9).
LXXI. Toletanum IV, 55 (Vi 210).
tiam totonderunt se, et rursus praeuaricantes laici
effecti sunt, compraehensi ab episcopo suo, ad poeni-
tentiam ex qua recesserunt reuocentur. Quod si al-
qui per potentiam irreuocabiles sunt, nec admoniti
reueruntur, uere ut apostatae coram aecclesia anathe-
matis sententia condemmentur. Non aliter et hi qui
detonsi a parentibus fuerint, aut sponte sua amissis
parentibus se ipsos religioni deuouerunt, et postea
habitum saecularem sumpserunt, et idem a sacerdote
comprehensi, ad cultum religionis, acta prius peni-
tentia reuocentur. Quod si reuerti non possunt, uelut
apostatae anathematis sententia subiciantur. Quae
forma seruabitur etiam in uiduis, uirginibusque sacris,
ac poenitentibus feminis quae sanctimonialem habitum
induerunt, et postea aut uestem mutauerunt, aut ad
nuptias transierunt.

LXXII. Concilium Toletanum VIII. Cap. VII.

Inueracunda progressio, et ignobilis ac detestanda
praesumptio, qua quosdam aut euentu necessitatum, aut

LXXI. 3 se om. 5 recesserant 6 potentiam
poenitentiam 10 deuouerunt uouerunt 11 habi-
tus seculares 13 uelut] uere ut 16 sanctimoniale.

LXXII. 2 inueracunda] septimae assertionis accessu
adit coetum nostrum tam praem. et] quam 3 qua om.
quosdam] enim add.

LXXII. Toletanum VIII, 7 (Vi 280-1).
metu periculorum, adeptos fuisse nouimus aecclesias-
5 ticularum officia dignitatum, et quoniam cum illis haec
imponerunt, id sibi fieri noluisse testati sunt,
iccirco haec spernere, atque ad pristina pertemptant
coniugia moresque redire, tam nequiter caelestia iura
soluentes, quam prompte saeculi extant illecebris inhi-
10 antes. Qua de re, nosse nos conuenit, quod episcopa-
lis eminentiae non immerito sacris omnibus esse summa
percensuit, quae ceteris sacerdotibus exercenda pro-
hibuit. Scilicet templorum Dei sacrationem, chrismatis
benedictionem, sacrorumque ordinum institutionem. Quae
tamdiu alter ordinata persistunt, quam excellentissime
conferuntur. Quia et tanto ab eis singulariter impen-
duntur, quanto eidem summo culmini peragenda servantur.
Quomodo ergo cum in se recipit, a se reicere poterit,
cum haec a nullo altero conferri, quam a solis ponti-
20 ficibus nouit, a quibus nec ligata solui, nec soluta
poterunt ab aliquo religari? Sic enim ad Petrum ueri-
tas ait: Quodcunque ligaueritis super terram, erit
ligatum et in caelo. Et quocunque solueritis super
terram, erit solutum et in caelo. Nequaquam ergo ali-
25 quando poterit profanari, quod diuina iussione, simul-

LXXII. 6 testati sunt] testantur 7 haec om.
9 saecularibus inientes 11 eminentiae] culmen
add. 18 cum] qui ea 22 ligaueris 23 solueris
25 diuinæ iussionis
que apostolicae traditionis auctoritate sacrum noscitur extitisse. Verum sicut sanctum chrisma collatum, et altaris honor euelli non queunt, ita quoque sacrum decus honorum quod his compar habetur et socium, qua

libet fuerit occasione perceptum, manebit omnimodis inconuulsum. Ad extirpandum uero radicitus huius cal- lidae machinationis inutile argumentum, id sibi rati- nabiliter dari nouerint in objectum, quod sacrosancti baptismatis inappraetiabile donum est semper, et sepe

non solum nolentibus, uerum etiam quod maius est nes- cientibus impertitur, sed hoc a nullo penitus profanari permittitur. Quod et si hic opponitur necum rationis capacem existere qui hoc probatur accipere, hinc omni- modo cognoscant, quia si maiores impune non deserunt

quod paruuli uel nesiendo uel nolendo percipiunt,
quanto magis non conuenit uiolari, quod pro mortis aut poenarum euanda pernicie, occulta Dei dispensatione dinoscitur obuenisse? Recedant ergo talium desideri- orum impoderati fautores. Et licet inuti perceperint

quod non merebantur habere, libenter tamen ob caeleste retineant praemium, quod nolendo, propter terrenae conse- cuti sunt necessitatis euentum, ut tam inuita appe-

LXXII. 28 honore uelli sacrorum 30 omnismodis
33 objectu 34 est] et 38 capaces probantur
39 cognoscent] conticescant 45 merebuntur
46 propter] pro 47 euentu tam inuita] tamen in- uiti
tant bona diligere, quae sponte uidentur desidentes im-
pugnare. Quod si quis post hoc perennis dispositionis
50 edictum non sinceriter sacris inheserit cultibus, et
abiciens a se gratiam quam accepit relabitur, et ad
coniugia moresque saeculi attemptauerit, uel eum ad hoc
redire constiterit, mox omni aecclesiastici ordinis
dignitate priuatus, uere ut apostata a sanctae aeccl-
55 siae liminibus, et societate fidelium habeat prorsus
exclusus, monasterii claustris donec aduixerit sub
poenitentia retrudendus.

LXXIII. 1. Toletanum XII. Episcoporum XVII.
Cap. VII.

Cum iuxta antiquae institutionis edictum plus
erga corrigendos agere debeat beniuolentia quam seue-
5 ritas, plus cohortatio quam commotio, plus caritas
quam potestas, relatum nobis est, quod quidam ex fra-
tribus plus liuore odii quam correctionis studio sub-
ditos insequentes, dum se simulant spiritualem eis
adhibere correctionem, indiscretam subito afferunt

LXXII. 48 quae] quam desides relabi et om. 51 gratia
52 ad hoc om.

LXXIII. (i) Toletanum XI. 7 (Vi 360-1); (2) Jul.
epit. 115, 442, 16 (Ha 151); (3) Caput incertum [coll.
B II, 190 (PL 140, 657)]; (4) Caput incertum [coll. B
XI, 67 (PL 140, 871)]; (5) Anacletus, Epist. II, Cap 26
(H 80).
10 mortem, cum inauditos a se proiciunt, et illicitis 
eos iudiciis sub poenitentia puniunt. Non ergo de 
cetero peruersis voluntatibus sit liberum simulare se 
quod fingunt, sed quotienscumque quilibet ex subdi-
tis corrigendus est, aut publica a sacerdote debet 
15 disciplina curari, aut si aliter rectoribus placet 
duorum uel trium fratrum spiritualium testimonia pecu-
liariter adhibito, et modus criminis agnoscatur, et 
modus poenitentiae irrogetur. Ita tamen, ut si exilio 
uel retrusione dignum eum esse cognouerit, aut quid 
20 aliud iudicium peculiare decreuerit, modus poeniten-
tiae quem corum tribus fratribus sacerdos transgres-
sori indixerit speciali debeat eius qui sententiam 
protulit, manus propriae subscriptione notari. Sicque 
fiest, ut nec transgressores sine testimonio excidia 
25 uitae suae incurrant, nec rectores accusatos se de 
quorumlibet interemptionibus erubescant.

2. Bonifacii papae.

Non liceat episcopo manibus suis cedere aliquem, 
hoc enim alienum a sacerdote esse debet.

3. Agatense concilium.

Si quis in aliquo aecclesiastico gradu sacratus

LXXIII. (1) 10 illicitis] occultis 12 se om. 
13 quotiensque 17 adhibito] abdito 19 cognoue-
rit--20 aliud] qui deliquit 20 peculiarem 
(2) 28 aliquem cedere tr. 29 esse] est 
debet om.
percussor extiterit, corripiatur a crimine. Si non emendauerit, deponatur.

4. Bruchardus. Liber XI. Titulus LXVII.

Decreuit sancta synodus, ut episcopi ac ministri eorum, pro crimini bus colonos flagellare cum uirgis potestatem habeant, propter metum aliorum, ut ipsi criminosi corrigan tur, ut uel inuiti poenitentiam agant, ne aeternaliter pereant. Si uero seniores ipsorum colonorum indigne tulerint, et aliquam uindictam exinde exercere uoluerint, aut eosdem colonos ne distinguantur defendere praesumpterint, sci ant se excommunicationis ecclesiasticae sententia feriendos.

5.

'S'ane percussor ille dicitur doctor qui sermone inutili conscientiam percutit infirmorum.

LXXIV. Item. V IllI Cap.

Multae super hoc capitulo patrum sententiae manauerunt, scilicet ne inappraetabilem sancti spiritus gratiam, donis uel muneri bus quis existimet comparan-

(3) 32 in crimine acerime
(4) 35 episcopus 36 eorum episcopeorum

(5) 44 Anacleti papae marg. MS¹.

LXXIV. 2 capitulum 4 existimet a estimet

LXXIV. Toletanum XI, 9 (Vi 362).
5 dam. Sed quod non sine graui dolore dicendum est, quanto hoc frequenti decretorum est praeeceptione prohibitum, tanto nouis fraudibus cognoscitur iteratum, dum hi qui tali praetio mercari nituntur gratiam, ordinationis suae tempora praeviunt munere, aut post acceptum honorem, promissis suis confuerunt a patribus turpis lucri mercedem. Et ideo ut horum et similium argumentorum deinceps amputetur occasio, hoc sancta synodus definiuit, ut cum quisque pontificale culmen ante domini altare percepturus accesserit, sacramentis et exactione astringatur, quod pro conferenda sibi consecratione honoris, nulli personae cuiuslibet prae-mii collationem, uel aliquando dedisset, uel ali- quando in futurum dare procuret. Sicque aut mundus ab hoc contagio praelationis consecrationem accipiat, aut publicato hoc scelere manifeste denudatur coram aecclesia, ad honorem quem mercari uoluit non accedat. Illos tamen quos deinceps post praelationem per praemium ordinatos fuisse patuerit, sub definitis poenitentiae legibus, ut uere symoniacios ab aecclesia

LXXIV. 6 hoc] haec (res add.) prohibita 7 iterata 8 mercare gratiam] spiritus sanctus aut add. 10 promissum a patribus apparitoribus 15 sacramenti 15 et exactione] se taxatione ad-stringat 17 aliquando] iam 18 in] ad 20 publicato hoc scelere...denudatur] implicitus huic scele-re...denotus 21 quem] quam mercare 23 patu-erint
25 separandos esse censemus. Id est, ut duorum annorum spatio exilio relegati, et digna satisfactione, uel excommunicationis sententia coherciti, honoris gradum quem praemissi emerant, lacrimis conquirere, et repa- rare intendant. Vnde si digna satisfactio eos poeni-
30 tentiae tempore inuenerint, non tantum communione, sed et loco et totius ordinis officiis a quibus separati fuerant restaurandi sunt.

LXXV. Item. X.

Quanquam omnis qui sacris mancipantur ordinibus canonicis regulis teneantur astricti, expedibile tamen est, ut promissionis suae uota sub cautione spondeant, 5 quos ad promotionis gradus aeclesiastica probat disciplina. Solet enim plus timeri quod singulariter pollicetur, quam quod generali sponsione concluditur. Et ideo placuit huic sancto concilio, ut unusquisque qui ad aeclesiasticos gradus est accessurus, non ante 10 honoris consecrationem accipiat, quam placiti suis in-
notatione promittat, ut fidem catholicam sinceram cor-
dis devotine custodiens, iustè et pie uiuere debeat, 
et in nullis operibus suis canonice regulis contra-
dicat, atque ut debitum per omnia honorum atque obsequii 
15 reuerentiam praeminenti sibi unusquisque dependat.

Iuxta illud papae Leonis edictum: Qui se scit aliqui-
bus esse praepositum, non moleste ferat aliquem sibi 
esse praelatum. Sed oboedientiam quam exigit, etiam 
ipse dependat. Poena tamen iuxta aecclesiasticæ con-
20 suetudinis morem, et placitis talium inserenda, et ab 
his qui transgressores fuerint persoluenda est.

LXXVI. Concilium Toletanum XIII. Cap. X.

Pro his qui quolibet metu uel terrore aecclesiam 
appetunt, consentiente pariter et iubente gloriosis-
simo domino nostro Heruigio rege, hoc sanctum conci-
5 lium definiuit, ut nullus audeat confugientes ad 
aecclesiam, uel residentes inde abstrahere, aut quod-
cunque nocibilitatis uel damni, seu spoliis residen-
tibus in loco sancto inferre. Sed esse potius his 
ipsis qui aecclesiam petunt per omnia licitum in tri-

LXXV. 11 sincera 13 et] ut add. 15 praeb-
eminenti 16 illud] de beatae add. edictum] 
editum scit se tr. aliquibus] quibusdam.

LXXVI. 7 spolii

LXXVI. Toletanum XII, 10 (Vi 397-8).
10 ginta passus ab aecclesiae ianuis progredi. In quibus triginta passibus, uniuscuiusque aecclesiae in toto circuitu reuerentia defendantur. Sic tamen ut hi qui ad eam confugiunt, in extraneis, uel longe separatis ab aecclesia domibus nullo modo abscedant, sed in hoc triginta passuum numero, absque domorum extranearum receptaculo progredientes aditum obtinebunt, qualiter ad requisitae naturae usum debitis exeant locis. Et nullo teneantur eventu necessitudinis, qui dominicus se defendendos commiserint claustris. Si quis autem hoc decretum uiolare temptauerit, et aecclesiasticae excommunicationi subiaceat, et seueritatis regiae ferietur sententia. Ipsos tamen qui ad aecclesiam confugium fecerint, si iuxta priscorum canonum instituta hi qui eos repetunt sacramenta reddiderint, et sacerdos ipsius aecclesiae ab aecclesiae foribus non abstraxerit, aut fuga talium si euenerit, sacerdoti quaerenda est, aut damnorum sententia secundum electionem principis huiusmodi sacerdotibus irroganda.

LXXVII. Concilium Calcidonense. XXVI.


LXXVII. Chalcedonense 26 (Jo 1/1, 89-90).
Quam in quibusdam aecclsiis ueterum morem com-
perimus, quod praeter yconomos, episcopi facultates
aecclesiasticas tractent, placuit omnem aecclsiam
habentem episcopum, habere yconomum de clero proprio,
qui dispenset res aecclsiasticas, secundum sententiam
episcopi proprii, ita ut aecclsiiae dispensatio praet-
ter testimonium non sit, ne et ex hoc dispersgantur
aecclsiasticae facultates, et sacerdoti maledictio
de erogatione procuretur. Quod si hoc minime fecerit,
duiinis constictionibus subiacebit.

LXXVIII. Cartaginense.

Si quis episcopus in criminalibus culpis, id est
homicidio, adulterio, uel periuorio, reprehensus fuerit,
honore proprio priuetur, et secundum canonicam aucto-
ritatem iudicetur. Si autem iniuuste accusatus fuerit,
et satisfacere uoluerit, praebat, vii, uel, xii, le-
gitimos sacramentales suos, id est sacerdotes, qui
sine crimine sint, et ipse episcopus, uel presbyteri,
reuestiti sint, sicut decet ministros altaris, ad con-
ficiendum corpus et sanguinem domini nostri Iesu
Christi, et ita finiatur. Osius episcopus dixit: Si

LXXVII. 2 quam in] quoniam ueterum morem|ut rumore 3 quod om. 4 tractant 5 habere|et add. 8 ne om. 9 et--10 procuretur] et de-
rogatio maledictionis sacerdotio prouocetur 11 con-
stitutionibus.

LXXVIII. Caput incertum.
uobis omnibus placet, ut hanc diffusionem synodali sententia confirmetis, et stabilitate roboretis, pari concilio et una uoce, et concordia insinuate. Synodus

15 Resondit ter: Omnibus placet, placet. Aurelius episcopus adiecit: Discernat nunc fraternitas uestram, ut si quis episcopum, uel presbyterum, praesumptiae in tali crime accusauerit, quod aut quam penam patiatur, si canonical approbare non potuerit? Gregorius Respondit: Condecet, ut qui approbare talem rem vulerit, ut in canonical auctoritate diffinitur, per septuaginta duos idoneos testes comprobet. Si autem hoc facere non potuerit, et convicetus auctoritate supra dicta inuentus fuerit, stabiliat caritas uestra, ut ab

25 omni aeclesiae catholica extorris habeatur, et sicut ethnicus et publicanus ab omni coetu christianorum separetur, usque ad legitimam satisfactionem, anathematizetur, et ab eo nec in fine est communione, perci peinda. Si uobis omnibus placet, diffinite. Synodus

30 una uoce, Respondit: Placet, et confirmamus.

LXXIX. Beatus Augustinus ait.

Omnes nanque aeclesiae praedones, manifestissime sunt sacrilegi. Et quia Christum et aeclesiam unam personam esse ueraciter agnoscimus, et quae cun-

5 que aeclesiae sunt Christi sunt, et quae aeclesiae

LXXIX. Caput incertum.
offeruntur, Christo offeruntur, siue corporalibus
rebus, siue spiritualibus, et quae ab aecclésia eius
quocunque argumento tolluntur, siue alienando, siue
uastando, siue inuadendo, siue minorando, siue diri-
10 piendo, Christo tolluntur, etsi ab amico quippiam ra-
pere furtum est, praecipue domino nostro, qui est rex
regum et dominus dominantium aliquid auferre, uel ali-
enam rem subripere, uel uastere, sacrilegium est, et
nullus sacrileagus, nisi per puram probatamque et pub-
15 licam poenitentiam, et per aecclésiae satisfactiones
et reconciliacionem, regum Dei possidebit, et non solum
a regno Dei sit alienus, sed etiam a liminibus sanctae
aecclésiae, et praecipue ab illius quam lesit et usque
ad praedictam satisfactionem, extorris et alienus
20 efficitur, et nec uiuis, communicare debemus, nec mor-
tuis, talium scelerum patratoribus, nisi post prae-
dictam satisfactionem. Et non solum ipsi qui hoc
faciunt, uerum etiam et qui consentiunt. Similiter
supraddicta poenam patiantur, quia qui rapit, aut
25 qualicunque malo ingenio tollit pecuniam proximi sui
iniquitatem operatur, qui autem pecuniam aecclésiae
abstulerit, sacrilegium facit. Quod autem solum sac-
rislegi, et lupi atque homicidae, pauperumque necatores
sunt, et insuper anathematis uinculo damnati, coram
30 Deo et sanctis eius efficiuntur.
LXXX. Synodus Romana.

De duobus contendentibus, sine testibus, per quatuor evangelia antequam communicet, sacerdotibus satisfactione testetur, qui approbatur, et sub iudice flamma relinquatur.

LXXXI. Damasi papae.

Nisi canonica uocatio fuerit suo tempore, et ex canonica ordinatione, licet uenerit ad conuentum, in quacunque necessitate, nisi sponte uoluerit nullatenus suis respondebit insidiatoribus, quoniam nec saeculi leges, hoc permittunt fieri, quanto magis divinae?

LXXXII. Arimininse.

Nullus ex ecleesiasticco ordine cuiumqam laico quicquam super sancta euangelia iuret, sed simplici-

LXXX. 2 duobus--sine] contentionem duorum absque per] statuunt ut praem., sancta add. 3 sacerdotibus--4 satisfactione om. 4 et] deinde add.

LXXXI. 2 canonice uocatus ex om. 3 in om.

LXXXII. 2 nullus] ut praem. 3 quicquam] supra sacra uel add.

LXXX. Synodus II S. Patricii 24 (Bieler 194).

LXXXI. Ps. Damasus 11 (H 503).

ter cum puritate et ueritate dicat: est, est, non, non.

5 Sed si est aliquid quod eis obicitur, ad episcopum
in cuius territorio est deferatur, et iuxta id quod
illi qui eiusdem sunt ordinis diiudicauerint, aut
corrigatur, aut expurgetur.

LXXXIII. Aurelianense concilium.

Sicut sacerdotes, uel clericos, in sua accusa-
tione, uel saecularibus iudiciis laici non recipiunt,
ita ipsi in sacerdotum, uel clericorum accusationibus,
5 seu aecclesiasticis negotiis, nisi sponte collaudetur,
non recipiantur, quoniam inconueniens est, ut hi qui
hos respuunt, ab his recipiantur.

LXXXIV. Triburiense.

Sancto concilio allatum est, quod quidam laici
improve agant contra presbyteros suos, ita ut de mori-
entium presbyterorum substantia, parentes sibi uindi-
5 cent, sicuti de propriis seruis. Interdicimus itaque

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LXXXII. 5 eis] a laicis add. obiiciatur.
LXXXIII. 2 re(i)ciipiunt] i expun. MS1 5 col-
laudentur.
LXXXIV. 2 sancto--est] perlatum est quoque ad sanc-
tam synodum 4 parentes] partes 5 propriis
seruis] substantia rusticorum suorum
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LXXXIII. Caput incertum [coll. B II, 203 (PL 141,
660)].
LXXXIV. Triburiense (a. 895) Can. Extravag. c. 6
(MGH Cap. 2, 248).

LXXXIV. 6 canonica auctoritate om. sicut 8 officium] ita ab eis nihil exigatur preter Dei officium add. 9 tantum--14 anathematizetur om.
Liber II
LIBRI II. CAPITULA

I. Vt episcopi, res aecclesiarum non tribuant parentibus suis.

II. Vt episcopi morientes, de rebus propriis habeant potestatem.

III. Vt episcopus, pecunias aecclesie indigenibus dispenset.

IV. Si quis, pecunias, uel res aecclesiae fraudauerit.

V. Si quis, praedia aecclesiae, suis usibus usurpauerit.

VI. De praediis et agris, aecclesiae a quibuscunque concessis.

VII. De facultates aecclesiae, uel oblationes, rapientibus, uel fraudantibus.

VIII. De res sacratas, episcopis, uel presbyteris violantibus.

IX. De presbyteris res aecclesiae uenundantibus, episcopis absentibus.

X. De episcopis, res aecclesiae apud se redigentibus, presbyteris nescientibus.

XI. De episcopis, uel clericis, post ordinacionem, res nomine suo comparantibus.

XII. De episcoporum donatione, uenditione, vel commutatione.
XIII. De rebus aecclesiae sine episcopo metropolitano non alienandis.

<XIV>

XV. De occupantibus mancipia clericorum pro suis ad aecclesiam confugientibus.

XVI. De aecclesiae commendatis libertis non occupandis.

XVII. De episcopis, in possessione, uel aliena diocesi construentibus basilicam.

XVIII. De oblationes defunctorum retinentibus.

XIX. De oblationes suas, uel propinquorum.

XX. Si alicuq ediscopo, a quolibet relinquitur.

XXI. Qualiter episcopi rebus aecclesiae utantur, et serui manumittunt.

XXI. Qualiter necessitate compellante uenumden- tur res aecclesiae.

XXII. De clericis, qui damnum rerum, uel frau- dem aecclesiae fecerint.

XXIII. De episcopis, sine haeredibus.

XXIV. De exiguis aecclesiae rebus, minusque utilibus.

XXV. De seruis aecclesiae fugitiuis.

XXVI. De episcopi rebus propriis, uel acquisitis, et aecclesiae iuris.

27 XIV deest  40 XXI sic.
50    XXVII. De clericis, parrochitanis, et rebus ecclesiae, uel libertis.

XXVIII. Si quis, episcopus, de ecclesiae iuris proprietate legauerit.

XXIX. Si quis, presbyter diocesanus aliquid emerit.

55    XXX. De ueditionibus abbatum, et mancipiis monachorum.

XXXI. De rebus ecclesiae, clericorum usui collatis.

60    XXXII. De sceleratis hominibus, ad ecclesiam confugientibus.

XXXIII. De feminarum raptoribus, ad ecclesiam confugientibus.

XXXIV. De seruis, pro aliqua culpa ad ecclesiam confugientibus.

65    XXXV. De oblationibus parrochitanarum ecclesiarum.

XXXVI. De his quae in altario offeruntur.

XXXVII. De abbatibus delinquentibus, uel monachis uagantibus.

70    XXXVIII. De terris ecclesiae, uel uineis, alicui ab episcopo praestitis.

XXXIX. De clericis, retinentibus de rebus ecclesiae aliquid, donec uixerint.

75    XL. De his quae pro suffragio monachorum, uel
clericorum, data fuerunt.

XLI. Si quis, episcopus, unam de parrochianis aecclesiis, monasterium fecerit.

XLII. Si quis, aecclesie, suas facultates dederit, et postea indiguerit.

XLIII. De aecclesie famulis, ab episcopo non faciendis liberos.

XLIV. Si quis, episcopus, aecclesiae mancipium manumitti desiderat.

XLV. Si quis, sacerdos de famulis aecclesie cupit libertos facere.

XLVI. Si quis, libertus aecclesiae, ab eius patrocinio discesserit.

XLVII. Ut liberti, aecclesiae patrocinio commendati, a sacerdotibus sint defensi.

XLVIII. De his libertis, qui ad clerum sunt promouendi.

XLIX. De aecclesie famulis presbyteros et diaconos, per parrochias constituiendos.

De stipendiis clericorum ne alienentur a iure aecclesiarum.

L. De libertorum aecclesiae obedientia et professione.

LI. De progenie libertorum aecclesiae.

95 numerus deest.
LII. De rebus collatis aecclesiis, in iure earum permanendis.

LIII. De exactionibus superfluis de aecclesiis exactis ab episcopis.

LIV. De aecclesiae rebus pro suffragio monachorum praestantis.

LV. De rerum aecclesiarchum usufructuario.

LVI. De agellis et facultatibus aecclesiae non alienandis.

LVII. De sacro ministerio ab abbatibus non obligandis.

LVIII. De rebus aecclesiarchum et funditoribus earum.

LIX. Vt fundatores aecclesiarchum eligant ministros earum.

LX. Vt de rebus aecclesiarchum praestitis, fiant instrumenta cognitionis.

LXI. De diuisionibus aequis, inter aecclesiam et haeredes sacerdotis.

LXII. Si quis, episcopus, monasterium fecerit, uel parrochitanum aecclesiam ditauerit.

LXIII. De tertia aecclesiasticarum rerum episcopo debita parte.

LXIV. De episcopi morientis rebus, et eius haeredibus.

LXV. Si quis, sacerdos, uel minister aecclesiae,
scripturas fecerit iniuste.

LXVI. Vt sacerdote tumulato aecclesiae, commodum sumat episcopus licite.

LXVII. De damnatione filiorum, ex sacerdotibus uel ministris genitorum.

LXVIII. Vt post mortem sacerdotis, tempus annorum computetur seruorum libertatis.

LXIX. De rebus libertorum, ad aecclesiam reuerti nolentium.

LXX. Vt liberti aecclesiae res suas in aliud dominium non audeant transferre.

LXXI. Vt episcopi consanguineos, uel sui fauoris iniquis, non constituant praelatos.

LXXII. De honore episcopi cathedrae, quem per dioceses debet suscipere.

LXXIII. De munere episcopi aecclesiam consecrantis.

LXXIV. Si quis, basilicam aliquam, questu cupiditatis aedificat.

LXXV. Si quis, episcopus, res aecclesiae uendere praesumpserit, inscio clerico.

LXXVI. Vt res proprias, episcopi cui uoluerint derelinquant.

LXXVII. Si quis, episcopus, res aecclesiae propin-
150 quorum potestate, uel consilio contaminauerit.

LXXVIII. vt rectores, non plus propria, quam iura aecclesiastica exerceant.

LXXIX. De terrarum limitibus, et antiquorum terminorum partibus.

LXXX. De monasteriorum nouorum in concussa stabilitate.

LXXXI. De monasteriorum uirginum regimine, uel administratione.

160 LXXXII. De episcopis quascunque aecclesias, uel plebis, sibi pertinere aestimantibus, alio retinente irrationabiliter repetentibus, et inconsiderate irruentibus.

LXXXIII. Vt aecclesia non negligantur negotia.

165 LXXXIV. Vt statuta conciliorum nemo contemnatur.

LXXXV. Si quis, retorsum exorbitauerit.

LXXXVI. Si quis, contra statuta sacrorum patrum uenerit.

LXXXVII. Vt regulae sacrorum patrum proprium robur optineant.

LXXXVIII. Vt regias emunitates nemo uiolare praesumat.

LXXXIX. Vt regis imperiis nemo resistere praes-

164 aecclesia} stica inter1. MS1.  

sumat.

175  XC. De aecclesiae rebus immobilibus emptis, uel commutatis.
DE REBUS ET SUBSTANTIIS ET FIDELIUM OBLATIONIBUS

I. Canones Apostolorum. Cap. XXXVIII.

Omnium negotiorum aecclesiasticorum curam episcopus habeat, et ea uelut Deo contemplante dispenset. Nec ei liceat ex his aliquid omnino contingere, aut parentibus propriis quae Dei sunt condonare. Quod si pauperes sunt, tanquam pauperibus subministret, ne eorum occasione aecclesiae negotia depraedentur.

II. Vbi Supra. Cap. XL.

Presbyteri et diacones praeter episcopum nichil agere pertemptent. Nam domini populus ipsi commissus est, et pro animabus eorum hic redditurus est rationem. Sint autem manifestae res propriae episcopi, si tamen habet proprias, et manifestae dominicae. Vt potestatem habeat de propriis moriens episcopus sicut uoluerit, et quibus uoluerit derelinquere, ne sub occasione aecclesiasticarum rerum quae episcopi esse probantur interdicant. Fortassis enim aut uxorom habet aut filios, aut propinguos, aut seruos, et

II. 2 diaconi episcopum episcoporum (consilia add.)

I. Canones Apostolorum 38 (Jo 1/2, 26-7).

II. Canones Apostolorum 39-40 (Jo 1/2, 27-8).
iustum est hoc apud Deum et homines, ut nec aecclesiae
detrimentum patiatur ignorancee rerum pontificis,
nec episcopus uel eius propinquii sub optentu aecclesiae
15 proscribantur, et in causis incident qui ad eum pertinent,
morsque eius iniurii malae famae subiaceat.

III. Vbi Supra. Cap. XLI.

Praecipimus ut in potestate sua episcopus aecclesiae res, habeat. Si enim animae hominum praetiosae
illi sunt creditae, multo magis oportet eum curam
5 pecuniarum gerere, ita ut potestate eius indigentibus
omnia dispensentur, per presbyteros et diaconos, et
cum timore omnique sollicitudine ministrentur. Ex
his autem quae indiget ad suas necessitates et ad
peregrinorum fratrum usus, et ipse percipiat, ut
10 nichil eis possit omnino deesse. Lex enim Dei praecipit, ut qui altari deseruiunt, de altari pascantur,
quia nec miles stipendiis propriis contra hostes arma
sustollit.

II. 15 causas 16 malae--subiaceat] infametur.

III. 2/3 res ecclesiae episcopus tr. 5 pecuni-
arum gerere] (de praem.) pecuniis agere 7 sollici-
9 et om. 11 deseruiunt] seruiunt altari2] alterio
12 milex arma post propriis tr. 13 sustollit)
assumet.

III. Canones Apostolorum 41 (Jo 1/2, 28-9).
IV. Anacleti papae.


V. Pii papae.

Pius Romanae ecclesiae archiepiscopus, Italicis fratribus in domino salutem. Ad sedem apostolicam

IV. 2 et dicit) dicitque 6 qui Christi post ergo tr. 12 et] uel.

V. 2 aecclisiae] urbis 3 salutem post fratri-
bus tr. salutem] scitis--probabit add (5 lin.) sedem] autem add.


V. Ps. Pius, Epist. II, 7-8 (H 118-9).
perlatum est, quod sint inter uos contentiones et
emulationes, et praedia diuinis usibus tradita, quidam
humanis applicant, et domino Deo cui tradita sunt ea
suprahunt, ut suis usibus inseruiant. Quapropter
ab omnibus illius usurpationis contumelia depellenda
est, ne praedia sibi secretorum caelestium dicata, a
quibusdam irruentibus uexentur. Quod si quis praes-
sumpserit, sacrilegus habeatur, et sicut sacrilegus
iudicetur. Ipsos autem qui hoc agunt clericos et
domini sacerdotes persecui, eosque infamari audiuimus,
ut malum super malum addant, et deteriores fiant, non
intelligentes quod aecclesia Dei in sacerdotibus
consistit, et crescit in templum Dei. Et sicut qui
aecclesiam Dei uastat, eius praedia et donaria expoliat
et inuadit fit sacrilegus, sic et ille qui eius sacer-
dotes inequirit, sacrilegii reus existit, et sacri-
20 legus iudicatur.

VI. Urbani papae.

Videntes olim sacerdotes summi, et alii atque
leuitae, et reliqui fideles plus utilitatis posse
affere, si haereditates et agros quos uendebant

V. 6 applicant] usibus add.

VI. Ps. Urbanus, Epist. I, 2–6 (H 144–5).
aecclesiis quibus praesidebant episcopi, traderent, eo quod ex sumptibus eorum, tam praesentibus quam futuris temporibus plurima et elegantiora possent ministrare fidelibus communem uitam ducentibus, quam ex praetio eorum coeperunt praedia et agros quos uen-
dere solebant, matricibus aecclesiis tradere, et ex sumptibus eorum uiuere. Ipsae uero res in ditione singularum parochiarum episcoporum qui locum tenent apostolorum erant, et sunt usque adhuc, et futuris semper debent esse temporibus. E quibus episcopi et
fideles dispensatores eorum omnibus communem uitam degere uolentibus, ministrare cuncta necessaria debent, prout melius potuerint, ut nemo in eis aegens inueniatur. Ipsae enim res fidelium, oblationes appellantur, quia domino offeruntur. Non ergo debent in aliis usibus quam aecclesiasticis et praeidicorum christianorum fratum uel indigentium converti, quia uota sunt fidelium, et praetia peccatorum, atque ad praeidicum opus explendum domino traditae. Si quis autem quod absit secus egerit, uideat ne damnationem
Annaniae et Saphirae percipiatur, et reus sacrilegii efficiatur, sicut illi fuerunt qui praetia praedictarum rerum fraudauerunt. Haec fratres ualde cauenda

VI. 22 uota] uita  26 fuerunt] fecerunt
27 fraudauerunt] de quibus—erant haec add. (16 lin.)
sunt et timenda, quod res aeccliae non quasi pro-
priae, sed ut communes et domino oblatae, cum summo
30 timore, non in alios quam in praefatos usus sunt fide-
liter dispensandae, ne sacrilegii reatum incurrant, qui
eas inde abstrahunt ubi traditae sunt, et quod peius
est, anathema maranatha fiant, et si non corpore ut
Ananias et Saphira fecerunt qui mortui ceciderunt,
35 anima tamen quae potior est corpore, mortua et alie-
nata a consortio fidelium cadat, et in profundum
baratri labatur. Vnde attendendum est omnibus, et
fideliter custodiendum, et illius usurpationis con-
tumelia depellenda, ne praedia sibi secretorum caele-
tium dicata, a quibusdam irruptibus uexetur. Quod
si quis fecerit, post debitae ultionis acrimoniam
quae erga sacrilegos iure promenda est, perpetua
damnetur infamia, et carceri tradatur, aut exilio
perpetuae deportationis uredur. Quoniam iuxta apos-
tum tradere oportet huiusmodi hominem Sathanae in
interitum carnis, ut spiritus saluus sit in die domini.
Memoratis ergo augmentationibus ac cultibus, intantum
aeccliaeae quibus episcopi praesident domino admini-
culante creuerunt, et tantis maxima pars eorum abundat
45 rebus, ut nullus sit in eis communem uitam degens in-

VI. 28 quod] quia 34 qui om. 44 uredur]
uexetur 45 in--46 carnis om. 46 diem 49 ha-

bundant
digens, sed omnia necessaria ab episcopo suisque ministris perciptiat. Ideo si aliquis extiterit modernis aut futuris temporibus qui hoc auellere nitatur, iam dicta damnatione feriatur.

VII. Lucii papae.

Res quoque aeclesiarum uestrarum et obligationes fidelium quas significatis a quibusdam irruentibus uexari, uobisque et aeclesiis uestris auferri, indubi-

5 tanter maximum est peccatum, testante scriptura quae ait: Qui rapit pecuniam proximi sui, iniquitatem facit. Qui autem pecunias uel res aeclesiae abstu-

lerit, sacrilegium facit. Vnde et Iudas qui pecuniam fraudauit usibus aeclesiae id est pauperibus, quos 10 aeclesia pascere debet, quae distribuebatur iussu saluatoris, cuius uicem episcopi tenent, non solum fur, sed et sacrilegus effectus est. De talibus enim, id est qui facultates aeclesiae, rapiunt, fraudant, uel auferunt, dominus comminans omnis per prophetam loquitur dicens: Deus ne taceas tibi, ne sileas, et non quiescas Deus. Quam ecce inimici tui, et caetera

VI. 52 percipit.


VII. Ps. Lucius, Epist., 7 (H 178-9).
usque in finem psalmi. Haec fieri prophetae, haec apostoli, haec successores eorum, et omnium catholi-
corum patrum uetant decreta, et tales praesumptiones,
20 sacrilegia esse diiudicant. Quorum nos sequentes
exempla, omnes tales praesumptores et aecclesiae
raptores, atque suarum facultatum alienatores, una
uobiscum a liminis sanctae matris aecclesiae anathe-
matizatos apostolica auctoritate pellimus et damnamus,
25 atque sacrilegos esse iudicamus, et non solum eos,
sed omnes consentientes eis, quia non solum qui
faciunt, rei iudicantur, sed etiam qui faciuntibus con-
sentiant. Par enim poena, et agentes et consentientes
compraehendit.

VIII. Stephani papae.

Quicquid in sacratis Deo rebus et episcopis ac
presbyteris inuuste agitur, pro sacrilegio reputa-
bitur, quia sacra sunt, et uiolari a quoquam non debent.

IX. Concilium Anchiritanum. Cap. XV.

Si qua de rebus aecclesiae cum episcopus non est

VII. 20 sacrilegium 27 fatientibus.

VIII. 2 ac--3 presbyteris om.

IX. 2 qual quid est] esset

VIII. Ps. Stephanus, Epist. II, 5 (H 184).

IX. Ancyranum 15 (Jo 1/2, 66-7).
presbyteri uendiderint, placuit rescisso contractu, ad ius ecclesiasticum reuocari. In iudicio autem erit 5 episcopi constitutum, si praetium debeat recipi necne. Propter quod saepe contingit distractarum rerum reditus, ampliorem summam pro accepto praelio reddi.

X. Antiocenum. Cap. XXV.

Episcoporum habere oportet rerum ecclesiasticarum potestatem ad dispensandum omnibus cum omni timore et reuerentia Dei. Ipsum quoque ex eis percepere atque uti debere quibus indiget, uel ad suas necessarias expensas, uel fratrum qui apud eum hospitalitatis gratia commorantur, ut nulla ex parte per inopiam defraudetur secundum apostolum dicentem: Habentes uictum cottiadiaum et tegumentum corporis, his contenti sumus. Quod si his minime contentus atque sufficiens transfigat in necessitates domesticas ecclesiasticas res, uel commoda quaelibet aeclesiae, ut agrorum ecclesiasticorum fructus sine conscientia presbyterorum apud se redigat, et domesticis suis uel etiam affinitibus aut fratribus aut filiis earum rerum tribuat potestatem, ut per eorum secretam diligentiam ecclesi-

Episcopus ecclesiasticarum rerum habet potestatem ad dispensandum erga omnes, qui indigent, cum summa reuerentia et timore dei. participet autem et ipse quibus indiget. si tamen indiget, tam suis quam fratrum, qui ab eo susceptibility, necessariis usibus profuturis ita ut in nulla qualibet occasione fraudenter, iuxta sanctum apostolum sic dicentem: habentes uictum et tegumentum, hic contenti sumus. Quod si contentus istis minime fuerit, conuertat autem res ecclesiae in suos usus domesticos et eius commodity, uel agrorum fructus non cum presbiterorum conscientia diaconorumque pertractet, sed horum potentestatem domesticis suis aut propinquis aut fratribus filiisque committat, ut per huiusmodi personas occulte ceterae ledantur ecclesiae, iste synodo provinciae poenas iure persol-

IX. 3 uendiderunt 7 reddidisse.

X. Antiocchenum 25 (Jo 1/2, 125-6).
asticae ledi uideantur, restum hunc qui huiusmodi est apud metropolitanum prouinciae praestare debet.
Quod si taliter reprehendatur episcopus, uel qui cum ipso sunt presbyteri, quo dicantur haec quae ad aecclesiam pertain, siue de agris, siue alii qui buscunque aecclesiasticis causis eos subimet usurpare, pauperes uero necessitate et penuria opprimi, atque ex hoc ipso non solum aecclesiasticae rationi, uerum etiam dispensoribus eius maledicta requisio augmentur, hunc enim, correctionem oportet mere
ti, idque condecept sancta synodo cognoscente.

XI. Cartaginense III. Episcoporum XCVII.

Cap. XLVIII.

Placuit, ut episcopi, presbyteri, diaconi, uel quicunque clerici qui nichil habentes ordinantur, et tempore episcopatus, uel clericatus sui agros, uel quaecunque praeda nomine suc comparant, tanquam rerum dominicarum inuasionis crimine teneantur, nisi admoniti aecclesiae eadem ipsa contulerint. Si autem ipsis propris aliquid libertate alicuius, uel successe cognitionis uenerit, faciant inde quod eorum

XI. 7 teneantur] obnoxii add. 9 liberalitate 10 uenerit] obuenerit.

XI. Carthaginense III, 49 (Bruns 1, 134).
proposito congruit. Quod si a suo proposito retrorsum exorbitauerint, honore aecclesiastico indigni tanquam reprobì iudicentur.

XII. Cartaginense III. Episcoporum CCXIII.
Cap. XXXII.

Irrita erit episcoporum donatio uel uenditio, uel commutatio rei aecclesiasticae, absque conhibentia et subscriptione clericorum.

XIII. Cartaginense V. Episcoporum LXXIII. Cap. III.

Placuit etiam, ut rem aeccliae nemo uendat.
Quod si aliquia necessitas cogit, hanc insinuandam esse primati prouinciae, ut cum statuto numero episo-
coporum utrum faciendum sit arbitretur. Quod si tanta urget necessitas aeccliae, ut non possit ante consulere, saltim post factum curiositatem habeat, et uicinis episcopi hoc ante indicare, et ad concilium referre, easdem aeccliae necessitates. Quod si non

XII. 3 donatio episcoporum tr.

XIII. 2 placuit] item praem. etiam om. 3 aliquia] reditus non habet et praem., nimia add. hanc] hoc 4 prouinciae] ipsius add. 7 saltim--
9 easdem] saltem uicinos testes conuocet episcopus, curans ad concilium omnes referre suae

XII. Carthaginense IV, 32 (Bruns I, 145).

XIII. Carthaginense V, 4 (=Codex Ecclesiae Africanae 26, Bruns I, 164).
10 fecerit, reus concilii uenditor teneatur.

XIV. Cap. VIII.

Ab imperatoribus uniuersis postulandum propter afflictiones pauperum quorum molestiis sine intermissione fatigatur aecclesia, ut defensores eis adversus 5 potentias diuitum cum episcoporum prouisione delegentur.

XV. Concilium Arausicanum. Episcoporum XVI. Cap VI.

Si quis mancipia clericorum pro suis mancipiis ad aecclesiam confugientibus crediderit occupanda, per omnes districtissima damnatione feriatur.

XVI. VII.

In aecclesia manumissos et per testamentum aecclesiæ commendatos si quis in seruitutem uel obsequium, uel ad coloniam conditionem imprime temptaerit, 5 animaduersione aecclesiastica coherecbitur.


XIV. 2 uniuersis] uisum est add. 3 afflictionem.

XV. 2 quis] autem add. 4 omnes] ecclesias add.

XVI. 2 et] uel.

XIV. Carthaginense V, 9 (=Codex ecclesiae Africanae 75, Bruns I, 174).

XV. Arausicanum I, 6 (CCL 148, 79).

XVI. Arausicanum I, 7 (CCL 148, 79).
XVII. Cap. X.

Si quis episcoporum in alienae ciuitatis territorio aecclesiam aedificare disponit, uel pro fundi sui negotio aut aecclesiastica utilitate, uel pro quacunque sua opportunitate, permissa licentia aedificandi, quia prohiberi nefas est, non praesumat dedicationem, quae illi omnimodis reservatur, in cuius territorio aecclesia assurgit. Reseruata uero aedificata episcopo hac gratia, ut quos desiderat clericos in re sua uidere, ipsos ordinet, is cuius territorium est. Vel si ordinati iam sunt, ipsi haberi acquiescat. Et omnis aecclesiae ipsius gubernatio, ad eum in cuius ciuitatis territorio in cuius aecclesia surrexerit, pertinebit. Quod si saeculorum quicunque aecclesiam aedificauerit, et alium magis quam eum in cuius territorio aedificat inuitandum putauerit, tam ipse cui contra constitutionem ac disciplinam gratificare uult, quam omnes episcopi qui ad huiusmodi dedicationem inuitantur, a conuentu abstinebunt. Si quis exsserit in reatum deuoca-

XVII. 4 negotio om. ecclesiastici utilitate om. 5 su] suorum 6 prohiber[ prohibere (hoc uotum add.) 8 uero om. 9 aedificator[ 11 ipsi] ipsos 12 habere 13 in cuius om. 14 surrexit si] etiam add. 18 gratificari

XVII. Arausicanum I, 10 (CCL 148, 80-1).
bitur. Si quis exesserit ordinem recognoscat canonicalm.

XVIII. Concilium Vasasense. Cap. III.


XIX. Agathense. Episcoporum XXV. Cap. III.

Clerici etiam uel saeculares qui oblationes

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XVII. 21 canonicum om.


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XVIII. Vasense I, 4 (CCL 148, 97-8).

XIX. Agathense 4 (CCL 148, 194).
parentum aut donatas aut testamento relictas retinere perstiterint, aut id quod ipsi donauerint, aecclesiis
5 uel monasteriis crediderint auferendum, sicut synodus
sancta constituit, uelut necatores pauperum quosque
reddant ab aecclesiis excludantur.

XX. Cap. VI. Vbi Supra.

Pontifices uero quibus in summo sacerdotio consti-
tutis ab extraneis dumtaxat aliquid aut cum aecclésia,
aut sequestratim, aut dimittitur aut donatur, quia hoc
5 ille qui donat pro redemptione animae suae non pro
commodo sacerdotis probatur offere, non quasi suum
proprium, sed quasi dimissum aecclesia, inter facul-
tates aecclesiae computabunt. Quia iustum est, ut
sicut sacerdos habet quod aecclesiae dimissum est,
10 ita et aecclesia habeat quod relinquitur sacerdoti.
Sane quicquid per fideicommissum aut sacerdoti aut
aecclesiae fortasse dimittitur, cuicunque alii post-
modum profuturum, id inter facultates suas aecclesia
computare aut retinere non poterit.

XIX. 3 testamentis.

XX. 7 inter] reliquas add. 11 sacerdoti] sacer-
derotis (nomine add.).

XX. Agathense 6 (CCL 148, 194-5).
XXI. Vbi supra. Cap. VII.

Casellas uero uel mancipiola aecclseiae, episcopi sicut prisca canonum praecepit auctoritas, uel uasa ministrii, quasi commendata fidelis proposito in integro aecclseiae iure possideant. Id est, ut neque uendere, neque per quoscunque contractus, res unde pauperes uiuunt, alienare praesumant. Quod si necessitas compulerit, ut pro aecclseiae necessitate aut utilitatem, uel usufructuum, uel in directa uenditione, aliquid distrahatur, apud duos uel tres comprovinciales uel uicinos episcopos causa qua necesse sit uendendi primitus comprobetur, ut habita discisione sacerdotali, eorum subscriptione quae facta fuerit uenditio roboreetur. Aliter facta uenditio uel transactio, non ualebit. Sane si quos de servis aecclseiae bene meritos sibi episcopus libertati donauerit, collatam libertatem a successoribus placuit custodiri, cum hoc quod eis manumissor in libertate contulerit. Quod tamen iubemus, uiginti, solidorum numeri modum in terrula, uineola, uel hospitiolo tenere. Quod amplius datum fuerit, post manumissoris


XXI. Agathense 7 (CCL, 195-6).
mortem aecclesiae reuocetur. Minus utiles peregrinis uel clericis saluo iure aecclesiae in usum praerare permittimus.

XXII. Vbi Supra. Cap. XXVI.

Si quis de clericis documenta quibus aecclesiae possessio firmatur aut supprimere aut negare aut adversariis fortasse tradere damnabili et punienda 5 obstinatione praesumpserit, quicquid per absentiam documentorum damni aecclesiae illatum est, de propriis facultatibus reddant, et communione priuentur. Hi etiam qui in damno aecclesiae impie sollicitati a traditoribus alicui susceperint, superiori sententia teneantur.

XXIII. XXXIII.

Episcopus qui filios aut nepotes non habens, alium quam aecclesiam reliquit haeredem, si quid de aecclesia


XXIII. 3 relinquuit.

XXII. Agathense 26 (CCL 148, 204-5).

XXIII. Agathense 33 (CCL 148, 207).
non in aecclesiae causa aut necessitate praesumpsit, quod distraxit aut donavit, irritum habeatur. Qui uero filios habet, de bonis quae relinquit ab haeredibus eius indemnitatibus aecclesiae consulatur.

XXIV. XLVI.

Terrulas aut uineolas exiguas aecclesiae minus utiles, aut longe positas paruas, episcopus sine consilio fratrum si necessitas fuerit, distrahendi habeat potestatem.

XXV. XLVII.

Fugitiuos domos suas aut familias deserentes, qui etiamsi reuocati fuerint teneri non possunt, simili ratione ab episcopis si uoluerint, aut si ita illi meruerint distrahantur.

XXVI. Vbi Supra. Cap. XLVIII.

De rebus propriis uel acquisitis, uel quicquid episcopus de suo proprio habet, haeredibus suis si

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XXIV. 2 exiguas} et add.
XXV. 2 fugituos} etiam add.
XXVI. 2 de} ut praem. rebus} episcopi add. 3 haeredibus suis} (ad praem.) heredes suos

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XXIV. Agathense 45 (CCL 148, 211).
XXV. Agathense 46 (CCL 148, 212).
XXVI. Agathense 48 (CCL 148, 225).
uoluerit derelinquat. Quicquid uero de prouisione aecclesiae suae fuerit, siue de agris, siue de frugibus siue de oblationibus, omnia in iure aecclesiae reservare censuimus.

XXVII. L.

Diaconi uel presbyteri in parrochia constituti, de rebus aecclesiae sibi creditis nichil audeant commutare, uendere, uel donare, quia res sacratae Deo esse noscuntur. Similiter et sacerdotes nichil de rebus aecclesiae sibi commissae, ut superius comprehensum est, alienare praesumpt. Quod si fecerint convicti in concilio et ab honore depositi, de suo proprio aliud tantum restituant, quantum uisi sunt praesumpsisse. Sane si quis pro qualibet conditione de rebus aecclesiae aliquid alienare praesumpserit, si de suo proprio tantum aecclesiae contulerit, quantum uisus est abstulisse, tunc demum istud stare licebit. Libertos tamen quos sacerdotes uel diaconos de aeclle-sia sibi commissa facere uoluerint, actus aecclesiae

XXVI. 5 suae om. 7 reservuari.

XXVII. 2 diacones 7 est] emutare add. fec-
erint] facere (uoluerint add.) 8 convicti 9 pro-
prio om. 11 alienare praesumpserit] emutare uoluerit 13 istud] illud 14 libertos tamen] (ita praem.) ta-
men libertos tr. uel diaconos] (uel om.) (presbyteres praem.) diacones 15 actis.

XXVII. Agathense 49 (CCL 148, 225).
prosequi iubemus. Quod si facere contemperint, placuit eos ad proprium reuerti seruitium.

XXVIII. LII.

Si episcopus condito testamento aliquid de aecclesiastici iuris proprietate legauerit, aliter non ualebit, nisi tantum de iuris proprii facultate suppleuerit.

XXIX. LV.

Presbyter dum diocesim tenet, de his quae emerit ad aecclesiae nomen scripturam faciat, aut ab eius quam tenet aecclesiae ordinatione discedat.

XXX. LVII.

In uenditionibus quas abbates facere praesumunt, haec forma seruetur ut, quicquid sine episcopi notitia uenditum fuerit, ad potestatem episcopi reuocetur. Mancipia uero monachis donata, ab abbate non licet manumitti. Iniustum enim putamus, ut monachis cotti-

XXVIII. 3 iuris om. 4 nisi} uel add.

XXIX. 4 tenet} tenuit.

XXX. 2 praesumpserit 5 liceat 6 monachi.

XXVIII. Agathense 51 (CCL 148, 225).

XXIX. Agathense 54 (CCL 148, 226).

XXX. Agathense 56 (CCL 148, 226).
dianum rurale opus facientibus, serui eorum libertatis otio potiantur.

XXXI. LX.

Clerici quilibet quaecunque diuturnitate temporis de aecclesiae remuneracione possederint, in ius proprium praescriptione temporis non uocetur, dummodo pateat aecclesiae rem fuisse. Ne uideantur etiam episcopi administrationes prolixas aut praecatorias cum ordinatis facere debuisse, aut diu retentas facultates, in ius proprietatis suae posse transcribere.

XXXII. Concilium Aurelianense. Episcoporum XXXIII. Cap. I.

Homicidae, adulteri et fures si ad aecclesiam confugerint, constituimus quod aecclesiastic i canones decreuerunt et lex Romana constituit, ut ab aecclesiae atrii, uel domui episcopi eos abstrahere omnino non


XXXII. 3 homicidae--fures] (de praem.) homicidis adulteris et furibus 4 constituimus] id praem., observandum add. 6 atrii uel] domum ecclesiae add. domum abstrahi

XXXI. Agathense 59 (CCL 148, 226).

XXXII. Aurelianense I, 1 (CCL 148A, 4-5).
liceat, sed nec alteri consignari, nisi ad evangelia
datis sacramentis, de morte, et de debilitate, et
omni poenarum genere sint securi, ita ut ei cui reus
fuere criminosus, de satisfactione conueniat. Quod
si sacramenta sua convictus fuerit uiolasse, reus
periurii, non solum a communione aecclesiae uel omnium
clericorum, uerum etiam a catholicorum connuiuo sepa-
retur. Quod si is cui reus est noluerit sibi inten-
tione faciente componi, et ipse reus de aecclesia
actus timore discesserit, ab aecclesiae clericis non
quaeratur.

XXXIII. Vbi Supra. Cap. II.

De raptoribus autem, id custodiendum esse censu-
imus, ut si ad aecclesiam raptor cum rapta confugerit,
et feminam ipsam uiolentiam pertulisse constiterit,
statim liberetur de potestate raptoris. Et raptor
mortis uel poenarum impunitate concessa, aut seruiendi
conditioni subjectus sit, aut redimendi se liberam
habeat facultatem. Si uero quae rapitur patrem habere
constiterit, et puella raptoris consenserit, potestati

XXXII. 7 alteri] aliter 8 et\textsuperscript{1} om. 11 sua] quis add. 16 aecclesiae] uel add.

XXXIII. 4 femina ipsa 9 raptor] aut rapienda aut rapta add.
10 patris excussa reddatur. Et raptor a patre superiori conditionis satisfactione teneatur obnoxius.

XXXIV. III.

Seruus qui ad aecclesiam confugerit pro qualibet culpa, si a domino pro amissa culpa sacramentum suspecterit, statim ad seruitium domini sui redire cogatur.

5 Et posteaquam dato sacramento domino suo fuerit consignatus, si aliquid poenae pro eadem culpa qua excussatur probatus fuerit pertulisse, pro contemptu aecclesiae et praeraricatione fidei, a communione et convivio catholicorum extraneus habeatur. Si uero seruus pro 10 culpa sua ab aecclesia defensatus sacramenta domini clericis exigentibus de impuneitate percepiter, exire nolentem a domino liceat occupari.

XXXV. Vbi Supra. Cap. XI.

De his quae parrochiis in terris, uineis, manc-
piis, atque peculiis, quicunque fideles optulerint, antiquorum canonum statuta seruentur, et omnia in episcopi potestate consistant. De his tamen quae in altario accesserint tertia fideliter episcopis deferatur.

XXXVI. Vbi Supra. Cap. X.

Antiquos canones relegentes, priora statuta credimus renouanda, ut de his quae in altario oblatione fidei conferuntur, medietatem sibi episcopus uindicet, et medietatem sibi dispensandam secundum gradus clerus accipiat, tam de praediiis, quam de omni commoditate in episcoporum potestate durantibus.

XXXVII. Cap. XV.

Abbates pro humilitate religionis, in episcoporum potestate consistant. Et si quid extra regulam fece-rint, ab episcopis corrigantur. Qui semel in anno in loco ubi episcopus elegerit, accepta uocatione conueniant. Monachi autem, abbatibus omni oboedientia

XXXV. 3 fidelis 4 et] ut.

XXXVI. 3 crededimus 4 conferentur 5 dispensandam sibi tr. 6 tam de om. quam om.

XXXVII. 6 omni] se add. obedientiae

XXXVI. Aurelianense I, 14 (CCL 148A, 9).

XXXVII. Aurelianense I, 19 (CCL 148A, 10).
et deuotione subiaceat. Quod si quis per contumaciam extiterit indeuotus, aut per loca aliqua uagari, aut peculiare aliquid habere praesumpserit, omnia quae 10 acquisierit ab abbatibus auferantur, secundum regulam monasterio profuturam. Ipsi autem qui fuerant per-
uagati, ubi inuenti fuerint cum auxilio episcopi tan-
quam fugaces sub custodia reuocentur. Et reum se ille abba futurum esse cognoscat, qui in huiusmodi 15 personis non regulari animaduersione distriuexerit, uel qui monachum susceperit alienam.

XXXVIII. Cap. XVIII.

Si episcopus humanitatis intuitu mancipiola, uine-
olas, uel terrulas, clericis aut monachis, uel quibus-
libet praestiterit excolendas, uel pro tempore tenen-
das, etiamsi longa transisse annorum spatia comproben-
tur, nullum aeclesia praieudicium patiatur, ne saecu-
laris legis praescriptio, quae aeclesiae aliquid impediat apponatur.

XXXVII. 7 et om. subiciant 8 uagari] euagari 11 profutura fuerint 13 fugacis 15 personas.

XXXVIII. 2 mancipla om. 3 uell] et uel quibuslibet om. 6 ne--7 legis] nec saeculari lege 8 opponatur.

XXXVIII. Aurelianense I, 23 (CCL 148A, 11).
XXXIX. Synodi Toletanae II. Episcoporum XXII.

Cap. IIII.

Si quis sane clericorum, agella, uel uineolas in terris aecclesiae sibi fecisse probatur, sustentandae utiae causa, usque ad diem obitus sui possideat. Post suum uero de hac luce discessum, iuxta priorum canonum constitutiones, ius suum aecclesiae sanctae restituat. Nec testamentario ac successorio iure cuiquam haeredum aut pro haeredum relinquat, nisi forsitan cui episcopus pro seruitiis ac praestatione aecclesiae largiri voluerit.

XL. Toletanum IIII. Episcoporum LXVIII. Cap. IIII.

Haec sancta synodus, nulli episcoporum licentiam tribuit res alienare aecclesiae, quoniam et antiquioribus canonibus hoc prohibetur. Si quid uero quod utilitatem non grauet aecclesiae pro suffragio monachorum uel aeclesiis ad suam parrochiam pertinentium dederint, firmum maneat. Peregrinorum uel clericorum et egenorum necessitati, salvo iure aecclesiae praevенных.

XXXIX. 4 terras 9 aut pro haeredum] prohaeredumne.

XL. 3 tribuet 4 hoc om. prohibentur 7 peregrinorum] uero add.

XXXIX. Toletanum II, 4 (Vi 44).

XL. Toletanum IIII, 3 (Vi 125-6).
stare permittuntur, pro tempore, quae potuerint.

XLI. Vbi Supra. Cap. IIII.

Si episcopus unam de parrochitanis aecclesiis suis monasterium dicare voluerit, ut in ea monachorum regulariter congregatio uiuat, hoc de consensu con-
5 cilii sui habeat licentiam faciendi. Qui etiam si de rebus aecclesiæ pro eorum substantia aliquid quod detrimentum aecclesiæ non exhibeat eidem loco dona-
uerit, sit stabile. Rei enim bonae statuendum, sanctum concilium dat consensum.

XLII. Toletanum V. Cap. XXXVII.

Prebendum est a sacerdotibus uiteae solacium indigentibus, et maxime his quibus restituenda uicis-
situdo est. Quicunque ergo fidelium de facultatibus suis aecclesiæ aliquid devozione propria contulerint, si forte ipsi aut filii eorum redacti fuerint ad inopiam, ab eadem aecclesia suffragium uiteae pro temporis usu percipient. Si enim clericis uel monachis

XL. 9 quae] quo.

XLI. 9 consensum] adsensum.

XLII. 3 indigestibus

XLII. Toletanum III, 4 (Vi 126).

XLII. Toletanum IV, 38 (Vi 205-6).
seu peregrinis aut quamlibet necessitatem patientibus
10 pro solo religionis intuitu in usum res ecclesiasticae largiuntur, quanto magis consulendum est quibus
retributio iusta debetur.

XLIII. LXVI.

Episcopi qui nichil ex proprio suo aecclesiae
Christi compensauerunt, diuinam sententiam metuant,
et liberos ex familiis aecclesiae ad condemnationem
5 suam facere non praesumant. Impium est enim, ut qui
res suas aecclesiae Christi non contulerit, damnum
inferat, et ius aecclesiae alienare contendat. Tales
igitur libertos, successor episcopus absque aliquid
oppositione ad ius aecclesiae reuocabit, quia eos non
10 aequitas, sed improbitas absoluit.

XLIV. Vbi Supra. Cap. LXVII.

Episcopus qui mancipium iuris aecclesiae non
retento aecclesiastico patrocinio manumitti desiderat,
duo meriti eiusdem et peculii, coram concilio aeccl-

XLII. 9 patientibus] sustinentibus Vi, corr. marg.  
MS1 10 usu 11 magis] his add. 12 retribu-
tione.

XLIII. 3 diuinam] hanc praem. 5 qui] quis  
6 ecclesiis] contulit 7 contendat] intendat.

XLIII. Toletanum IV, 67 (Vi 214).

XLIV. Toletanum IV, 68 (Vi 214-5).
siae cui praeminet per commutationem subscriptibus
sacerdotibus offerat, ut rata et iusta inueniatur
definitio commutantis. Tunc enim liberam manumissionem
sine patrocinio aecclesiae concedere poterit, quia eum
quem libertati tradere disponit, iam iuri proprio
acquisuit. Huiusmodi autem libero adversus aeccle-
siam cuius iuris extitit, accusandi uel testificandi
denegetur licentia. Quod si praesumpserit, placet ut
stante commutatione in seruitutem propriae aecclesiae
reuocetur, quam nocere conatur.

XLV. Vbi Supra. Cap. LXVIII.

Consensus totius concilii definiuit, ut sacer-
dotes qui aut res suas aecclesiae relinquunt, aut
nichil habentes aliqua tamen praedia aut familias
aecclesiis suis conquirunt, liceat illis aliquos de
familiiis eiusdem aecclesiae manumittere, iuxta rei
collatae modum quem antiqui canones decreuerunt, ita
ut cum peculio et posteritate sua ingenui sub patro-
cinio aecclesiae maneant utilitates iniunctas sibi,
iuxta quod potuerint prosequentes.

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XLIV. 8 quia] qui 14 reuocetur] deuocetur.
XLV. 3 relinquunt.

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XLV. Toletanum IV, 69 (Vi 215).
XLVI. Cap. LXX.

Liberti aecclesiae qui a patrocinio eius disce- dentes quibuslibet personis adhæserunt, si admoniti redire contemperint, manumissio eorum irrita sit, quia 5 per inobœdientiae contemptum ingrati actione tenentur.

XLVII. Cap. LXXI.

Liberti qui a quibuscunque manumissi sunt, atque aecclesiae patrocinio commendati existunt, sicut regulæ antiquorum patrum constituerunt, sacerdotali defen- sione a cuibuslibet insolentia protegantur, siue in statu libertatis eorum, seu in peculio quod habere noscuntur.

XLVIII. Cap. LXXIII.

De familiis aecclesiae constituere presbyteros et diaconos per parrochias liceat, quos tamen utiae rectitudo et probitas morum commendat. Ea tamen 5 ratione, ut antea manumissi libertatem status sui percipliant, et denuo ad aecclesiasticos honores

XLVI. 2 a] quibusquamque add.

XLVIII. 2 presbyteres 3 diacones

LXVI. Toletanum IV, 71 (Vi 215).
XLVII. Toletanum IV, 72 (Vi 216).
XLVIII. Toletanum IV, 74 (Vi 216-7).
succeedant. Irreligiosum est enim obligatos existere seruituti, qui sacri ordinis suscipiunt dignitatem. Quicquid autem talibus aut per libertatem concessum, aut successione extiterit debitum, aut quolibet modo collatum, non licebit eis quippam inde in extraneas personas transmittere, sed omnia ad ius aecclesiae a qua manumissi sunt oportet post eorum obitum pertinere. His quoque sicut et caeteris aecclesiae libertis, accusandi uel testificandi aduersus aecclesiam aditus intercluditur. Quod si aspirauerint, non solum libertatis beneficio careant, sed etiam honoris gradu quem non dignitate naturae, sed tempore necessitatis promuerunt.

XLIX. Toletanum VII. Cap. V.

Saepe fit, ut proprietati originis obsistat longinquitas temporis. Quapropter prouidentes decernimus, ut quis clericorum stipendium de rebus aecclesiae cuiuscunque episcopi percipit largitate, sub praecariae nomine debeat professionem scribere, per reten-

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LXVIII. 8 seruitute aut2) a add. modo] quomodo 10 existerit om. 13 oportet om. 17 beneficium 18 gradum temporis necessitate. 

XLIX. 1 Toletanum VII] episcoporum XXXVIII interl. MS1 4 quis] quisquis 5 percipiatur 6 scribere] ut nec add. retentionem] tentionem 

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XLIX. Toletanum VI, (Vi 237-8).
tationem diuturnam iudicium afferat aecclesiae. Et quaecunque in usu perceperit, debeat utiliter laborare, ut nec res diuini iurisuideantur aliqua occassione negligi, et subsidium ab aecclesia cui deserviunt percipere possint clerici. Quod si quis eorum contemptserit facere, ipse se stipendio suo uidebitur priuari.

L. Vbi Supra. Cap. VIII.

Longinquitate saepe fit temporis, ut non pateat conditio originis. Vnde iam decretum est in anteriori uniueris concilii canone, ut professionem suam liberti aecclesiae debeant facere, qua profiteantur se et de familiis esse, et aecclesiae obsequium numquam relicturos. Vnde his quoque nos adicimus, ut quotiens cursum uitae sacerdos impleuerit, et de hac uita migrauerit, mox cum successor eius aduenerit, omnes liberti aecclesiae uel ab eis progeniti, cartulas suas in conspectu omnium debeant ipsi qui substituunt pontifici publicare, et professionem in con-

XLIX. 7 iudicium] praediicium 8 usum
10 neglegi 13 priuare.

L. 4 uniuerisal concilio 6 esse] ecclesiae manumissos 9 cum om. 10 liberti] eius add.
11 qui om. substituto 12 professionem] profes-

L. Toletanum VI, 9 (Vi 240).
spectu aecclesiae renouare, quatenus status sui uigorem et illi optineant, et oboedientia eorum aecclesia non 15 careat. Si autem aut scripturas libertatis suae intra annum ordinationis noui pontificis manifestare contempserint, aut professiones renouare noluerint, uacuae et inanes cartulae ipsae remaneant, et illi originis suae redditi sint perpetuo serui.

LI. X.

Etenim decet, ut quorum parentes titulum libertatis de familiis aecclesiae perceperunt, intra aecclesiam cui obsequium debent causa eruditionis enutritur. Contemptus quippe est patronorum, si ipsis neglectis, alius ad educandum detur progenies manumissorum. Itaque censemus ut sine sui status praeceduto, ab episcopo habeantur in doctrinae obsequio, quatinus et illi debitum reddant famulatum, et nullum patiantur 10 suae ingenuitatis detrimentum. Eos uero qui aliter quam sententia nostra decreuit agere temptauerint, inuitos iubemus ab episcopis ad hoc ipsum reduci. Quod si forte parentes eorum eos pontificibus suis

L. 14 obedientiam 15 aut] ad.

LI. 1 ut] hii add. 8 episcopis obsequium 10 ingenuitatis suae tr. 12 ipsum] ipsud.

LI. Toletanum VI, 10 (Vi 240-1).
dare contemperint, et alios sibi patronos adopta-
15 uerint, ingratorum feriantur lege libertorum.

LII. XV.

Quia his qui principibus digne deseruient, atque
deferentibus fidele illis obsequium constat non optimum
ministrasse suffragium, dum iuste a principibus acqui-
5 sita, in eorum iure persistere sancimus indiulsla,
aequum est maxime, ut rebus aecclesiarum Dei adhibeatur
a nobis prouidentia oportuna, adeo ut quaecunque res
aecclesiis Dei a principibus iuste concessa sunt, uel
fuerint, uel cuiuscunque alterius personae quolibet
10 titulo illis non inuuste collatae sunt uel extiterint,
ita in earum iure persistere firma stabilitate iubemus,
ut euelli quocunque casu uel tempore nullatenus possint.
Oportunum enim est, ut sicut fidelia hominum seruitia
non existere censuimus ingrata, ita aecclesiis collata
15 quae propriae sunt pauperum alimenta, eorum in iure
pro mercede offerentium maneant inconuulsa.

LIII. Toletanum VIII. Episcoporum XXXVIII.

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LII.3 indeferentibus 6 est] et add. adhi-
beantur 7 ut om. rerum 8 concessa
11 earum] eorum stabilitate om. 12 causa
13 est enim tr. 16 offerentum.
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LII. Toletanum VI, 15 (Vi 242-3).

LIII. Toletanum VIII, 4 (Vi 254-5).
Cap. IIII.

Quidam pontifices, ut euidens inquisitio patefecit, indistincto moderamine parrochianus aeclesias praec-5 grauantes, dum in exactionibus superfluis frequenter existunt, poene usque ad exinanitionem extremae uirtutis quasdam basilicas perduxisse probantur. Ne ergo fiat de caetero, quod constat actenus inordinate prae-10 sumptum, non amplius quam duos solidos unusquisque episcoporum priuatae provinciae per singulas dioeceses uel basilicas iuxta synodum Bracarensis annua illatione sibi expectet inferri. Monasteriorum tamen basilicis ab hac solutionis ex pensione seiunctis. Cum uero episcopus dioecesem uisitat, nulli prae multi-
15 tudine onerosus existat, nec unquam quinquagenarium numerum euctionis excedat, aut amplius quam una die per unamquamque basilicam remorandi licentiam habeat. Quicunque uero pontificum eorundem aliter quam decernimis agendum praesumpserit, correctioni procul dubio 20 canonum subiacebit, tanquam constitutionum synodalium transgressors, et priscorum patrum dicti corruptor.

LIII. 3 quidam] hii enim 5 superfluoi 6 ex-

istant 7 ne] nec 10 praefatae 10 dioeceses--11 uel] dioecesis suae 11 Bracarensem 12 ex-
petet 13 ex om. 20 tanquam] quia 21 trans-
gressores et om. 21 editi corruptor] editis cor-

ripiendos (oportet add.).
LIV. Toletanum VIII. Episcoporum LII. Cap. XV.

Haec sancta synodus, nulli licentiam tribuit res aecclesiae alienare, quoniam et hoc antiquioribus canonibus prohibetur. Si quid uero quod utilitatem non grauat aecclesiae pro suffragio monachorum uel aecclesiis ad suam parrochiam pertinentium saluo iure aecclesiae praestare uoluerit, permittitur ei pro tempore quo potuerint.

LV. Lex Theoderici regis.

Nulli fas sit aecclesiae cuiuslibet antistiti sub qualibet alienatione de proprietate contractos usumfructus commodare plane suum cui salua aequitate praestabunt, neque frustrari sola pontificis uolunta-te uel cleri peregrini, debita nominibus, uel statui aecclesiae res debita. Quid enim tam profanum est, quam ut in hac largientis parte uioletur arbitrio, dum

LIV. 2 nulli] episcoporum add. tribuet 3 alienare ecclesiae tr. hoc om. 4 prohibentur 5 gravet 6 pertinentium] dederint firmum maneat peregrinorum uero uel clericorum necessitati add. 7 uoluerit om. permittuntur ei om.


LIV. Toletanum III, 3 (Vi 125-6).

LV. Edictum Theoderici app. (MGH Leg. 5, 170).
quod ad aecclesiam quisque voluit pertinere praue sit
bi uindicent pro usufructuario personae contractum.
Ergo si quis scelestis ausibus interdicta praesup-
serit, et ultra usumfructum retinere cupit, episcopo
uel clero largiente alienata res protinus cum fructibus
a uenerando praesule uindicetur.

LVI. Concilium Aurelianense. Cap. VIII.

De agellis uero caeterisque facultatibus aecclle-
siae, a sacerdotibus non alienandis, nec per contrac-
tus inutiles obligandis, priorum canonum statuta
seruentur, ut nos non solum per nulos contractus res
aecclesiasticas alienare debeamus, sed etiam ea quae
de rebus aecclesiasticis ab antecessoribus nostris
alienata et in dispendio aecclesiiae obligata noscuntur,
et intra tricenalia tempora repetitio suppetit quae
acta sunt, suffragante iustitia per publicum electorum
iudicium reuocentur. Quod si hic qui rem aecclesiasticam
tenet admonitus iudicium declinauerit, quosque

LV. 9 voluerit praue} priuata 10 usufruc-
tuariae 12 retenere copit 14 uindicentur.

LVI. 2 ecclesiasticis 5 nos] nobis non
solum om. nullus 6 alienare] aut inutiliter li-
ceat obligare add. debeamus sed om. ea etiam tr.
7 nostris om. 8 alienata] uel quibuscumque instru-
mentis inutiliter add. et om. 10 publicum] aut
add. 11 hic] his 12 tenit quosque] aut add.

ad discussionem ueniat ut rem restituat, aecclesiastica communione priuetur.

LVII. Vbi Supra. Cap. XII.

Abbatibus, presbyteris, aliisque ministris de rebus aecclesiasticis uel sacro ministerio deditis, alienare, uel obligare, absque permisso et subscrip-5 tione episcopi nichil liceat. Quod qui praesumpserit degradetur, communione concessa. Et quod temere alienatum est, ordinatione episcopi reuocetur.

LVIII. Toletanum X. Episcoporum XVI. Cap. I.

Omnis itaque rei aecclesiasticae quantitas sicut remedium ueniae tribuit conferenti, ita damnum rite praeparat fraudatori. Et ideo nullus sacerdotum uel 5 ministrorum es rebus aecclesiae quae in quibuscunque locis a fidelibus largiuntur aliquid auferat, et iuri suo aut cathedrae propriae unitati conectat. Deuotio

LVI. 13 discussione ut] aut ecclesiasticam.


LVIII. 6 a om. et] uel 7 unitate

LVII. Aurelianense III, 26 (CCL 148A, 124).

LVIII. Toletanum IX, 1 (Vi 298).
enim uniuscuiusque sicut gratantur uotum contulit
Deo, ita definiuit quod plenitudo uotorum conserva-
retur in loco. In quo uelut si collata tenetur
manet gratia offerentis, ita si frustrantur imminet
pernicies defraudantis. Verum ut rei huius potior
soliditas habeatur, condignis filiis uel nepotibus,
honestioribusque propinquus eius qui construxit, uel
dituit aecclesiam, licitum sit hanc bonae intentionis
habere sollertiam, ut si sacerdotem suo ministrum
aliquid ex collatis rebus praeuiderit defraudare, aut
communicationis honestae conventione compescant, aut
episcopo uel iudici corrigenda denuntient. Quod si
talia episcopus agere temptet, metropolitano eius haec
insinuare procurent. Si autem metropolitanus talia
gerat, regis haec auditibus intimare non differat.
Ipsi tamen haeredibus, in eisdem rebus non liceat
quasi iuris proprii potestatem praeferre, non rapinam,
non fraudem ingerere, sed hoc solum in salutarem
solicitudinem adhibere, quod aut in nullam noxam
operatio nocens attingat, aut in multam uel aliquam
partem salutaris merces assumat. Si quis uero dein-
ceps haec monita temerare uoluerit, et male rapta

LVIII. 11 manent 17 aliquid] aliquod 18 ho-
nesta 22 differant 24 quasi[ in add. 25 non]
et ingerere] non violentiam quamquamque praesumere
add., suppl. marg. MSL 27 attingat] adtingat (uel
accrescat interl. MS, om. VI aut] uel add.
uel] in add.
cum confusione restituet, et excommunicationis annuae
sententiam sustinebit.

LIX. Item. Cap. II.

Quia ergo fieri plerumque cognoscitur, ut ecclesiae parrochiales uel sacra monastreriaita quorundam episcoporum uel insolentia uel incuria horrendam
decidant in ruinam, ut grauior ex oriatur aedifican-
tibus moeror, quam instruendo gaudii extiterat labor.
Vnde pia compassionem decernimus, ut quandiu earundem
fundatores ecclesiarum in hac uita superstites exti-
terint, pro eisdem locis curam permittantur habere
solicitam, et solicitudinem ferre praecipuam, atque
rectores idoneos in eisdem basilicis, idem ipsi offe-
rant episcopis ordinandos. Quod si tales forsitan
non inueniantur ab eis, tunc episcopus loci probauerit
Deo placitos sacris cultibus instituat, cum eorum con-
hibentia seruituros. Quod si superstitionibus eisdem
fundatoribus rectores ibidem praesumpserit episcopus
ordinare, et ordinationem suam irritam, nuerit esse,
et ad uerecundiam suam alios in eorum loco quos idem
ipsi fundatores condignos elegerint ordiniari.

LIX. Toletanum IX, 2 (VI 299).
LX. Item. Cap. III.

Si sacerdos minister de rebus aecclesiae quippiam alicui sub praestionis obtentu concedat, instrumenti causam praestiti euidenter exponat, ut hoc aut iuste 5 confecta transactio innotescat, aut fraus incompetens quae latet appareat. Aliter uero pro huius negotii causa, deinceps scriptura non ualeat.

LXI. Cap. IIIII.

Sacerdotes uel quique illi sunt quibus aecclesiasticarum rerum cura commissa est, quaecunque administrationis suae tempore emerint, si de rebus propriis uel uile uel parum habuerint, ad aecclesiae nomen cui praesunt cartarum conficere instrumenta procurent. Non enim ut aecclesia quem suscepit externum efficat in alieno diuitem, et in suo retineat fraudatorum. Hi uero qui suarum rerum noscuntur habere compendium, 10 ex omni re quam post ordinationis suae diem uisi sunt conquisisse, siue nulla siue aliqua sint instrumenta confecta, compensata tam iuris sui quam aecclesiastici-


LXI. 7 enim] conuenit add. quem] quae
carum rerum habitatione, si se utriusque rei quantitas exaequauerit, inter aecclesiam et decedentis haeredes aequo iure consuetudini pertinebit. Si autem quaelibet pars maior cumu sui iuris excreuerit, maiorem etiam portionem in divisione percipiet. Quicumque uero de praedictis sacerdotibus uel ministris pro sui utilitate atque amicitia id praestatione aut quocunque modo aut per scripturae seriem aliquid meruerint a quolibet percipere, in rebus aecclesias-ticis non poterit numerari. Sed quod exinde uoluerint facere, in ipsorum uoluntatis arbitrio subiacebit. Quod si hoc post eorum mortem inordinatum forasse remanserit, aecclesia hoc sibi cui praefuit, uel cui minister extitit in perpetuum uindicabit.

LXII. Item. Cap. V.

Bonae rei dare consultum, et praesentis habetur uitae subsidium, et aeternae remunerationis expectare cernitur praemium. Quisquis itaque episcoporum in parrochia sua monasterium construere forte uoluerit, et hoc ex rebus aecclesiae cui praesidet ditare


LXII 3 expectari

LXII. Toletanum IX, 5 (Vi 300-1).
decreuerit, non amplius ibidem quam quinquagesimam partem dare debebit, ut hac temperamenti aequitate seruata, et cui tribuit competens subsidium conferat, 10 et cui tollit, damna grauia non infligat. Aecclesiam uero quae monasticis non informabitur regulis, aut quam pro suis magnificare uoluerit sepulturis, non amplius quam centesimam partem census aecclesiae cui praesidet ibidem conferre licebit. Ea tamen cautela 15 seruata, ut unam tantummodo quae placuerit ex his duabus, remunerationem assumat.

LXIII. Item. Cap. VI.

Cum praeteritis sanctionibus notissimum habeatur quae de rebus parrochialium aecclesiarum pars episcopo conferatur, oportune tamen duximus decernendum, ut 5 episcopus tertiam quam de rebus eisdem sanctione partem sibi debitam nouit, aut ipsi aecclesiae cuius res esse patebit, aut alteri aecclesiae cui elegit conferre decreuerit, et licitum maneat, et irreuocabile robur eius sententia ferat.

LXIII. 16 remunerandam.

LXIII. 4 tamen om. 5 partem] paterna 7 patebit] patescit 8 elegerit 9 sententiam.
LXIV. Item. Cap. VII.

Propinqui morientis episcopi, nichil de rebus eius absque metropolitani cognitione usurpare prae- sumant. Quod si is qui recesserit metropolitanus 5 fuerit, eius successoris sententiam concilium sustinebit, ne passim hereditatis adeundae danda licentia de rebus aecclesiae, aut non retineatur ratio plena, aut fraus inueniatur illata. Quod si presbyteri aut diaconi fuerint, quo solus se constiterit, non sine 10 cogitatione sui episcopi rem eius haeredibus adire licebit. Quisquis sane post haec transgressor inuentus extiterit, pro his quae non expectato ordine adierit, inuasionis damno legis sententiae subiacebit.

LXV. Item. Cap. VIII.

Si sacerdos uel minister dum gubernacula aecclesi- arum administrare uidetur, contra patrum sanctiones de rebus aecclesiae definisse aliquid dinoiscitur, non

LXIV. 4 recessit 5 eius--sententiam] (haeres praem.) eius (aut add.) successorem (illius aut add.) (sententiam om.) 6 adeundae danda] eundem data
7 retineatur] reddatur 8 presbyteri--9 se] presbyter aut diaconus fuerit quos obisse 10 cognitione
12 expectato] hoc add.

LXV. 3 uidetur patrum] sanctissimas add.
4 aliquid] aliqua dinoscatur

LXIV. Toletanum IX, 7 (Vi 301).

LXV. Toletanum IX, 8 (Vi 301-2).
ex die qua talia scribendo decreuit, sed ex quo talia
moriendo definita relinquit supputationis ordo substas-
bit. Nusquam enim ad tricennium temporis pertinebit
irritum hoc iudicantis, quia status contractuum
initia non sumpsit ab origine aequitatis.

LXVI. Item. Cap. VIII.

plerique dum rapinis inhiant, ut debent aut mise-
rationis opus condigne non implent, aut indebita
ipsius miserationis damna permissent. Ideoque ne
amplius misericordiae opus exsecrable labatur, id
communi decreto sancimus, ut cum pontificem mori
contigerit, episcopus qui ad humandum corpus eius
aduenerit, descriptis thesauris atque ornamentis
omnibus si locuples decessentis aeclesia fuerit, non
amplius quam libram auri in rebus quibus ei placuerit
exceptis ornamentis aeclesiae cum gratia offerentum
auferre pertemptet. Si uero minor rebus extiterit,
dimidiam libram sibi licenter usurpet. Nam et haec

LXV. 5 qual] quo 6 reliquit 7 nusquam enim] numquam etenim (poterit add.) 7 pertinebit--
8 irritam] pertinere (uita add.) irrita 8 hoc om.
9 sumpsit] adsumsit.

LXVI. 2 ut] non add. debeant 4 ipsi mis-
rationi 5 labatur] dilabitur (in scelus add.)
8 ornamentis--9 omnibus] domorum internis 9 lo-
cuplex

LXVI. Toletanum IX, 9 (Vi 302).
ipsa usurpare ratio nulla permitteret, nisi eius qui
15 conuenit sacerdotis injuriae contemplatione antiqui-
tas hoc usurpata seruasset. Porro breuem descript-
tarum rerum sub fidei relatione, hic qui descripsit
dirigere metropolitano curabit. Metropolitanus autem
ex eadem morientis aecclesia nichil prorsus auferre
20 praesumat, sed solam quae ad eum pertinent salutarem
curam impendat.

LXVII. Item. Cap. X.

Cum multae super incontinentiam ordinis clericorum
hactenus emanauerint sententiae patrum, et nullatenus
ipsorum formari quierit correctio morum, usque ad
5 eo sententiam iudicantium proraxere commissa culpa-
rum, ut non tantum ferretur ultio in auctoribus scle-
rum, uerum et in progenie damnatorum. Ideoque quilibet
ab episcopo usque ad subdiaconum deinceps uel ex an-
cillae uel ex ingenuae detestando conubio in honore
10 constituti filios precrearint, illi quidem ex quibus
geniti probantur canonica censura damnentur. Proles
autem alienata pollutione, non solum parentum haere-

LXVI. 16 usurpata] usu acta 17 hic] idem
20 pertinent salutarem] salvationis.

LXVII. 5 eo] eos iudicantium 10 procre-
auerint 12 alienata] tali nata

LXVII. Toletanum IX, 10 (Vi 302-3).
ditatem usquam accepiet, sed etiam in seruitutem eius aecclesiae de cuius sacerdotis uel ministri ignominia nati sunt iure perenni manebunt.

LXVIII. XII.

Si sacerdos libertatem seruis aecclesiae conferre uoluerit, non a die consecutionis scripturae tempus annorum computatum tenebit, sed ex eo cum eum qui scriptum confecit uerius obisse constiterit.

LXIX. XIII.

Si contingat quemcunque de libertis aecclesiae eorumque prosapia contra primeus moderantesque patrum regulas, aut Gothis aut Romanis ingenuis copolari, tam illis quam eorum stirpi non licebit ab aecclesiae patrocinio euagari, sed aut ad debita obsequia reuerti cogendi sunt, aut si redire noluerint, quaecunque uel parentes eorum uel ipsi ab aecclesia sunt adepti, uel in eius patrocinio uisi sunt conquisisse, insistente pontifice, indicionem propriae reducant aecclesiae.

LXVII. 13 usquam] numquam accipient 14 ignominio.

LXVIII. 3 consecutionis suae add. scributra 4 eo cum] quo.

LXIX. 3 modernasque 10 indicione reducantur.

LXVIII. Toletanum IX, 12 (Vi 303).

LXIX. Toletanum IX, 14 (Vi 304).
LXX. XVI.

Libertis aecclesiae eorumque propagini, ex omnibus quae de iure aecclesiae noscuntur habere, nichil licebit in extraneum dominium transactione quacunque deducere. Sed si ex his quaelibet uendere fortasse uluerint, sacerdoti eiusdem aecclesiae offerant convenienter emenda. Earumque praedia ut eis placuerit, aut dispensent aut habeant. Nam in dominium partis alterius rei suae censum, nullomodo transire permit timus. Suis autem filiis uel propinquis eiusdem aecclesiae uel seruitio uel patrocinio subiugatis, quaecunque uendere uel donare uluerint, aditus omnino patebit.

LXXI. Synodus, XI, Toletanae. Cap. III.

Reuerentiae totius auditu percipientur, quia res dura non frustra cogitur hac duriori extirpari censura. Agnouimus enim quosdam pontifices, praecipit principis apostolorum qui ait: pascite qui in uobis est gregem, non coacte sed spontanee, neque ui dominantes in clero,


LXXI. 2 auditum percipientur om. quia] qui res] adiit add. 3 cogimur hanc extirpare 5 gregem] Dei add.

LXX. Toletanum IX, 16 (VI 305).

LXXI. Toletanum X, 3 (VI 310-11).
sed forma facti gregi, ita esse immemores, ut quibus-
dam monasteriis parrochialibusque aecclesiis, aut suae
consanguinitatis personas, aut sui favoris participes
10 iniquum saepe statuānt in praelatum. Ita illis pro-
uidentes commodā inhonestā, ut eisdem deferantur, aut
quae proprie episcopo dare iustus ordo poposcerit,
aut quae rapere deputati exactoris uiolentia poterit.
Proinde decenter omnibus placet, et in praesenti tale
15 rescindere factum, et non esse de caetero faciendum.
Nam quisque pontificum deinceps aut sanguine propin-
quis, aut fauore sibi personis quibuscumque deuinctis
talia commendare lucra temptauerit, ausu nefandae
praesumptionis, et quod iussum fuerit deuocetur in
20 irritum et qui ordinauerit, annuae excommunicationi
subiaceat. Quae uero ablatae fortasse fuerint, ab
eo qui tulit reddantur in duplum.

LXXII. Synodus Bracarensis II. Cap. II.

Placuit ut nullus episcoporum per suas dioceses
ambulans, preter honorem cathedrae suae, id est soli-

LXXI. 12 proprio 13 rapere quae tr. potuerit
16 propinquus 18 ausum 20 qui] quod excom-
municationis 21 subiaceat] ferat excidium ablata
22 reddatur.

LXXII. 2 episcoporum] quum add. 3 ambulantes
3/4 duos solidos tr.
dos duos aliquid aliud per aecclesias tollat. Neque
tertiam partem ex quacunque oblatione, populi in aec-
clesiis parrochialibus requirit. Sed illa tertia
pars, pro luminaribus aecclesiae uel recuperatione
seruetur. Et singulis annis, episcopo inde ratio
fiat. Nam si tertiam illum partem episcopus tollat
lumen et sacra tecta abstulerit aecclesiae. Simili-
ter et ut parrochiales clerici, seruili more in ali-
quibus operibus episcopis seruire non cogantur, quia
scriptum est: Neque ut dominantes in clero.

LXXIII. Item. Cap. V.

Placuit, ut quotiens ab aliquo fidelium ad con-
secrandas aecclesias episcopi inuitantur, non quasi
ex debito munus aliquod a fundatore requirant, sed
si ipse quidem ex suo uoto optulerit, non respuatur.
Si uero aut paupertas illum aut necessitas retinet,
nichil exigatur ab illo. Ac tantum unusquisque epis-
coporum meminerit, ut non prius dedicet aecclesiam,
nisi antea dotem basilicae et obsequium ipsius per
donationem cartulae confirmatum accipiat. Nam non

LXXII. 4 aliud] alibi 7 luminaria 9 partem
illam tr. 10 abstultit 12 episcopi 13 ser-
uire om. 13 ut] ui.

LXXIII. 4 a] e sed] et 5 quidem] aliquid
add. 7 exiguatur ac] hoc 8 aecclesiam] aut
basilicam add. 10 confirmatam

LXXIII. Bracarense II, 5 (Vi 83).
leuis est ista temeritas, sine luminariis, uel sine substantiali sustentatione eorum qui ibidem seruituri sunt, tanquam domus privata consecratur aecclesia.

LXXIV. Item. Cap. VI.

Placuit si quis basilicam non pro deuotione fidei, sed pro quaestu cupiditatis aedificat, ut quicquid ibi de oblatione populi colligitur, medium cum clericis diuidat, eo quod basilicam in terra sua quaestus causa condiderit, quod in aliquibus locis usque modo dicitur fieri. Hoc ergo de cetero observari debet, ut nullus episcoporum tam abhominabili uoto consentiat, nec basilicam quae non pro sanctorum patrocinio, sed magis sub tributaria condicione est condita, audeat consecrare.

LXXV. Synodus Lucensae. Cap. XIII.

Si quis episcopus nulla aecclesiasticae rationis necessitate compulsus, inscio clero, aut ubi forte non est presbyter de rebus aecclesiasticis aliquid praesump-

LXXIII. 11 temeritas] si add. 12 substantiali om. 13 priuata] priuati (ita add.).


LXXV. 3 non om.
serit uendere, res ipsas aecclesiae propriae restaurari cognatur, et in iudicio episcoporum deiciatur auditus, et tanquam furti aut latrocinii reus a suo priuetur honore.

LXXVI. Item. XV.

Quae sunt aecclesiae conservari communi diligentia et bona conscientia et fide Dei qui omnia uidet et iudicat gubernari oportet, cum iudicio et potestate episcopi cui etiam omnis populis et congregatio commissa est animarum. Manifesta autem debent esse quae ad aecclesiam pertinent, in conscientia eorum qui circa episcopos sunt presbyter et diaconus, ut hi omnes sciant quae sunt aecclesiae propria, ut si episcopo contigerit transitus, eos nichil latere possit ex his quae ad aecclesiam pertinent, ut nullomodo possint minui et perire, neque res propriae episcopi debent importunitatem pro rebus aecclesiae pati. Dignum uero et iustum est apud Deum et homines, ut ea quae episcopi

LXXV. 5 restaurari] (cuius sunt praem.) restaurare et] sed furtu.

LXXVI. 2 aecclesiae] debent ecclesiae add. communis cum omni 4 gubernari] ergo add. 5 populus 6 esse debent tr. 8 presbyteres aut diacones 9 ut] aut 10 nicil eos tr. 13 uero] (et re praem.) uera 14 episcopis

LXXVI. Bracarense II, 15 (Vi 90).
15 propria sunt cui uoluerit derelinguat, et quae aecclesiae sunt, eidem consequentur aecclesiae, ut nec aecclesia patiatur danum, neque episcopus pro rebus aecclesiae in suis proscribatur, ne post eius obitum in causas incidant qui ad eum pertinent, nec ipse in maledictum incidere uideatur.

LXXVII. Item. Cap. XVI.

Episcopus habeat potestatem in rebus aecclesiae, ut dispenset necessitatem habentibus, cum omni reuerentia et timore Dei. Participare et eum oportet quae necessaria sunt, si tamen ipse aut qui cum eo sunt fratres indiguerint aliquid, ut necessitatem nullo modo patiantur, secundum apostolum dicentem: Victu et tegumento his contenti simus. Si autem res aecclesiasticas in suas uoluntates usurpare uoluerit, et loca aecclesiae uel fructus agrorum, non cum presbyterorum uel diaconorum consilio contaminauerit, aut fratribus uel filiis uel quibuscunque propinquis.

LXXVI. 15 et--16 aecclesiae om. 16 ut--
17 patiatur] et neque ecclesiam perpati 17 episcopum 18 in sui om. proscribatur ne] condemnari aut 19 incidant om. qui] quae eum)
non add. nec ipse] aut 20 incedere uideatur om.


LXXVII. Bracarense II, 16 (Vi 90-1).
suis dederit potestatem, ut per eos latenter res
ledantur aecclesiae, hunc oportet obnoxium esse con-
15 cilio. Sin aliter, episcopus uel qui cum eo sunt
presbyteri aut diaconi accusentur, quia quae ex
reditu, uel ex quolibet actu aecclesiae ueniunt, in
suos sinus colligunt, et pauperibus fraudant, et
fame conficiunt. Hos enim corripi oportet, secundum
20 quod ordinatum fuerit a sancto concilio.

LXXVIII. Concilium Bracarensis III. Cap. VIII.

Non decet rectores aecclesiae in suis strenuos,
et in aecclesiasticis rebus esse remissos. Nam quo-
rundam fertur opinio, quod quidam sacerdotum familias
5 aecclesiae in suis propriis laboribus quassent, rei
propriae profectum augentes, dominicis uero dispen-
dium nutrientes. Vnde quicunque sub hoc neglectu
res diuiniae laborare distulerit, speciali placito
distingendus est, qualiter si de rebus seu augmentis
10 aecclesiae quaestum laboribus suis proprie auxit, et
ex hoc aecclesiasticis rebus aut neglectum laboris

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LXXVII. 15 sin aliter] similiter (id si add.)
16 diacones quia] qui ea 17 ueiunt ecclesiae
tr. 18 pauperes 19 enim om.

LXXVIII. 3 in om. 7 neglecto 10 laboribus--proprie] (uel praem.) labores rei proprieae

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LXXVIII. Bracarense III, 8 (Vii 377-8).
exhibuit, aut minorationem uel perditionem induxit, quicquid in rebus aecclesiae minuit, ille restituat ex cuius rebus atque suffragiis suos convictus fuerit ampliasse labores. Quod si aliquid pro utilitatisbus aecclesiae aut substantiae expendit, aut dispendii, uel perditionis quippiam protulit, si hoc comprobari potuerit, totum illi a rebus aecclesiae eiusdem reformabitur, pro cuius utilitatisbus id expendisse pro-

20 batur.

LXXIX. Synodus Spalensae. Cap. II.

Oportere inhiberi cupiditatem, ut nequis terminos alienos usurpet. Ob hoc placuit inter alternas partes inspectionis uiros mittendos, ita ut si in diocesi possidentis sitam basilicam ueteribus signis, limes praecursor monstrauerit aecclesiae cuius est ius retentionis, sit aeternum dominium. Quod et si limes legitimus eandem basilicam non concludit, et tamen longi temporis probatur obiecta praescriptio, 10 appellatio repetentis episcopi non ualebit, quia

LXXVIII. 13 minuit ille] minorationis (exhibuit totum de rebus propriis ecclesiae add.) illi 17 pertulit conprobare 18 eiusdem ecclesiae tr.

LXXIX. 4 si om. 6 praecursor] praecexus 7 ius retentionis] iusta retentio si et tr. 8 concludit--9 tamen] concludet sed tam

LXXIX. Hispalense II, 2 (Vi 164).
illi tricennalis obiectio silentium imponit. Hoc enim et saecularium principum edicta praecipiant, et praesulum Romanorum decreuit auctoritas. Sin uero infra metas tricennalis temporis extra alios ter-
15 minos basilicae iniusta retentio, reperitur, repetentis episcopi iuri sine mora restituetur.

LXXX. Item. X.

Poscentibus monasteriorum patribus, pari senten-
tia statuimus, ut cenobia nuper condita, sicut et illa
quae sunt antiqua, immobili et inconcussa stabilitate
5 permaneant solidata. Si quis autem quod absit nostrum
uel nobis succedentium sacerdotum, quodlibet monas-
terium, aut ui cupiditatis expoliandum, aut simula-
tione aliqua fraudis conuellendum uel dissoluendum
temptauerit, anathema effectus maneat, et a regno
10 Dei extraneus, nec proficiat illi bonum fidei uel
operis ad salutem, qui tanti et salutaris uitae de-
struxerit tramitem. Super haec etiam uniuersi illius
provinciae episcopi congregati, eundem sacrilegum
atque sui euersorem a communione suspendant, et con-

LXXXIX. 11 imponit] ponit 16 episcopi om.
LXXX. 2 poscentibus] decima actione praem.
12 illius] Baeticе 13 sacrilegium 14 atque] et
sui om. et om.

LXXX. Hispalense II, 10 (Vi 169-70).
15 uulsum monasterium cum rebus suis restaurent, ut quod
impie unus subuerterit, omnes pie reforment.

LXXXI. Item. Cap. XI.

Consensu communi decreuimus, ut monasteria uirgin-
um in hac prouincia, monachorum administratione ac
praesidio gubernetur. Tunc enim salubria Christo
dicatis uirginibus probamus, quando eis patres spir-
tuales eligimus, quorum non solum gubernaculis tueri,
sed etiam doctrinis edificari possint. Ea tamen
circa monachos cautela seruata, ut remoti ab earum
familiaritate, nec usque ad uestibulum habeant acce-
di familiare permissum. Sed neque abbatem uel eum
qui praeficitur extra eam quae praest loqui uirgini-
bus Christi aliquid quod ad institutionem morum per-
tineat licebit, nec cum ea sola quae praest fre-
quenter eis loqui oportet, sed sub testimonio duarum
uel trium sororum ita ut rara sit accessio, et breuis
omnino locutio. Absit enim ut monachos quod etiam
dictu nefas est, Christi uirginibus familiares esse
uelimus. Sed iuxta quod iussa regularum uel canonum

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LXXXI. 2 consensu] undicima actione praem.
3 hac om. prouincia] Baetica condita add. 5 pro-
bamus] prouidemus 6 elegimus 7 ea] et 9 fami-
liaritate] peculiaritate 10 familiarem 12 per-
tinet 13 ea om. 17 dictum

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LXXXI. Hispalense II, 11 (Vi 170-1).
admonent, longe discretos atque seijunctos eorum tan-
tum easdem gubernaculis deputamus. Constituementes,
ut unus monachorum probatissimus eligatur, cuius
curiae sit praedia eorum rustica uel urbana intendere,
fabricas extruere, uel si quid aliud est, ad neces-
sitatem monasterii prouidere, ut Christi famulae pro
animae suae tantum utilitate sollicitae, solis diuinis
cultibus operibusque suis inseruant. Sane is qui ab
abbate praeponitur, iudicio sui episcopi comprobetur.
Vestes autem illae hisdem faciant, a quibus tuitionem
expectant, ab hisdem denuo ut praedictum est, laborum
fructus et procurationis suffragium recepturae. Si
qui autem monasteriorum hanc ordinationem aut contemp-
serint, aut qualibet inheritiae dissolutione neglex-
erint, sciant quod eorum temeritas atque superbia,
excommunicationis sit plectenda censura.

LXXXII. Concilium Africane VI. Episcoporum XVIII.
Cap. XXI.

Placuit ut quicunque episcopi quascunque aeccle-

LXXXI. 19 discretis 22 eorum] earum 23 est
om. 25 animarum suarum 26 cultibus] uiuant add.
operibus 28 hisdem] cenobiis add. 33 temeritas]
tepor superbiam.

LXXXII. 3 placuit] item praem.

LXXXII. Mileuitanum 21 (= Codex Ecclesiae Africaneae 120, Bruns I, 192).
ias uel plebes quas ad suam cathedram aestimant per-
5 tinere, non ita repetunt ut causas suas episcopis
iudicantibus agant, sed alio retinente irruerint,
siue volentibus siue nolentibus plebibus, causae suae
detrimentum patiantur. Et quicunque iam hoc fecerunt,
si nondum est inter episcopos finita contentio, sed
10 adhuc inde contendunt, ille inde discedat, quem con-
stiterit praetermissis iudiciis aecclesiasticis ir-
ruisse. Nec sibi quisque blandiatur, si a primate
ut retineat litteras impretrarit. Sed siue habeat
litteras siue non habeat, conueniat eum qui tenet,
15 et eius litteras accipiat, ut eum appareat pacifice
tenuisse aecclesiam ad se pertinentem. Si autem ille
aliquam quaestionem retulerit, per episcopos iudices
causa finiatur, siue quos eis primates dederint, siue
quos ipsos uicinos ex consensu delegerint.

LXXXIII. Clementis papaem.

Haec utique frater karissime Iacobe ab ore
sancti Petri iubentis accepti, tibique ut optabas
insinuare studui, ut seruare omnia immaculata prae-
5 cipias, quia aeclesiastica non oportet negligentem.

LXXXII. 3 quascunque--4 uel om. 4 aestimant]

LXXXIII. 2 utique] itaque

LXXXIII. Ps. Clemens, Epist. I, Cap. 43-44 (H 46).
sed diligenter explere negotia. Haec ergo praecepta, nemo credat absque sui periculo negligare uel dissimulare quia iudicio Dei ignis aeterni tormenta sustinebit, qui aecclesiastica decreta neglexerit.

LXXXIV. Cartaginense I. Cap. XIII.

Gratus episcopus dixit: Si quis statuta conciliorum patrum nostrorum supergressus corruperit, uel pro nichilo habenda putauerit, si laicus est, 5 communione, si clericus est honore priuetur.

LXXXV. Pii papae.

Si quis uero a suo proposito retrorsum exorbi-tauerit, et iussa apostolicae sedis libenter trans-gressus fuerit, infamis efficitur. Reprobari ergo 5 oportet eorum redargutiones, qui in recta fide sus-pecti sunt.

LXXXVI. Leo episcopus, per universas provincias episco-pis constitutis.

LXXXIII. 6 expleri 7 neglere.


LXXXV. 3 libenter om.

LXXXIV. Cartaginense I, 14 (Bruns I, 116).

LXXXV. Ps. Pius I, Epist. I, Cap. 4-5 (H 117).

LXXXVI. Leo I, Epist. ad uniuersos episcopos (PL 84, 762).
Hoc itaque admonitio nostro denuntiat, quod si quis fratum contra haec statuta uenire temptauerit et prohibita fuerit ausus admittere, a suo sit officio submouendus, nec communionis nostrae futurum se esse consortem, qui socius esse noluit disciplinae, ne quid uero sit quod praetermissum a nobis forte credatur, omnia decreta omnia constituta, tam beatae recordationis. Innocentii quam omnium decessorum nostrorum, quae de aeclesiasticis ordinibus et canonum promulgata sunt disciplinis, ita uestram dilectione custodiri debere mandamus, ut si quis in illa commiserit, ueniam sibi deinceps nouerit denegari.

LXXXVII. Synodus Calcedonensis.

Regulas sanctorum patrum per singula nunc usque concilia, constitueta, proprium robur optimere decreuimus, ut si quis sacerdotum contra haec interdicta fecerit, a suo sit officio submouendus.

LXXXVIII. Bruchardus. Liber XI. Titulus XXIII.

Quisquis fastu superbiae elatus domum Dei ducit
contemptibilem et possessiones Deo sacratas atque ad
honorem Dei sub regiae emunitatis defensione consti-
tutas inhoneste tractauerit uel infringere praesump-
serit, aut incendia, uel stationes, ausu temerario
perpetrauerit, quasi inuasor et uiolator aecclesiae
Dei quae est domus Dei uiui, a communione omnium fide-
lium abscidatur.

LXXXIX. Toletanum.

Si quis potestati regiae quae non est iuxta
apostolum nisi a Deo, contumaci et inflato spiritu
contradicere, uel resistere praesumpserit, et eius
iustis et rationabilibus imperiiis secundum Deum, et
auctoritatem aecclesiasticam optemperare noluerit,
anathematizetur.

XC. De rebus imobilibus aecclesiae.

Si quis contra saluberrima iura praesentis con-

LXXXVIII. 3 Dei sacratas] consecratas ad] ob
4 regia 6 aut--7 perpetrauerit om. 7 aecclesiae--
8 est om. 8 Dei] excommunicetur add. 8 uiui--
9 abscidatur om.

LXXXIX. 3 et] ac spiritu] contra auctoritatem
et rationem pertinaciter add. 4 uel resistere om.
6 aecclesiasticam] ac ius ciuile add. optemperare]
inrefragabiliter add.

LXXXIX. Meaux-Paris (a. 845) c. 15 (MGH Cap. 2,
402).

XC. Jul. epit. 7, 36, 5 (Ha 34).
stitutionis, rem immobilem a loco uenerabili compa-rauerit, primum quidem rei aestimationem amittat,
5 et rem quam illicite emerit restituat, cum omnibus emolumentis eius quae in medio terrae facta sunt, et omnia lucra aecclesiae uel alterius loci uenerabili cedat, et nullam habeat ipse contra aecclesiam actionem, sed tantum aduersus yconomos, uel alias uendi-
10 torum personas, excepto iudicium moueat. Nam uendi-
torum patrimonia, emptori subjecta esse aequum est. Haec sic ueditio contra praesentem legem rei immo-
bilis, ad uenerabilem locum pertinentis contracta sit. Alioquin, si donatio facta fuerit, tunc is qui liberalitatem accepit, non solum ipsum rem cum fruc-
tibus suis et causis uenerabili loco restituat, sed etiam alid tantum quantum accepit poenae nomine, sanctissimo loco cuius res donata fuerit ab his qui res eius administrant. Sin autem titulo permutationis
15 rem loci uenerabili capiat aliquis tunc et rem quam accepit reddat, et quam ipse dedit amittat actione eius, scilicet aduersus personas et patrimonia eorum conservanda, qui cum eo contraxerint. Excepto uide-
dictam princepe, cui secundum praefatam superius diui-

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XC. 3 a loco] (a om.) loci  uenerabilis  
6 terrae] tempore  7 lucro  8 cedant  10 excep-
to] ex empto  12 sic] si  15 liberalitatem] inter-
dictam add.  17 nomine] praestet add.  22 eius] ei 
23 contraxerunt
sionem, purmutationem facere rerum mobilium cum sacro-
sanctis locis permissum est. Sin autem pignus creditor
ad corporalem detentionem acceperit, et res immobilis
sit quae ad aecclesiam uel ad alios uenerabilis locos,
ueluti domos uel praedium, uel agrum, uel proastium,
30 uel hortus, uel panes ciuiles, uel mancipia rustica,
ea quoque ueluti membra rerum immobilium sunt. Si
quis igitur horum aliquid pignoris nomine corporaliter
acceperit, prius quidem neque sortem quam dedit, ne-
que usuras quas forte stipulatus est, exigat, deinde
35 etiam ipsam rem cum suis emolumentis uenerabili loco
restituat. Sed in hoc casu aduersus yconomos, uel
ad alios ministratores, uenerabilium locorum actio-
nibus creditori competentibus. Omnia enim quae dixi-
mus, etiam tam in mulieribus monasterio, quam in asis-
40 terio optinere oportet.

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XC. 25 immobilium 27 detentionem 28 quae
pertinet add. 29 domus uel praedium om. ager
uel proastium post domos tr. 31 ea] nam praem.
36 sed] et add. 37 ad om. administratores
39 tam om. mulierum monasteriis quam-asisterio]
(quam in om.) (uel add.) asceteriis.
Liber III
In nomini Domini. Incipiunt capitula, decretorum pontificum, siue auctoritatum sanctorum patrum, de magna aecclesiae libertate, uel monachorum seu clericorum optima honestaque securitate.

5 In primis decreta beati Gregorii papae.

I. Nullus episcoporum aut saecularium praesumat ultra de reditibus rebus uel cartis monasteriorum, seu cellis, aut uillis, quae ad ea pertinent, quocunque modo, seu qualibet occasione minuere, uel dolos, siue immissiones aliquas facere. Si qua causa inter res aecclesiarum euenerit, si aliter nequie-rint, finiatur mediis sacrosanctis euangeliis. Abbas non extraneis, sed de propriis ab omni electus congregatio, concorditer propriaque voluntate, ordinetur sine dolo, uel uenalitate. Si inter se aptam non habuerint personam, similiter de aliis elegant monasteriis. Quo constituto, nullo praepo-natur persona, eoque inuito, nusquam monachi ordinentur ab aliquo. Nullus episcopus monasterii rerum, uel cartarum faciat descriptiones, sed abbas loci, con fratrum consilio, siue iudicio exerceat. Obeunte abbate, epis-
copus rebus monasterii, nullatenus se permisceat, nec in monasterio missas celebrare publicas, nec ibi collacare cathedram, nec etiam ordinationem quamuis leuissimam, in loco facere audeat. Monasteria quoque, aecclesasticis condicionibus, quel obsequiis saecularibus, nullomodo subiaceant, nullisque canonicitis iuribus deseruian.

II. Nullam clerici ad monasterium eundi licentiam habeant, nisi aut orandi tantummodo causa, aut si inuitantur ad sacra missarum misteria peragenda.

III. Sicut apostolicae sedis iura servantur, ita singularum aecclesiarum privilegia defendantur.

IV. Quae pro quiete monachorum disposita sunt, nullatenus confundantur, nec ad irritum deductur.

V. Quae bene ordinata sunt, non a quoquam pontificum in totum uel in partem conuellantur qualibet occasione, uel mutentur quacunque rationis excusatione, ne suo exemplo, constituta sua rescissa dissoluantur quandoque.

VI. Quae pro quiete religiosae conversationis ordinata sunt, nec dissimulatio negligent, nec quaedam ualeat praesumptio perturbare.
Monasterium a rege catholico constitutum, apostolica auctoritate per privilegia cum suis iuribus firmissime roboretur.

VII. Nullomodo monasteria destruantur, per habitum clericorum, qui coddie in ministerio aeclesiastico permanere cogantur.

VIII. Si quis, uir, absque uxoris voluntate intra-uerit monasterium, omni excusatione cessante illi reddatur, etiamsi iam est tonsuratus.

IX. Abbas in monasterio, non per episcopum, aut quemlibet externum ordinetur, et nulli alteri aeclesiae subiciatur.

X. Monachos abbatem terrenum quaerentes nonaudiendos, et peculiaritatem habentes corrigendos.

XI. Si quis, abbas, sufficientes fratres ad Deilaudes, uel monasteriorum utilitates habuerit, et de eis petenti ad alia monasteriaordinanda, uel ordines sacros, siue cleri-catus officium dare noluerit, episcopus in cuius parrochia est sollerter tollat, de his qui superfuerint, et hi ulterius illic licen-tiam non habeant habitandi.

XII. Si quis, a clericatu uenerit in monachacum, nec in eam ubi militavit, nec in aliam remeare absque iudicio episcopi praesumat.
XIII. Ante biennium nemo in monasterium ueniens tonsoretur.

XXI. Abbas non retineat monachum suum ad distriictiora tendentem.

80

XXVII. Quisquis mala mundi et incommodum aeccllesiiae uitat, suscipientus est.

XXX. Si quis ex familia aecclesiastica lapsus fuerit, in monasteria regularia tradendus, ad poenitentiam agendam. Res eius iuri non suprathantur aecclesiastico. Ad usum tamen suum ex eis accipiant, unde ad poenitendum subsistat, ne onerosus fiat.

XXXV. Nulla mulier in monasterium permittatur ascendere, nec monachi commatres sibi prae-sumant facere.

90

XXXVI. Ex omni stipendio quod aecclesiae accedit, quattuor, fiant portiones, nec episcopus seorsum a suis uiuere debet clericis, sed sint omnia communia.

95

LVI. Episcoporum sedes ad securiora eiusdem dio-
ceseos loca transponenda, quo et habita-
tores degere, et barbaricum possit periculum
facilius declinari.

Finiunt decreta Gregorii papae.

XIV. Puer habens, xv, annos, uel puella, xvi, aut
xvii, per se monachos se facere possit.

XVI. Abbas pro humilitate permissum episcopi
locum suum relinquere potest.

XVII. Abbas ad synodum non uocetur, nisi causa
rationabili.

XVIII. Si quis, abbas, non cautus, in regimine,
sed diuinorum praeeceptorum praeeuaricat
fuerit, ab episcope territorii, et uicinis
abbatibus, et ceteris Deum timentibus, a
suo arceatur honore, etiamsi omnes monachi
uitiis suis consenserint illi.

XIX. Si quis abbas, sanctae regulae fuerit con-
temptor, honore abbatis priuetur, et ab epis-
copo ciuitatis, competens monasteriorum pro-
videntia agatur.

XV. Sanctimonialaes, quamuis uita, uel mores sint
probatae, non uelentur ante, xii, annos.

XX. Si quis, episcopus, uel abbas, res aeccele-
siae, ditandi parentis, uel quacunque dis-
traxerit occasione, anathema sit, et quandiu acceptum tuerit, communione, priuetur.

XXII. Spelunca latronis, uel lupus uitandus, ouile ouium et pastor bonus petendus.

XXIII. Mali principis ouilia uitanda, et deserta uita petenda.

XXIV. Monachi fugientes malos principes ab alia suscipiantur aecclesia.

XXV. Monachos de uliori ad perdictiorem locum tendentes, et malitias abbatum uelut flam-mam fugientes inferni, suscipite, nequaquam eorum consulentes abbatem.

XXVI. Vitia principum, uel loci uitantes incom-modum, non recusemus.

XXVIII. Monachus qui contumaciter per loca uagatur, tanquam fugax sub custodia reuocetur, et quae quod acquisiuit, abbati deferantur.

XXIX. Si quis, ex familia aecclesiastica ad Dei seruitium converti desiderat, probetur prius in laico habitu, et si bona fuerit conversa-tionis in monasterio omnipotenti domino seruire permittatur.

XXXI. Si quis, sub gradu cecidit, post poeniten-tiam potest baptizare, communione infirmis dare, et altario ministrare.

XXXII. Sacerdotes post poenitentiam sub manu abba-
tis in silentio ministrent usque ad mortem, nichil sua voluntate faci ant.

XXXIII. Illi ad pristinos gradus redeunt, quos poenitentiae praecesserit digna satisfactio. Et qui non auitio corruptionis emendantur, nec gradum honoris, nec gratiarum recipient communionem.

XXXIV. Si quis, abbas, uel monachus, filios de baptismo habere praesumit, uel mulierem in monasterium ad spectandas festiuitates ingressi permittit, in alio monasterio, tribus mensibus retrudatur.

XXXVIII. Si quis, paruulum, uel infirmum, nodo constringerit iniquo, ipse tenebitur reatu, quia hi gradus non sunt in numero prefectorum.

XXXIX. Termini sancti loci, a tribus consecrentur personis, id est, episcopo, rege, populo.

XL. In primum terminum, soli clerici ingredientur. In secundum, plebium rusticorum ceteruae, non multum nequithae deditae. In tertium, laici homicidae, adulteri, et fures.

XLI. Sacerdotes monachos, ligandi, et soluendi, et poenitentiam uel christianitatem largiendi potestatem habere, non dubitandum, si
digne administrauerint.

180 XLII. Si quis plures filios habuerit, et unus ex eis mortuus fuerit, nisi partem ipsius post eum pater eius mittat, fraudem Christo facit, ad quem porrexit.

XLIII. Omnia Deo danda, qui cunctos alit et pascit.

185 XLIX. Non reos aecclcsia defendit, sed iudicibus suadeat, ut ad aecclcsiam transfugientes non occidant.

XLV. Omne depositum redditur, nisi aecclcsiae matris omnium.

190 XLVI. Desponsata alteri non tradatur uiro uiuente sponso, ad monasterium tamen, si uoluerit, ire licebit.

XLVII. Monachum fieri non oportet, nisi xxv, annos aetatis.

195 XLVIII. Nullus lector, uel hastiarius, uasa sacrata contingat. Acolitus, uel subdiaconus, portent tantum quod eis imposuerit sacerdos, suo ore benedictum sed alii non porrigant.

XLVIII. Quaecunque fraudantur aecclcsis, uel titulis, in quadruplum restituantur in ipso loco.

200 XLIX. Diuortium interuirum et uxorem, pro uitae religione, sine conscientia episcopi non
fiat, et non unus ad Dei seruitium pergat, alter in saeculo remaneat.

L. Ad comitatum non accedant episcopi, nisi aut inuitati imperatoris religiosi litteris fuerint, aut iniuriam patientibus, siue in exilio damnatis subuenerint.

LI. Episcopi redarguant prius sacerdotali commontione opprimentes pauperes, et si emendari contetperint, intiment regibus.

LII. Qualiter episcopi per singulas dioceses pergentes, clericos discutiant, et plebem admoneant.

LIII. Monasterium, ad meliorandum in aptiorem locum, cum consilio episcopi et confratrum ponendum, et in priori loco ad ministeria aecclesiae presbyterum dimittendum.

LIV. Loca sanctorum transmutari possunt, ex causis tribus, id est, necessitate persecutorum, difficultate locorum, et societate cauenda malorum.

199 XLVIII--220 LIV numeri sic. 223 malorum]
Iohannes episcopus Aretinus de Catino marg. MS².
IN NOMINE DOMINI INCIPIVNT DECRETA BEATISSIMI GREGORII PRIMI PAPAE VRBIS ROMAE, DE MONACHORVM OPTIMA LIBERTATE, SIVE SECVRITATE.

I.

Quam sit necessarium monasteriorum quietae prospectare, et de eorum perpetua securitate tractare, ante actum nos officium quod in regimine coenobii exhibuimus, informat. Et quia in plurimis monasteriis, multa a praesulis praesidio atque grauamina monachos pertulisse cognoscemus, oportet, ut nostrae fraternitatis prouisio, de futura quiete eorum salubri disponat ordinacione, quatinus conversantes in illis in Dei seruitio, gratia ipsius suffragante, mente libera perseverent. Sed ne ex ea quae magis emandanda est consuetudine, quisquam monachis quicquam eandem pulchritudinem et saepe atque accuratam prouisionem praebet, saepius praebent. 

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I. Gregorius I, 1 quam—49 finiatur Reg. 8, 17 (MGH Epist. 2, 19-20); 49 obeunte—80 quarta Reg. 5, 49 (MGH Epist. 1, 349).
molestiae praesumat inferre necesse est, ut haec quae inferius enumerare cura uimus, ita studio fraterni-
tates episcoporum debeant custodiri, ut ex eis non
possit ulterius inferenda inquietudinis occasio re-
perire. Interdicimus igitur in nomine domini nostri
Iesu Christi, et ex auctoritate beati Petri aposto-
lorum principis, cuius uicae huic aeclesiae Romanae
praesidemus, prohibemus, ut nullus episcoporum aut
saecularium, ultra praesumat, de reditibus rebus uel
cartis monasteriorum, uel de cellis, uel uillis quae
ad ea pertinent, quocunque modo, seu qualibet occasione
minuere, uel dolos, uel immissiones aliquas facere.

Sed si qua causa forte inter terram uenientem ad
partem suarum aeclesiarum et monasteriorum euenerit,
et pacifice non potuerit ordinari, apud electos abbates
et alios patres timentes Deum, sine voluntaria dilatu-
tione mediis sacrosanctis euangelii finiatur. De-
functo uero abbate cuiusquam congregationis, non ex-
treneus, nisi de eadem congregatione quem sibi propria
uołuntate concors fratum societas elegerit, et qui
electus fuerit, sine dolo uel uenalitate aliqua ordi-
netur. Quod si aptam inter se personam inuenire neque-
unt, sollerter sibi de aliis monasteriis similiter eli-
gant ordinandum. Neque constituto abbate, quaecunque
persona, qualibet occasione praeponatur, nisi forte ex-
tantibus quod absit criminibus, quae sacri canones pu-
nire monstrantur. Pariter autem custodiendum est, ut
inuito abbate, ad ordinanda alia monasteria, aut ad or-
dines sacros, uel clericatus officium, tolli exinde
monachi non debeant. Descriptiones quoque rerum aut
cartarum monasterii, ab episcopo aeclesiasticas fieri
omnino negamus. Sed si quando res exigit, abbas loci
cum aliis fratribus, causas rerum inuentarum faciat, et
eorum consilio siue iudicio finiatur. Obeunte quoque
abbate, episcopus indescribendis praeuidendisque re-
bus monasterii, acquisitis, uel datis, acquirendisue,
nullatenus se permisceat. Missas quoque publicas ab eo in coenobio fieri omnimodo prohibemus, ne in ser- uorum Dei recessibus, et eorum receptaculis ulla popularis praebatur occasio conuentus, uel mulierum fiat nouus introitus, quod omnino non expedit anima- bus eorum. Nec audeat ibi cathedram collocare, uel quamlibet potestatem imperandi habere, nec aliquam ordinationem quamuis leuissimam faciendi, nisi ro- gatus fuerit ab abbate loci. Quatinus monachi semper maneant in abbatum suorum potestate, nullusque mona- chum sine testimonio uel concessione abbatis in aeccl- sia aliqua teneat, aut ad aliquem honorem promoueat.

Hanc quoque scriptorum nostrorum paginam, omni in fu- turo tempore ab omnibus episcopis firmam statuimus illibatamque seruari, ut et suae aeclesiae iuuante domino tantummodo sint iure contenti, et monasteria aecclesiasticis condicionibus, seu angariis, uel qui- buslibet obsequiis saecularibus, nullomodo subiaceant.

Nullis canonicis iuribus deseruiant, sed remotis uexationibus, ac cunctis grauaminibus diuinum opus cum summa animi deuoitione perficiant. Vniuersi episcopi responderunt. Libertati monachorum congudemus, et quae nunc de his statuit beatitudo uestrae firmamus.


Die nonus, aprilis. Indictione, quarta.

II. Item. Gregorius, Mariano episcopo Rauennati.

Dudum as nos multorum relatione peruerat monasteria in Ravennatibus partibus constituta, omnino clericorum uestrorum dominio praegrauari. Quibus non modi-

I. 67 sed om. r post remotis canc. MS¹
69 perficiat 69 uniuersi--80 quarta om.


II. Gregorius I, Reg. 7, 40 (MGH Epist. 1, 488-9).
5 cum condolentes, hortamur caritatem uestram, ut omni mora, omnique excusatione submota, ita monasteria ipsa ab huiusmodi studeatis grauamine releuare, quatinus nullam deinceps in eis clerici, uel qui in sacro sunt ordine constituti, ad aliud habeant nisi orandi tantummodo causa, accedendi licentiam, aut si forte ad peragenda sacra missarum fuerint inuitati misteria. Sed ne pro cuiuslibet monachi aut abbas promotione onus aliqua fortasse sustineant, studendum nobis est, ut si quispiam monachorum ex quocunque monasterio, ad clericatus officium uel ordinem sacrum accesserit, non illic aliquam habeat ulterior potestatem, ne monasteria huius occasionis uelamine, ea quae prohibemus sustinere onera compellantur. Haec itaque omnia, uigilanti cura emendare sanctitas uestra non differat, ne aliter monasteriorum quieti prospicere compellamur. Nam notum uobis sit, quia tantae necessitati servorum Dei congregationem amplius subiacere non patimur.

III. Item. Gregorius, Domenico episcopo Cartaginensi.


III. Gregorius I, Reg. 2, 52 (MGH Epist. 1, 156).
De aeclesiasticis privilegiis, quod uestra fraternitas scribit, hoc postposita dubitatione teneat, quia sicut nostra defendimus, ita singulis quibusque aeclesiis sua iura seruamus. Nec cuilibet fauente gratia ultra quam meretur impertior, nec ulli hoc quod sui iuris est ambitu stimulante derogabo. Sed fratres meos per omnia honorare cupio, sicque studeo honore singulos subuehi, dummodo non sit quod alteri iure ab altero possit opponi.


Graue nimis, et contra sacerdotale constat esse propositum, cuiusquam monasterii privilegia olim in-
5 dulta confundere, et ad irritum quae sunt pro quiete disposita, niti deducere.

V. Item. Gregorius, Bonifatio primo defensori.

Institutionis nostrae decreta, quae sunt privi-
10 legiis et ordinatione disposita, perpetua stabilitate,

III. 2 aecclasticis] uero add. 8 hono-
rare post meos tr.

IV. 4 propositum] uelle add.

V. 2 institutionis] constitutionis quae] pro defensorum add.

IV. Gregorius I, Reg. 8, 32 (MGH Epist. 2, 33).

V. Gregorius I, Reg. 8, 16 (MGH Epist. 2, 18).
et sine aliqua constituimus, refragatione seruari, siue quae scripto decreuimus, seu quae in nostra praesentia uidentur esse disposita. Nec a quoquam pontificum in totum uel in partem ea qualibet occasione conuelli decernimus, uel mutari. Nam nimis est asperum, et praecipue bonis sacerdotum moribus inimicum niti quempiam quacunque rationis excusatione, quae bene sunt ordinata rescindere, et exemplo suo docere, caeteros, sua quandoque posse constituta dissoluere.

VI. Item. Gregorius, Vigilio episcopo Arelatensi. 
Dum piae desiderium voluntatis, et laudandae devotionis intentio, sacerdotalibus sit semper studiosis adiuuanda, cura est sollicitudinis adhibenda, ut ea quae pro quiete religiosae conversationis sunt ordinata, nec dissimulatio negligere, nec quaedam ualeat praesumptio perturbaret. Sed sicut hoc quod ratio exigebat, utiliter obtinuit definiri, ita quod definitum est, non debet uiolare. Igitur gloriae memoriae Hildebertus Francorum rex catholicae relig-

V. 5 quaee in eis add. 7 in partem] partemue 10 quae] et praem. 12 posse] post se.

VI. 2 dum] cum 5 conversionis fuerint 7 perturbaret] t cancell. MS³ 8 obtinuit] oportuit 10 Childebertus

VI. Gregorius I, Reg. 9, 216 (MGH Epist. 2, 203-4).
gionis amore, succensus, intra muros Arelatensis
ciuitatis, monasterium uirorum, ut scripto repperimus
pro sua mercede constituens, quaedam ibidem pro habi-
tantium sustentatione concessit. Cuius ne uluntas
15 unquam duceretur in irritum, et ea quae pro quiete
monachorum dispositia fuerant, turbarentur, quaeque
contulit in iure eiusdem monasterii, epistolis suis
apostolica petiiit auctorisate firmari. Haec quoque
suae petitioni subiunxit, ut eidem monasterio tam in
20 dispositione rerum, quam in ordinatione abbatis quae-
dam pariter priulegia largirentur, sciens quippe eam
apostolicae sedi reuerentiam a fidelibus exhiberi, ut
quae eius fuissent decreto disposita, nullius deinceps
licitae usurpationis molestia quaterentur. Vnde
25 quia effectum et regia uluntas, et res ualde desi-
derata poscebat, a predecessore nostro Vigilio Romanae
sedis antistite, ad praedecessorem uestrum Aure-
lium scripta transmissa sunt, ubi omnia quae amplec-
tendae uluntatis studium deposcebat, apostolice aucto-
30 ritatis libenti animo subfirmata sunt, quia difficul-
tates pati non potuit, huiusmodi res petita. Et post
pauca. Fraternitas ergo uestra, ita se in custodiendis

VI. 18 haec] hoc 19 subiuungens 30 liben-
ter] animo subfirmata] adnisiu firmata] diffi-
cultatem 31 et post--32 pauca] sed ut fraternitas--
roboramus (7 lin.)
eis exhibeat, quatinus et omnem inquietudinis occasi-
inem excludat, et aliiis hoc operari studeat, dum se in
35 custodienda defuncti piissima volunate sollicitam ut
decet, exhibuerit et deuotam.

VII. Item. Gregorius, Iohanni episcopo Rauennati.

Nemo potest et aecclesiasticis obsequius deser-
uire, et in monachica regula ordinate persistere, ut
ipse districcionem monasterii teneat, qui coddie
5 in ministerio aecclesiastico cogitur permanere. Pro-
inde fraternitas tua quolibet in loco factum emendare
festinet, quia ego nullo modo patiar loca sacra, ut
per clericorum habitum destruantur.

VIII. Item. Gregorius, Adriano notario.

Agathola solatrix, Praesentium questa est maritum
suum, contra voluntatem suam in monasterium Vrbici abba-
tis esse conuersum. Quod de eiusdem abbatis culpa et
5 inuidia non est dubium pertinere. Experientiae tuae

VI. 34 hoc] haec studeat] suadeat.

VII. 2 nemo] etenim add. 5 ministerio] ob-
sequentio 6 tua] hoc add. 7 patior 8 habi-
tum] ambitum.

VIII. 2 Agathosa latrix Praesentium] nomini
uiri interl. MS1 3 monasterio 4 de] (quia
praem.) add culpam 5 inuidiam

VII. Gregorius I, Reg. 5, 1 (MGH Epist. 1, 281-2).

VIII. Gregorius I, Reg. 11, 30 (MGH Epist. 2,
300-1).
praecipimus ut diligenti inquisitione discutias, ne forte cum eius uoluntate conversus sit, uel ipsa se mutare promiserit. Et si hoc reppereris, et illum in monasterio permanere prouideas, et hanc sicut promissit mutari compelle. Si uero nichil horum fuerit, ne quoddam fornicationis crimen propter quod uirum licet uxorum dimittere, praedictam mulierem commississe cognoueris, ne illius conversio, uxorius relictiae in saeculo fieri possit perditionis occasio, uolumus ut maritum illi uel si iam tonsoratus est continuo reddere omni debeas excusatione cessante. Quia, et si mundana lex praecepit conversationis gratia utrumlibet inuito, solui non posse coniugium, et divina lex fieri non permittit. Nam excepta fornicationis causa uirum uxorem relinquere, nulla ratione conceditur, quia postquam copulatione coniugii, uir atque mulier unum corpus efficitur, non potest ex parte converti, et ex parte in saeculo remanere.

IX. Item. Gregorius. Ad Castorium episcopum Arimi-

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VIII. 8 reppererit 9 prouideat 10 mutare compellat fuerit nel est nec 11 uiro 12 dim-

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IX. Gregorius I, Reg. 5, 49 (MGH Epist. 1, 348-9).
nensis.

Abbas in monasterio, non per episcopum, aut per quemlibet exterum ordinetur, neque missa ab episcopo
5 ibi celebretur, et ut nulli ecclesiae subiciatur.
Luminosus abbas monasterii, sanctorum Andreae et Tho-
mæ, in Ariminensi ciuitate constituti, quas nobis
lacrimabiliter praces effuderit, inditus textus peti-
tionis informat. Pro qua re, fraternitatem tuam orta-
10 mur, ut abeunte abbate, monasterii ipsius, ecclesias
tua in describendis praevidentisque acquisitis, ac-
quiendisque eidem monasterii rebus nulla se occasione
permisceat. Abbatem uero eidem monasterio non alium,
sed quem dignum moribus atque actuum disciplinae mona-
15 chicæ communi consensu congregatio tota poposcerit
ordinari uolumus. Missas autem illic publicas per
episcopum fieri omnimodis prohibemus, ne in servorum
Dei recessibus popularibus occasio praebetur ualla
conuentibus, et simpliciores ex hoc animos, plerumque,
20 quod absit, in scandalum trahat frequentior quoque
mulierum introitus. Hanc autem scriptorum nostrorum
paginam, omni in futuro tempore, a te, uel post te,
episcopis ordinandis, tam in uestra ciuitate, quam in

IX. 3 abbas--5 subiciatur om.  8 inditae
10 abeunte] obeunte, obeunte márg. M51  12 eidem]
eiusdem  14 actuum] aptum  monasticae  16 ordi-
nari] ordinare (te add.)  17 omnimodo  19 animas
21 muliebris  23 tam--24 terrarum om.
cuncto orbe terrarum firmam statuimus, illibatamque
25 seruandam. Et tua aecclesia, ad iuuante domino, suo
tantummodo sit iure contenta, et monasterium illud,
cunctaque in uniuersis regionibus cenobia constituta,
nulli alterius aecclesiae subiaceant, aliqua generali
canonico iuridicione deseruiens, sed remotis uexati-
30 onibus ac cunctis grauaminibus, diuinum opus sub suo
abbate degentes, cum summa deuoitio perficiant.

X. Item. Gregorius, Iohanni subdiacono Rauennati.

Venientes monachi, monasterii, abbatis Classis,
petiuerunt sibi Constantium monachum abbatem debere
constitui, quos ualde ego in eorum petitione detes-
5 tatus sum, quia mihi terrenaee mentis esse omnimodo
apparuerunt, qui terrenum nimis hominem abbatem habere
quaesierunt. Cognoui enim, quod isdem Constantius
peculiaritati studeat, quae res maxime detestatur eum
monachis non haberi, ac deinde cognoui, quia ad mona-

IX. 25 seruandam] seruari et] ut praem. aec-
clesia] ad add. 27 cuntaque--constituta om.
aecclesiae subiaceant om. aliqua] alii quam
29 canonicaeue iurisdictioni sed om. 30 sub--
31 degentes om. 31 summa] animi add. perficiat.

X. 2 monasterii] quondam add. Classis] Claudii
4 eorum] sua 8 detestatur] testatur 9 monachis]
(cor praem.) monachi habere

X. Gregorius I, Reg. 12, 6 (MGH Epist. 2, (351-2).
sterium quod in Picena prouincia situm est, solus per-
gere, sine aliquo fratrum suorum praesumpsit. Ex qua
eius actione cognoscimus, quia qui sine teste ambulat,
recte non uiuat. Aut quomodo aliis regulam teneat,
quam sibimet ipsi nescit tenere? Ab hoc igitur rece-
dentes, cellararium quendam nomine Maurum, petiue-
runt. Cuius uitae atque industriae, multi testifican-
tur, quia et quondam abbas Claudius eum quibusdam
laudabat. Tua itaque experientia sollicite requirat,
et si eius uita ad locum regiminis digna est, a reue-
rentissimo fratre et coepiscoopo meo Mariniano hunc
abbatem ordinari faciat. Sin uero est quod omnino
obuiet, et ex sua congregatione inuenire aptum minime
possunt, ipsi sibi aliunde eligant, et is quem elege-
runt fiat. Hoc autem praedicto fratri et coepiscoopo
meo omnino dicere stude, ut peculiaritatem, a quatuor
aut quinque monachis, in quibus corrigi hactenus
minime potuit, studiosissime compescat, et hoc ipsum
monasterium a tali peste mundare festinet. Quia si
illic peculiaritas a monachis habetur, neque concordia,
neque caritas in congregatione eadem poterit permanere.
Quid est autem habitus monachi, nisi despectus mundi?
Quomodo ergo mundum despiciunt, qui in monasterio
positi aurum quaerunt? Ita igitur tua experientia

X. 10 Piceni 16 multa 20 meo] nostro
21 quod] ei add.
faciat, ut neque loci ordinatio differatur, neque ad
35 nos ulteriorius accedere querelam permittat.

XI. Item. Gregorius, Mariniano episcopo.

Abbatem sibi sincera fratum concordia eligat, et
qui electus fuerit, sine dolo uel uenialitate aliqua
ordinetur. Quod si aptam inter se personam inuenire
5 nequiverint, sollerter de aliis monasteriis sibi
similiter agant ordinandum. Neque uenienti abbati,
quae cunque persona qualibet occasione in suo monaste-
rio praeponatur, nisi forte indique probatus, uel ex
omnibus fratribus congruis receptionibus demonstre-
10 tur. Inuito abbathe ad ordinandum alia monasteria aut
ad ordines sacros, uel clericatus officium, tolli ex-
inde monachi non debent. Sed si abundanter fuerint
qui ad celebrandas Deo laudes, uel utilitates monas-
teriorum complendas sufficient, abbas cum deuotione
15 de his qui superfuerint offerat, quos dignos coram
Deo potuerit. Quod si sufficienter habet et dare nolu-

X. 35 accedere] hac de re querella perueniat.

XI. 2 abbatem] quem sincera--eligat] propria
uoluntate congregatio elegerit 6 agant] eligant
uenienti] uuenti 8 indique--9 demonstretur] extan-
tibus quod absit criminibus quae sacri canones punire
monstratur. pariter autem custodiendum est ut
10 inuito] eiusdem monasterii add. ordinanda
12 debeant abundantes 16 habens et om.

XI. Gregorius I, Reg. 8, 17 (MGH Epist. 2, 19-20).
erit, ad haec quae superius protulimus, episcopus in
cuius parrochia est, sollerter tollat de his qui super-
fuerint. Quisquis autem ex monasterio ad aecclesi-
asticum ordinem peruenerit, ulerius illic licentiam
non habeat habitandi.

XII. Item. Gregorius, Antimo subdiacono.

Si quos autem a clericatu in monachicam conven-
sationem uenire contigerit, non liceat eis ad eandem,
vel aliam aecclesiam, quarum pridem milites fuerant,
sua voluntate denuo remeare, nisi talis uitae merito,
monachus fuerit, ut episcopus cui ante militauerat,
sacerdotio dignum prouiderit, ut ab eo debeat eligi,
et in loco quo iudicauerit ordinari.

XIII. Item. Gregorius, Fortunato episcopo.

Dum fraternitas uestra minus erga monasteria sibi
subiecta studet esse sollicita, et ipse culpam repre-

XI. 17 ad haec--18 superfuerint] tunc Rauennae episcopus ad ordinanda alia monasteria de his qui supersunt
tollat 18 superfuerint] ad ecclesiasticum--optu-
lerit add. (2 lin.) 19 ex] praedicto add. 20 il-
ic] nec potestatem aliquam nec add. 21 non om.

XII. 5 nisi] si add. merito om. 7 prae-
viderit.

XII. Gregorius I, Reg. 1, 40 (MGH Epist. 1, 55).

XIII. Gregorius I, Reg. 10, 9 (MGH Epist. 2, 244).
hensionis incurris, et nos de tua grauitate contrista-
tas. Peruenit autem ad nos, Mauricium quendam, qui
nuper in monasterio Barbatiani conuersus est abbatis,
secum aliis monachis fuga de eodem monasterio disces-
sisse. Qua in re, praedictum nobis Barbatianum sua
praecipitatio uehementer accusat, qui temere saecu-
larem hominem et non ante probatum tonsorauit. Nun-
quid non uobis scripsimus, ut prius eum probaretis,
et tunc si habitus esset, abbatem facere deberetis?
Vel nunc ergo circa eum quem elegistis, estote sol-
liciti. Nam uos illo delinquente, delinquitis, si
ita se ceperit exhibere, ut se ad fratrum ostendat
regimen indignum. Propertia monasteriis omnibus fra-
ternitas uestra districtius interdicat, ut eos quos
convuertendum susceperint, priusquam biennium in con-
uersatione compleant, nullo modo audeant tonsorare.

Sed hoc spatio, uita, moresque eorum sollicitae compro-
bentur, ne quis eorum aut non sit contentus quod uoluit,
aut ratum non habeat quod elegit. Nam dum graue sit
inexperto omnium obsequiis sociari, quis possit dicere,
quantum sit grauius ad Dei seruitium improbitas appli-
cari. Miles uero si converti voluerit, priusquam

XIII. 4 incurrit tua--contristatas] sua lenitate
   contristat 6 abbatis] ablatis 12 habitus] aptus
   16 praeterea 17 quos] ad add. 23 inexperto omni-
   um] inexpertos hominum 24 quanto
diligenter fuerit custoditus, nullus eum tonsorare praesumat.

XIV. Theodorus episcopus.

Puer, xv, habens annum, per se ipsum potest se monachum facere. Puella uero, xvi, uel xvii, quia ante in potestate parentum est.

XV. Synodus Romana.

Sanctimoniales, quamlibet uita earum et mores probati sint, ante annos aetatis suae xii, non uelentur.

XVI. Theodorus episcopus.

Abbas potest pro humilitate cum permissu episcopi relinquere locum suum. Tantum fratres eligant sibi abbatem de propriis si habent. Sin autem de ex-5 traneis.

XIII. 26 diligenter--27 praesumat] nobis renuntietur nullus eum sine nostro consensu qualibet praesumat ratione suscipere.

XIV. 2 xv habens...per] usque ad praem. (habens om.)...sit in potestate patris sui tunc add. (per om.) se² om. 3 xvii] annorum add. quia] quae 4 est] sunt.

XV. 3 annum xii] quadragesimum.

XVI. 2 permissione 3 relinquere] delinquere post suam tr. 4 propriis] ipsis.
XVII. Theodorus episcopus.

Non debet abbatem ad synodum uocare, nisi aliqua causa rationabilis sit.

XVIII.

Si quis abbاس cautas in regimine, humilis, castus, sobrius, misericors, discretusque non fuerit, ac diui-
na praeccepta, uerbis et exemplis non ostenderit, ab
5 episcopo in cuius consistit territorio, et a uicinis 
abbatibus, et a ceteris Deum timentibus a suo arce-
atur honore, etiamsi omnes monachi uitiis suis consen-
tientibus, abbatem eum habere uoluerint.

XIX.

Si extiterit abbас, diuinis iussionibus praeuari-
cator, regulaeque sanctae contemptor, ab episcopo 
ciuitatis, consensu abbatum aliorum, monachorumque

XVII. 2 non] episcopus praem. ad--uocare] (co-
gere ad sinodum tr.) ire add. nisi] etiam add. 
3 rationabilis causa tr.

XVIII. 2 quis] autem add. regimine] et add. 
3 sobriusque et discretus 5 consistit om. 
6 al om. Deum] domini 7 omnes monachi] omni con-
gregatio consentiens 8 uoluerit.

XIX. 3 sante

XVII. Poen. Theodori 2, 2, 3 (Finsterwalder 313).

XVIII. Exceptiones Egberti c. 63 (Mansi 12, 419).

XIX. Caput incertum [coll. 5L 2, 185 (CCCM VI, 287)].
5 timentintium Deum honore abbatis priuetur. Conuenit enim episcopo ciuitatis, ut sancta et magna synodus Calcedonensis decreuit, competenter monasteriorum prudentiam gerere.

XX. Synodus Romana.

Si quis, episcopus, uel abbas, rem mobilem, uel immobilem distrazierit aeclesiae suae, uel quacunque occasione ditandi filios uel parentes, siue uxorem, anathema sit. Et quod datum est, nullo modo tenetur. Et quamdiu acceptum tenuerit, communione priuatus sit.

Quisquis episcopus inventus fuerit uel abbas de salariis episcopii siue monasterii transferre quidquam in principum manus, uel etiam aliis personae conferre, irritum sit quod datum esse constiterit, secundum canonom sanctorum apostolorum qui dicit: 'Omnium ecclesiasticarum rerum episcopus solicietin habeat, et dispenset eas tamquam deo contemplante; non liceat autem ei fraudare quidquam ex illis, uel cognatis propriis donare quae dei sunt. Quod si pauperes fuerint, ut pauperibus largiatur: sed sub eorum occasione quae sunt aeclesiae defraudentur.' Quod et excusationem si praetenderint, damnun facere, et nihil ad profectum agrum existere; nec sic principibus qui per loca illa sunt, tribuatur aeger uel locus, sed clericis uel agricultoribus. Quod si calliditate usus fuerit, et a colono uel clericco emerit princeps agrum; etiam sic irrita sit uenditio, et

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XIX. 7 prouidentia.

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XX. Nicaenum II, 12 (Jo 1/1, 266-8).
restituatur episcopio uel
monasterio: et episcopus
uel abbas hoc faciens abi-
ciatur, episcopus quidem
ab episcopio, abbas autem a
monasterio, tamquam qui
dispergit male quae non
collegit.

XXI. Gregorius.

Abbas remissum non retineat monachum suum, ad
districtiora se tendentem.

XXII. Hieronymus.

Lupus uitandus, pastor bonus adeundus. Spelunca
latronis deserenda, ouile ouiam petendum.

XXIII. Augustinus.

Fugient oues uocem pastoris quem non cognoscunt,
et deserta petunt. Ita mali principis ouilia uitanda
sunt, et deserta uita petenda.

XXIV. Synodus.

Definimus monachos fugientes malos principes sus-

XXII. 3 ouiam om.

XXI. Caput incertum [coll. 5L 2, 112 (CCCM VI,
257)].

XXII. Caput incertum [coll. 5L 2, 114, 1 (CCCM VI,
258)].

XXIII. Caput incertum [coll. 5L 2, 114, 2 (CCCM VI,
258)].

XXIV. Caput incertum [coll. 5L 2, 113, 1 (CCCM VI,
257)].
cibi ab alia aecclesia, ut sciatur causa.

XXV. Gelasius papae.

Monachos suscipite, qui ueniunt ad uos de loco uiliori ad perfectiorem, quorum abbas ita degenerauit ab opere Dei, ut mereatur ad mensam sanctorum non 5 recipi, et fornicationis crimine non suspicionis, sed malitiae uidentes onerare, sine ullo scrupulo, uel aesitatione, tales monachos suscipite ad uos, uelut flammam inferni confugientes, nequauquam eorum consulentes abbatem.

XXVI.

Synodus, Arelatensis, decreuit, ut exsules uitia principum uitantes, et incommodum loci, non recu-
semus.

XXVII. Gregorius.

Quisquis mala mundi, et incommocum aecclesiae uitat, susciendus est magis, quam eiciendus.

XXV. 2 monachum.

XXV. Caput incertum [coll. 5L 2, 113, 2 (CCCM VI, 257)].

XXVI. Caput incertum [coll. 5L 2, 113, 3 (CCCM VI, 258)].

XXVII. Caput incertum [coll. 5L 2, 113, 4 (CCCM VI, 258)].
XXVIII. Synodus.

Qui contumaciter monachus uagari per quaelibet loca, aut aliquid habere proprium praesumpterit. Omnia quae acquisierit abbati deferantur, secundum monasterii, regulam. Ipse uero tanquam fugax, sub custodia reuocetur, uel constringatur, sicut sancta regula docet.

XXIX. Gelasii papae.

Multos ex aeclesiasticca familia nouimus ad omnipotentis Dei seruitium festinare, ut ab humano seruitio ualeant in monasteriis conuersari. Quod si passim dimitimus, omnibus fugiendi aeclesiasticci iuris, dominium occasionem praebemus. Sin uero festinantes ad omnipotentis Dei seruitium incaute retinemus, illi inuenimur negare qui dedit omnia. Vnde necesse est, ut quisquis ex iuris aeclesiasticici seruitute ad Dei seruitium converti desiderat, probetur prius in laico habitu constitutus, et si mores eius atque conuersatio bono desiderio illius testimonium ferunt, absque ualla

XXIX. 3 humanol] humana (seruitute liberi in diuino add.) 7 retineamus 8 negare] quaedam add., interl. MS² 9 iure ecclesiasticcaei seruitutis

XXVIII. Caput incertum [coll. 5L 2, 117 (CCCM VI, 259)].

XXIX. Gregorius I, Reg. 5, 57 c. 6 (MGH Epist. 1, 365).
retractatione in monasterio omnipotenti domino seruire permittatur, et ab humano seruitio liber recedat, qui 15 diuino obsequio districtiorem appetit seruitutem.

XXX. Item. Gregorius, Petro subdiacono.

De lapsis sacerdotibus, ac leuitis, uel quolibet, quotiens poenitentiae agendae sunt, monasteria regularia requiras, quae secundum Deum uiuere sciunt, et 5 in eisdem monasteriis, ad poenitentiam lapsos tradas, et res lapsorum in eo loco proficiant, in quo agere poenitentiam traduntur, quatinus ipsi ex rebus illorum subsidium habeant, qui de corruptione eorum sollicitudeinem gerunt. Si uero parentes habuerint, re eorum 10 legitimis parentibus dentur. Ita autem, ut eorum stipendium qui in poenitentia dati fuerint, sufficienter debeant procurari. Si qui, uero ex familia aeclesiastica, sacerdotes, uel leuitae uel monachi, uel clericu lapsi fuerint, dari eos in poenitentiam 15 uolumus, sed res eorum aeclesiastico iuri non sup-


XXX. 3 quotiens--sunt] ex clero obseruare te uolumus ut in rebus eorum nulla contaminaione misceris. sed pauperrima 3 regularia monasteria tr. 4 require 5 trade 9 habent 11 poenitentiam 12 debeat 14 clericu] uel quilibet alii add.

XXX. Gregorius I, Reg. 1, 42 (MGH Epist. 1, 67).
trahi. Ad usum tamen suum accipiant, unde ad poeni-
tendum subsistant. Ne si nudentur, locis in quibus
dati fuerint, onerosi sint. Si quos parentes in
possessione habent, ipsis res eorum tradendae sunt,
20 ut in ipsis iura aecclesiae consequentur.

XXXI. Augustinus.

Qui sub gradu cecidit, post poenitentiam con-
tentus fiat baptizare, communionem infirmis dare,
et altario ministrare.

XXXII. Item.

Synodus decreuit, ut in peregrinationem mittantur,
et ibi ministrare debeant sub manu abbatis. Humanius
Hybernenses praecipiunt, gratia raritatis, sacerdotes,
5 ut post poenitentiam consecrentur per manus impositio-

XXX. 17 nudentur] nudi dantur 18 quos] qui
20 iuri.

XXXII. 2 peregrinatione 3 debeant om.
4 Hybernenses] canones suppl.

XXXI. Caput incertum [coll. 5L 2, 94 (CCCMI VI,
235)].

XXXII. Caput incertum [coll. 5L 2, 95 (CCCMI VI,
236)].
XXXIII. Ysidorus episcopus.

Illos enim ad pristinos officii gradus redire canon praecipit, quos poenitentiae praecesserit satisfactio, id est digna peccatorum confessio. At contra hi qui neque auitio corruptionis emendantur, atque hoc ipsum carnale delictum quod admittunt etiam uen- dicari quadam superstitione temeritati nituntur, nec gradum utique honoris, nec gratiorum communiones reci- piant.

XXXIV. Concilium Vrbico.

Non liceat abbati filios de baptismo habere, ne- que monacho. Quod si quis abbas mulierem in monas- terium suum ingredi permiserit, aut festiuitates ali- 5 quas ibidem spectare, tribus mensibus in alio monas- terio retrudatur.

XXXV. Item. Gregorius, Valentino abbati.

XXXIII. 2/3 canon redire tr. 4 id est] uel 4 at--8 recipiant om.


XXXIII. Caput incertum [coll. 5L 2, 103( CCCM VI, 242)].


XXXV. Gregorius I, Reg. 4, 40 (MGH Epist. 1, 276-7).
Hoc te praeccepto senex commonemus, ut neque mulieres in monasterium tuum generaliter deinceps qualibet excusatione permittas ascendere, neque 5 monachos tuos sibi commatres facere. Nam si hoc denuo ad aures nostras quocunque modo peruenerit, sic te saeuerissime noueris ultiionis subdendum, ut emendationis tuae qualitate caeteri sine dubio corrigantur.

XXXVI. Item. Gregorius, Augustino.

Mos sedis apostolicae est, ordinatis episcopis praecpta tradere, ut de omni stipendio quod accedit quatuor debeant fieri portiones. Vna uidelicet episco- 5 copo et familiae eius propter hospitalitatem atque susceptionem. Alia clero. Tertia pauperibus. Quarta aeclesiis reparatoris. Sed tua fraternitas monasterii regulis, erudita, seorum uiuere non debet a clericis suis. Aeclesia uero Anglorum, quae auctore Deo nuper ad fidem ducta est, hac debet conversatione institui, quae in initio nascentis aeclesiae fuit,

XXXV. 2 hoc[ huius praecpti serie 3 mona- sterio tuo generaliter om. 4 excusatione] occa- sione.


XXXVI. Gregorius I, Reg. 11, 56 (MGH Epist. 2, 333).
patribus nostris, in quibus nullus ex his quae possidebat aliquid suum esse diceret, sed erant illis omnia communia.

XXXVII. Gregorius, Iohanni episcopo Panormitano.

De reditibus aecclesiae quartem in integro portionem, aecclesiae tuae clericis secundum meritum, uel officium, siue laborem suum, ut ipse unicusque dare prospxeris, sine aliqua praebere debes tarditate. De hoc uero quod ex fidelium oblatione accessorit, idem quartem partem, eis iuxta pristinam consuetudinem dare non differas. Reliqua autem omnia mobilia, in tuam retineas aptam potestatem. Immobilia enim aecclesiasticis reditibus aggregentur, ut multiplicata quantitate clericorum tuorum quatenus Deo largiente proficiant. Tabularium autem una cum consensu seniorum et cleri memineris ordinandum, qui annis singulis, ad amputandam fraudis suspicionem sollemniter suas debeat rationes exponere. Si quid igitur de quocunque clerico ad aures tuas perueniret, quod te iuste possit

XXXVI. 12 nullus] eorum add. possidebant
13 dicebat illis] eis.

XXXVII. 7 idem] item partem] in solidis uel cellario add. 9 tuam] tua retinens aptam om.
potestate 11 quatenus] quarta 15 exponere] Vin-demiorum--non ualeas add. (6 lin.)

XXXVII. Gregorius I, Reg. 13, 46 (MGH Epist. 2, 409-10).
offendere, facile non credas ad uindictam, sed praesentibus senioribus, aecllesiae tuae diligenter ueritas est perscrutanda, et tunc si qualitas rei poposerit, canonica districtio culpam feriat delinquentum.

XXXVIII. Hieronymus.

Qui constrinxerit paruum aut infirmum nodo iniquo, ipse reatu tenebitur. Item Senatus dicit: Decreimus, ut nemo infirmos aut paruulos constringat. Quia hos duos gradus, non numeramus in numero perfectorum.

XXXIX. Synodus.

Debent termini sanctis locis, ut a tribus personis consecruntur, hoc est, episcopo, rege, populo.

XL. Synodus.

Duo uel tres termini circa locum sanctum debent fieri. Primus, in quem preter sanctos clericos nullum

XXXVII. 17 credas] nec add. uindictam] te res accendat incognita add. 19 est ueritas tr. 20 de-linquentis.

XXXVIII. Caput incertum [coll. 5L 3, 105, 3-4 (CCCM VI, 365)].

XXXIX. Caput incertum [coll. 5L 3, 151 (CCCM VI, 385)].

XL. Caput incertum [coll. 5L 3, 152 (CCCM VI, 285-6)].
introire permittimus omnino, quia in eum laici non
5 accedunt, nec mulieres, nisi clerici. Secundus. In
cuius plateas, plebium rusticorum cateras, non multum
nequitiae deditas, intrare sinimus. Tertius. In quem
laicos homicidas, adulteros, fures, permissione et
consuetudine introire non uetamus. Inde uocantur,
10 primus, sanctissimus. Secundus sanctior. Tertius
sanctus. Deferentes honorem discrepantibus, nec quid
deficit nomine tertio.

XLI. Ex decretis, domini Bonifatii papae. Qui quartus
extitit a beato Gregorio. Quod licet monachis, cum
sacerdotali officio ubiubi ministrare.

Sunt nonnulli fulti nullo dogmate, audacissimae
5 quidem zelo magis amaritudinis quam dilectionis inflam-
mati, asserentes monachos, quia mundo mortui sunt, et
Deo uiuunt, sacerdotalis officii potentia indignos,
neque poenitentiam, neque christianitatem largiri, ne-
que absoluere posse per sacerdotalis officii diuinitus
10 iniunctam potestatem, sed omnino labuntur. Nam si ex
hac causa ueteres aemuli uaera praedicarent, aposto-
licae sedis compar beatissimus, Gregorius, monachico
cultu pollens, ad summam nullatenus apicem conscen-

XLI. 5 dilectione
12 compar sedis tr.

XLI. Bonafatius (PL 80, 104-6).
deret. Cui quidem haec ligandi soluendique potestas
15 a Deo summa conceditur. Augustinus, quoque, eiusdem
sanctissimi, Gregorii, discipulus, Anglorum praedicta-
rum egregius. Ac Pannoniensis Martinus beatissimus,
cuius sanctitatis famam longe lateque diffusam totus
personat mundus, aliique quam plurimi uiri sanctissimi,
20 praetiosissimo monachorum habitu fulgentes, nequaquam
anulo pontificali subarrarentur. Sed quia monachi
fuerunt, praedictis uti prohiberentur. Neque enim
beatus Benedictus, monachorum praecceptor almificus,
huiuscemodi rei alii modo fuit interdictor. Sed
25 eos saecularium negotiorum edixit expertes fore solum
modo. Quod quidem apostolicis documentis, et omnium
sanctorum patrum institutis, non solum monachis, uaerum
etiam canonicis maximopere imperatur. Vtrisque etiam
praefatorum patrum exemplis perspicacibus, circumqua-
30 que et mundo mortui sunt, eudentissima ratione praecipitur. Tantis igitur patrum instituti exemplis,
quibus periculosissimum est refragari, credimus sacer-
dotibus monachis ligandi et soluendi officium Deo
operante concessum, haud indigne administrari, si eos

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XLI. 14 cui] quoniam haec] ostiati fungendi
add. 16 praedicator 18 fama diffusa 19 alii-
qué quam] alii quoque iam 21 sed] si 23 beatus
om. 28 imperatur] nemo enim militans Deo implicat se
negotiis saecularibus add. 30 sunt] sint 31 tan-
tis] tantorum 33 et soluendi] soluendique 34 o-
perante] imperante concessum om.
digne contigerit, hoc ministerio sublimari. Quod
incunctanter affirmat, quisquis statum monachorum et
habitum potestatemque euidenter considerat. Verbi
gratia: Angelus grece, latine nuntium sonat. Sacer-
dotes igitur monachi, atque canonici, qui cottidie
aecclesiae Dei praecepsta annuntiant, angeli uocantur
ratione non incongrua. Sed unusquisque angelicus ordo,
quanto claritatem Dei uicinius contemplatur, tanto
dignitate sublimior affirmatur. Eorum cherubim ordo
eximius praedicatur, quorum figuram monachorum cultus
competenter habere probatur. Nam uti cherubim, ita
monachi sex alis uelantur. Duae quidem in capitio
quo caput tegitur, umerissimilibus demonstrantur asser-
tionibus. Illud uero tunicae quod brachis extenditur,
alias duas alas esse dicimus: Et illud tandem quo cor-
pus tegitur, sex alarum numerum certissime implere
asseritur. Decertantes igitur monachicae professioni,
presbyteros sacerdotalis potentiae arcere officio, om-
nimodo praecipimus, ut ab huiuscemodi nefandis ausibus
reprimantur in posterum, quia tanto quanto quisque excellen-
tior, tanto est et his potentior.

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XLI. 35 hoc] ad praem. ministerium 37 poten-
tatumque 38 nuntius sonat] dicitur 40 aeccele-
siae sancta 43 eorum--45 probatur om. 45 ita om.
47 demonstratur 49 alias om. alas duas tr.
49 corpus--50 tegitur] conditur corpus 51 professio-
nis 54 excellentior] celsior 55 est et his om.
XLII. Augustinus.

Si contigit plerumque, ut quis plures habeat filios, moriaturque unus, et non mittit post eum pater eius partem eius, et pars ipsius non tribuatur Christo ad quem porrexit, qua fronte uenturus est ad fidelium suum cum non mittat partem suam in caelum? Cum et dominus dixit: Thesaurizate uobis thesauros in caelo. Hic enim tenetur ubi perit thesaurus, illic permanet ubi Christus est custos. Qua enim fronte haereditatem a Christo quaerit, cum Christo suam haereditatem fraudauit? Noli ergo sub imaginem pietatis augere pecuniam dicens, filiis aut fratribus meis reseruabo magnas res. Quare non potius illi seruas, qui te fecit ex nichilo, et ei qui te pascit, et filios et fratres tuos? Cui est melius commendare filios et fratres, quam creatori?

XLIII. Hieronymus.

Da omnia Deo qui te creuit, et alit, et filios tuos pascit.

XLIV. Synodus Romana.

Non ad reorum defensionem facta est aecclesia

XLII. Caput incertum [5L 4, 179 (non in expedito)].

XLIII. Caput incertum [5L 4, 180, 2 (non in expedito)].

XLIV. Synodus 2 S. Patricii c. 9 (Bieler 186-8).
sed iudicibus suadendum, ut spirituali morte eos non occidant, qui ad sinus aecclesiae transfugiunt.

XLV. Synodus Hibernensis.

Omne depositum redditur, nisi depositum aecclesiae matris omnium baptizatorum. Sicut enim omnis mater uicem depositi perdit filio suo non reddit, ita omnis aecclesia catholica filiorum suorum deposita quamuis sint perdita reddere non debet.

XLVI. Theodorus episcopus.

Desponsatam non licet parentibus tradere alteri uiro, uiuente sponso eius. Tamen ire ad monasterium licebit si uoluerit.

XLVII. Silvester episcopus.

Nullo scemate monachum oportet fieri, nisi xxv, aetatis anno, et ipsum tamen, non nisi quasi lxxii,

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XLIV. 3 suadendum] persuadendum (est add.) spirituali non om. 4 occiderint sinus--transfugiunt] senum (matris add.) aecclesie confugerunt.


XLVII. 2 scecomo monachus

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XLV. Caput incertum [5L 4, 198, 3 (non in expedito)].

XLVI. Poen. Theodori 2, 12, 34 (Finsterwalder 330).

XLVII. Caput incertum [coll. 5L 2, 123 (CCCM VI, 261)].
annis humilitate et pudicitia probatur propter scann-
5 dula ut septuagesimo secundo, annis, iam euacuato
omni feroare diaboli, inueniat sibi mundum uas spirit-
tus sanctus.

XLVIII. Siluester episcopus.

Nullus lector, uel hostiarius, uasa sacrata con-
tingat, nullus acolitus, uel subdiaconus, rem iam
consecratam a presbytero alii porrigat, quia aliud est
5 minister, aliud assistens, nisi tantum portet quod ei
imposuerit sacerdos, suo ore benedictum.

XLIX. Ex epistola canonica.

Ea quae allata sunt, uel fuerint aeclesiis, uel
titulis, nullus exinde suprahere praesumat. Et si
quispiam praesumpserit, res quae fraudatae sunt, in

XLVII. 4 anno 6 anno.

XLVIII. 2 contigerit 3 uel subdiaconus om.
3 iam post 4 presbytero tr. 4 consecratam sacratam
alio porrigaret 4 quia--5 assistens om. 5 portet]
supportaret 6 imposuerit sacerdos] sacerdos impone-
ret tr.

XLIX. 2 ea] ut praem. quae] a domino conser-
uandis Christianis principibus amore add. allata]
dilata 3 nullus om. praesumat] nec sacratas res
depopulentur add. 4 in om.

XLVIII. Concilium Romanum sub Siluestro papa c. 9
(PL 8, 836).

XLIX. Epistola canonica c. 3 (Mansi 13, 1095).
5 quadruplum restituantur. Aut si non habuerit, saltim res ipsae in loco unde ablatae sunt refirmentur.

L. Eugenii papae.

Si quis, uir aut uxor, diuortium pro sola religiosa uita inter se consenserit, nullatenus sine conscientia episcopi fiat, non tamen ut unus pergat ad 5 Dei seruitium, et alter remaneat in hoc saeculo. Sed utrumque melius in Deiconiungantur famulatu. Quod si unus horum noluerit, pro huiusmodi resolui nullatenus possint.

LI. Concilium Sardicense.

Si uobis ergo fratres karissimi placet, decernite, ne episcopi ad comitatum accedant, nisi forte hi qui religiosi imperatoris litteris uel inuitati,

XLIX. 5 habuerit] unde ipsa loca admittant et res ipsas quae fraudatae sunt ab epISCOPO IPSius re-collictantur et add. 5 saltim--6 ipsae om. 6 in] ipso add.

L. 2 si quis] sin autem aut] et diuortium] diuertere religione 3 uita post consenserit tr. 4 non--8 possint] ut ab eo singulariter pruioso constitutatur loco. nam uxor nolente aut altero eorum etiam pro tali re matrimonio non soluantur.

L. Eugenius II, Concilium Romanum c. 36 (MGH Leg. 2/2, 17).

LI. Sardicense 7 (Jo 1/2, 169-70).

LII. Concilium Toletanum V. Titulus XXXI.

Episcopi in protegendis pupillis, ac defendendis, impositam a Deo sibi curam non ambigant. Ideoque dum conspiciunt iudices ad potentes pauperum oppressores existere, prius eos sacerdotali commonitione redargent. Et si contempserint emendari, eorum insolentiam regis auribus intiment, ut quod sacerdotalis admonitio non flectit ad iustitiam, regalis potestas, ab improbitate coherecat.

LIII. Concilium Bracarense II. Titulus I.
Placuit omnibus episcopis atque conuenit, ut per singulas aecclesias episcopi et per dioceses ambulan-
tes, primum discutiant clericos, quomodo ordinem bap-
tismi teneant, uel missarum et qualiter quaecunque officia in aecclesia peragant. Et si recte quidem
inuenerint, Deo gratias. Si autem minime, docere
debent ignaros, et hoc modis omnibus praecipere, ut
sicut antiqui canones iubent, specialiter doceantur.

Postquam ergo haec suos clericos discusserint, uel
docuerint episcopi, alia die conuocata plebe ipsius
aecclesiae, doceant illos, ut errorem ydolorum fugiant
vel diversa crimina, id est homicidium, adulterium,
periurium, falsum testimonium, et reliqua peccata
mortifera, et quod nolunt sibi fieri, non faciant
alteri. Et ut credant resurrectionem omnium hominum,
et diem iudicii. In quo unusquisque secundum sua
opera recepturus sit, et sic postea episcopus de
aecclesia proficiscatur ad aliam.

LIV. Bonifacii papae.

LIII. 5 qualiter om. 6 aecclesia] teneant
uel quomodo add. peragantur 8 debeant ut]
et 9 iubent] ante--omnipotentem add. (5 lin.)
ll. alia] alio 12 errorem] errores fugiant
idolorum tr. 15 et] aut 16 alteri post 15 fieri
tr. 17 quo] qua 18 sit] est 18 episcopus--
19 aecclesia om. 19 aecclesia] illa interl. MS\(^1\).

LIV. Poen. Theodori 2, 6, 7 (Finsterwalder 320).
Si quis, uult monasterium suum ad meliorandum in alium locum ponere, fiat cum consilio episcopi, et fratrum suorum, et dimittat presbyterum in priori loco, ad ministeria aecclesiae.

LV. Augustinus episcopus.

Tribus causis, loca sanctorum transmutanda sunt. Primo, cum necessitas persecutorum loca eorum grauuerit. Secundo, cum difficultas locorum fuerit. Tertio, cum malorum societate grauuntur.

LVI. Gregorius, papa, ad Iohannem Buternum episcopum.

Temporis qualitas admonet, episcoporum sedes antiquitus certis ciuitatibus constitutas, ad alia quae securiora putamus, eiusdem dioceos loca transponere, quo et habitatores nunc degere, et barbaricum possint periculum facilius declinari.
LVII. Concilium apud Altheum, presente Chuonrado rege.


LVIII. Vnde supra.

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LVII. Hohenaltheim (a. 916) c. 37 (MGH Const. 1, 626).

LVIII. Hohenaltheim (a. 916) c. 36 (MGH Const. 1, 626).
Monachus quem canonica electio a iugo regulae 
monasticae professionis absoluit, et sacra ordinatio 
de monacho episcopum facit, uelut legitimus haeres 
5 paternam sibi haereditatem postea iure uendicandi 
potestatem habeat. Sed quicquid acquisierat, uel 
habere uius fuerat, monasterio relinquat, et abbatis 
sui qui fuerat secundum regulam sancti Benedicti, arbi-
trio. Postquam enim episcopus ordinatur, ad altare 
10 quod sanctificatur et titulatur, secundum sanctos cano-
nes, quod acquirere poterit restituat.

LIX. Toletanum II.

De rebus uero illorum, uel peculiaris, qui a dom-
inis propriis libertate donantur, ut ad gradus eccle-
siasticos promoueri debeant, statutum est, ut in potes-
tate dominorum consistat, quicquid ante libertatem ha-
buerunt, utrum illis concedere uoluerint, an sibi reti-
nere.

LVIII. 6 quicquid] prius add. 9 altare] ad 
add. 10 sacrificatur. sacros.

LIX. 2 peculiare 2/3 propriis dominis tr. 
4 promoueri debeant] (iure praem.) promoueantur (de-
beant om.) 5 quicquid--habuerunt om. 6 uolu-
erint--retinere] an sibi uindicare uelint.

LIX. Capitularia Ludowici Pii (a. 814-17) c. 6 
(MGH Cap. 1, 276-7).
LX. Siluestri papae.


LXI. Lugdunense.

Non liceat episcopo nec abbatii terras aecclesiae uertere ad alium, quamuis ambae sint in eius potestate. Tamen si commutare uoluerint terras earum, cum consensu ambarum fiat.

LXII. Meldensi concilium.

Iuxta synodalica praecpta decreuimus, ut nullus,

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LX. 2 proprium] in praem.
LXI. 2 terram 5 amborum faciant.
LXII. 2 iuxta--3 mortalium] ut secundum canonicam auctoritatem et constitutionem domni imperatoris Hludowici

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LX. Caput incertum [coll. B III, 23 (PL 140, 677); cf. Jul. epit. 7, 42, 11 (Ha 36)].

LXI. Caput incertum [coll. B III, 24 (PL 140, 677)].

LXII. Meaux-Paris (a. 845-6) c. 63 (MGH Cap. 2, 413).
mortalium de agro aecclesiastico, et manso, et mancipiis, uel si quaelibet pro loco sepulturae aliquid largitus fuerit aecclesiae, neque de decimis et oblationibus fidelium, quemquam presbyterorum aliquem censum persoluerre cogat, nec quisquam cuiuslibet ordinis aut dignitatis exinde quicquam suptrahat, et retributionem quamcunque exigat temporalem. Quod si fecerit, communione usque ad satisfactionem priuetur.

LXIII. Apud Beluacum.

Precariae et commutationes tempore uiduatarum aecclesiarum factae ab eis qui loca episcoporum occuparunt, rescindantur, et cum auctoritate aecclsiastica, uel cuilibet, sic faciendae sunt fiant.

LXIV. Ex eodem.

Precariae de quinquennio in quinquennium, secun-

LXII. 3 et\textsuperscript{2}] ac mancipiis\] quae ipse suis capitolis constituit add. 5 ecclesiae fuerit tr. 6 quemquam presbyterorum\] cuquam presbitero 8 aut\] uel et\] aut 9 retributionem\] redibitionem.

LXIII. 2 precariae\] ut praem. 3 eis\] his 4 occupauerant 5 cuilibet\] ciuili si faciendae\] si fienda\e.

LXIV. 2 de--quinquennium post 3 auctoritatem tr.

LXIII. Meaux-Paris (a. 845-6) c. 21 (MGH Cap. 2, 403).

LXIV. Meaux-Paris (a. 845-6) c. 22 (MGH Cap. 2, 404).
dum antiquam consuetudinem et auctoritatem renouentur.

LXV. Ex eodem.

Commutationes rerum aecclesiasticarum ualde caue-
untur, et suptilissime si aliquo modo fieri debent
inspicientur. Quae autem inconsultae factae sunt,
5 iuxta decretum canonum Yilarii papae, quas illicite
deecessor episcopus admiserit, uel ab aliis illicite
commissa sunt, ab eo qui successor, est, emendentur.

LXVI. Apud Parisiacum.

Neque mancipia aecclesiastica quisquam nisi ad
libertatem commutet, uidelicet ut mancipia quae pro
aecclesiastico homine debentur in aecclesiae seruitute
5 permaneant, et aecclesiasticus homo qui commutatur
perpetua libertate fruatur. Quod enim semel domino
consecratum est, ad humanos usus iam transferri non
potest.

LXV. 2 commutaciones] ut praem. sunt factae tr.
5 canonicum papae Hilarii tr. quas] quae.

LXVI. 4 dabuntur homine om. 5 commutatur]
commutatus fuerit 6 quod--8 potest om.

LXV. Meaux-Paris (a. 845-6) c. 23 (MGH Cap. 2, 404).

LXVI. Karoli II, Capitulare Missorum Suessionense
(a. 853) c. 12 (MGH Cap. 2, 270).
LXVII. Apud sanctum Medardum.

Praecepta regalia super precariis aecclesiasticis fieri, nec ratio sinit, nec auctoritas quolibet modo permittit, quoniam praecepta in iure aecclesiastico firmare indignum iudicatur, necesse est ut maiestas regia non nisi ab aecclesiastico rectore petatur. Idem autem custos aecclesiae sollertissime caueat, ne sui ordinis et aecclesiasticae communionis forte immemor, contra auctoritatem praeceptum regium pro quaecunque assentatione fieri petat. Qui etsi fecerit, non audiatur. Si autem et obtinuerit, regali discretione, et episcopali iudicio, idem rescindatur, et petitor inustus pro principis inusta suggestione digne corripiatur.

LXVIII. Cartaginense.

Presbyteri non uendant rem aecclesiae, ubi sunt constituti, nescientibus episcopis suis, quomodo et episcopis non liceat uendere predia aecclesiae, igno-

LXVII. 2 praecepta] autem add. 5 iudicet
6 non om. petantur 7 idem] isdem 11 regia.

LXVIII. 2 presbyteri] item placuit ut praem.
4 licet

LXVII. Meaux-Paris (a. 845-6) c. 22 (MGH Cap. 2, 404).

5 rante concilio, uel presbyteris suis. Non habenti ergo necessitatem, nec episcopo licet matris aeccl- siae ignorante concilio, uel presbyteris suis, nec presbytero rem tituli sui usurpare.

LXIX. Bracarense.

Si quis presbyter aut diaconus, inuentus fuerit de ministeriis aecclesiae ignorantae concilio aliquid uenundasse, quia sacrilegium commisisit, placuit eum in ordine aecclesiae non haberi. In iudicio tamen episco- copi dimittendum, si dignus sit siue indignus, in suo recipi gradu.

LXX. Ex eodem.

Quicunque presbyter de iure tituli sui quolibet modo, aurum, argentum, uel gemnas, uestes quoque si sunt, uel si accesserint aliqua mobilia aut ornamenta

LXVIII. 5 habente 6 liceat matris] matricis 7 ignorante--8 presbytero om.

LXIX. 3 ignorante concilio om. 3 aliquid post 2 fuerit tr. 5 ordinatione ecclesiastica habere 6 dimittendum] est add. si] siue.

LXX. 2 quicunque presbyter om. tituli sui] titulorum (sui om.)(uel ecclesiae superius praefatae add.) 3 modo] praeter add. 4 aut] ad

LXIX. Bracarense II, 17 (Vi 91).

LXX. Synodus Romana IV (a. 502) c. 6 (Bruns 2, 299-300).
5 diuina, aliquid in perpetuum alienare temptauerit, donator, alienator, ac uenditor, honoris sui amissione multetur.

LXXI. Ex eodem.

Si quis episcopus nulla aecclesiasticae rationis necessitate compulsus, in suo clero, aut ubi forte non est presbyter, de rebus aecclesiasticis aliquid praesumpserit uendere, res ipsas aecclesiae propriae restaurare cogatur, et in iudicio episcoporum deciatar auditus, et tanquam furti aut latrocinii reus, suo priuetur honore.

LXXII. Toletanum.

De his quae pertinent ad aecclesiam, in qua cum non esset episcopus, presbyteri uendiderunt, placuit rescisso contractu ad iura aecclesiastica reuocari.

LXX. 5 aliquid in perpetuum] minime pertinentia perpetuo iure exceptis duntaxat sub praefata conditione domibus 7 mulctetur.

LXXI. 3 in suo] inscio 4 non om. 5 propriae] cuius sunt add. 7 furtu 8 suo] a praem.

LXXII. 2 de--aecclesiam] si quid de rebus ecclesiae in qua om. 3 episcopus post 2 cum tr. 4 ius ecclesiasticum

LXXI. Bracarense II, 14 (Vi 89-90).

LXXII. Ancyranum 15 (Jo 2, 66-67).
5 in iudicio autem erit episcopi, si praetium debeant
recipi necne, quia plerumque rerum districtarum re-
ditur (ampliorem summam pro accepto pretio reddi-
disse).

LXXIII. Bruchardus. Liber III. Titulus CCXL.

Si quis laicus uel clericus, seu utriusque sexus
persona proprietatis suae loca, uel res alicubi dele-
gare decreuerit, decimationum prouentum priori aecce-
5 siae legitimum consignatum, inde abstrahere nullam
habeat potestatem. Quod si facere temptauerit, talis
traditio irrita prorsus ducatur, et ipse ad emendati-
onem aecclesiastica coherceatur censura.

LXXIV. Aurelianense.

Abbatis pro humilitate religionis, his exceptis
quos aut apostolica auctoritas, uel regia, siue impe-
ratoria iura, ad suam conservaauerunt audientiam,

LXXII. 5 episcopi] constitutum add. debeat
6 quia plerumque] propter quod saepe contingit dist-
tritarum rerum tr. redditur] reditus 7 amplior-
orum--reddisse add., lacuna (1 lin.) in MS.

LXXIII. 2 quis] uero add. 3 delegare--4 decre-
eriit] donare delagauerit 5 legitime consign-
natum] assignatum.

LXXIV. 2 his--5 reliqui om.

LXXIII. Concilium apud Confluentiam (a. 922) c. 8
(MGH Const. 1, 630).

LXXIV. Aurelianense I, 19 (CCL 148A, 10).
reliqui in episcoporum potestate consistant, et si
quid extra regulam fecerint, ab episcopis corrigan-
tur. Non semel, sed sepius in anno episcopi uisi-
tent monasteria monachorum, et si quid corrigendum
fuert, corrgrant. Qui uero fuerint peruagati, ubi
inuenti fuerint, cum auxilio episcopi tanquam fugaces
sub custodia reuocentur, et constringantur.

LXXV. Mongontiacum.

Abbas pro humiliacione potest et cum permissione
episcopi locum suum relinquere. Tamen fratres eligant
sibi abbatem de ipsis si habent. Sin autem, de
extraneis. Nec episcopus debet abbatem violenter
retinere in locum suum. Congregatio debet eligere
sibi abbatem, post mortem abbatis sui, uel eo uiuente,
si ipse disesserit, uel peccauerit. Ipse enim non
potest aliquem ordinare de suis propinquis, uel ami-
cis sine uoluntate fratrum.

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LXXIV. 7 non] qui sed sepius om. 7 episco-
copi--9 corrigant om., in--profutura add. (6 lin.)
9 qui] ipsi autem praem. uero om. 10 fugacis
11 et constringantur om.

LXXV. 2 humilitate potest post abbas tr.
et om. 3 derelinguere 5 abbatem post 6 retinere
tr. 6 locum suum] loco suo (esse add.) 6/7 sibi
eligere tr. 7 abbatis suij eiujs uel] aut
8 enim om. 9 uel amicis om., neque alienis neque alio
abbati dare add.

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LXXV. Poen. Theodori 2, 6, 1-4 (Finsterwalder
319-20).
LXXVI. Ex eodem.

Episcopo non licet tollere possessionem monasterii, quamuis abbas peccauerit, sed mittat eum in alium monasterium, in potestate alterius abbatis.

LXXVI. 3 pecauerit abbas tr. 4 potestatem.

LXXVI. Caput incertum [coll. B VIII, 88 (PL 140, 809)].
Liber IV
INCIPIVNT IVRA LEGALIA, VENERABILIS LOCIS, EORVMQVE MINISTRIS PERTINENTIA.

I. Iustiniani regis. Titulus CCCXXXI.

Si quis, post episcopatum, uel ante consecrationem, uoluerit proprias res, uel eorum partem aecclesiae offerre cuius episcopus erit, hoc laudabile est, quia non est emptio, sed oblatio.

II. Iustinianus. Titulus CCCCLII.

Nullus, neque xenodocus, neque pthocotrophus, neque nosochomius, neque alius religiosae domus administrator, uel cuiuscunque curiae aecclesiasticae gestion, praestet aliquid ei a quo praeponitur, uel cuiuscunque personae, pro commissa sibi administratione. Qui autem praeter haec quae disposuimus dederit aliquid, uel acceperit, uel mediator factus fuerit, sacerdotio, uel clero, uel commissa sibi administratione nudabitur his, quae data sunt, uendicandi reli-

I. 3 eorum] earum.

II. 2 xenodocus] id est custos peregrinorum interl. MS
    pthocotrophus] gubernator infirmorum interl. MS
    3 nosochomius] nosocomus (custos orphanorum interl. MS)
    4 curae 10 uindicandis


II. Jul. epit. 115, 452, 26 (Ha 153).
gioso loco cuius talis persona consecrationem uel curam, uel administrationem accepit. Si autem laicus sit qui acceperit, uel mediator factus est, duplum ab eo exigatur, et religioso loco in quo talis per-
sona administrationem, uel consecrationem, uel curam accepit, praestetur.

III. Iustinianus CCCCLIII.

Si clericus cuiuscunque gradus, siue administrato-
or, cuiuscunque religiosi loci, uel ante consecra-
tionem, uel administrationem, uel curam sibi commissam, 
5 uel postea uoluerit aliquid de propriis rebus offerre 
aecclesiae in qua consecratur, uel loco cuius admin-
istrationem, uel curam recepit, non solum non prohi-
bemus hoc fieri, sed magis exhortamur talia pro salute
animae suae facere.

IV. Idem.

Si quis, in monasterio se consecrauerit, et post-
quam ueste religiosa uestitus est a monasterium intro-
don duxit, ad ipsum monasterium pertineat. Est et alia

II. 15 administrationem} uel praeem. 16 praes-
stetur} id est donec transit. MS1.

IV. 3 religiosa ueste tr. 5 est] idem praem.
et] ex

III. Jul. epit. 115, 453, 27 (Ha 154).

IV. Jul. epit. 4, 16, 5 (Ha 27).
constitutio: Et si non introduxit, omnes res eius domini monasterii sint.

V. Iustinianus. Titulus XVII.

i quis introierit in monasterium, et post religiosam uuestem recesserit, uel militauerit, uel simplicer laicus factus fuerit, spolietur cingulo militari, et uitam liberam non potiatur, sed officio praesidis provinciae servire cogatur, et taxeotis suis eum annumeret. Substantia autem eius, in monasterio maneat.

VI. Idem ipse Iustinianus rex.

Si quis, in monasterio consecratus fuerit, posteaque in aliud monasterium transire maluerit, substantia quidem eius a priori monasterio uendicetur. Aliorum autem monasteriorum primates, prohibeant eum transire, ut in alio monasterio non recipiatur. Et de hoc curare debent non solum religiosissimi episcopi, sed etiam reuerentissimi archimandritae.

IV. 6 constitutione introduserit omnes] enim add.

V. 4 spolietur] exspolietur 6 et taxeotis--annumeret om. 6 taxeotis] id est ministris interl. MS1.

VI. 4 priore uindicetur 8 archimandritae] id est abbatos interl. MS4.

V. Jul. epit. 4, 18, 7 (Ha 28).

VI. Jul. epit. 4, 19, 8 (Ha 28).
VII. Justinianus rex.

Si uir, uel mulier, ad solitariam uitam transferit, et liberos non habet, res eius monasterio competant in quod intrauit. Si autem talis persona 5 liberos habet, liceat ei substantiam suam liberis suis distribuere. Sic tamen, ut nulli eorum diminuat legitimam portionem. Et sibi retineat unius filii partem, ad monasterium scilicet peruenturam. Quod si antequam deliberet, inter liberos suos propriam substantiam, in monasterio decesserit, sola legitima portio liberis eius deseratur.

VIII. Justiniani regis.

Qui uult monachus fieri, siue liber sit, siue seruus, non statim monachus fiat, sed per triennium tonsura quidem et ueste laicorum utantur, et diuinias 5 scripturas discant, et confiteantur suam condicionem, id est utrum ingenui sint, an serui, uel alterius


VIII. 2 qui] (si praem.) quis uult post fieri tr. 4 utatur 5 discat confiteatur 6 ingenuus sit seruus

VII. Jul. epit. 115, 485, 59 (Ha 161).

VIII. Jul. epit. 4, 2 qui uult--35 oportet 13, 2; 35 si autem--39 habere 14, 3 (Ha 26-7).
cuiuscunque status, et narrent causas propter causa
solitariam uitam migrare desiderauerint, ne forte
mali sint et ideo displecant. Oportet autem et
10 monachos uerba eis offerre, quae mores eorum et uitam
corrigere possint, et si per triennium tales apparent,
ut uideantur digni tonsura, et ueste religiosa, ton-
dantur, et stola monachica uestiantur, siue liberi
sint, siue serui, et nulla molestia inferatur eis, ne-
15 que in seruili, neque de libera condicione. Si autem
aliquis intra triennium retrahere seruum suum volu-
erit et dicat, quod res meas furatus sit, ideo ad mona-
sterium cucurrit, non statim eum abstrahat, sed prius
probet quod et seruus est, et in furto, uel uita mala et
20 peccatis atrocibus timuit, et fugit, et si haec uera
sunt, reddatur seruus domino suo, cum rebus subreptis.
Si etiam ipse quoque in monasterio fuerit, dominus
autem eum recipiens, fidem ei praestet, quod nullo eum
malo propter hoc quod iam peccauit affecturus sit.

25 Quod si nullo delicto seruum suppositum esse dominus

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VIII. 7 harret causa] d cancell. MS\(^1\) (causa om. 
Ha, quas ad add. Ha) 8 desiderauerit 9 malus sit 
displecat 10 eis offerre] ei adferre eorum] eis 
11 possint] poterunt apparent 12 uideatur dignus 
tondantur] (tunc et praem.) tondeatur 13 stolam mona-
chicam uestiat liber 14 sint] sit seruus 
eis] ei 15 in] de libertina 16 retrahere] 
eum ut add. 17 meas] suas sit ideo om. 19 in] 
pro 21 sunt] sint 22 quoque] res add. 24 hoc 
quod] haec quae
probare potuerit et ipse seruus ex castitate morum suorum bona testimonia habeat, et si non triennium praeterierit, tamen maneant in eodem, uenerabili, monasterio. Triennio autem semel transacto, et inter monasterium chos seruo numerato, nulla licentia sit qualemcunque molestiam ei inferre, siue famulus sit, siue ingenuus, sed omnimodo solitariae uitae permaneat, et si peccatum ei in priori uita admissum sit, ea autem quae furto subrepta sunt, procul dubio si inueniantur, domino reddi oportet. Si autem seruitutem effugiens, ueniat quis ad monasterium, postea autem relinquerit uenerabilem locum, et in aliae uitae figuram transierit, liceat domino extrahere eum, et probanti quod seruus est, seruum eum habere.

IX. Iustiniani regis. Titulus CCCCLXXXVI.

Si sponsalia legitimam inter sponsum et sponsam contracta fuerint, deinde si antequam nuptiae celebrantur, sponsus, uel sponsa, intrauerit in monasterium, id quod accepit arrarum nomine, in simplum


IX. 2 legitime 3 si om. 5 accepit om. nomine] datum est add.

IX. Jul. epit. 115, 486, 60 (Ha 161).
tantum reddatur, et poena ab utraque parte remittatur.

X. Hlodouici regis.

De raptoribus autem, id constituerendum esse consuimus, ut si ad aecclesiam raptor cum rapta conueniret, et femina ipsa violentiam se pertulisse con-5 fiteatur, statim liberetur de potestate raptoris, et raptor mortis, uel poenarum impunitate concessa, aut seruiendi condicioni subjectus sit, aut redimendi se liberam habeat facultatem. Si uero quae rapit am patrem habere constiterit, et puella rapti conser-10 sit, potestate patris excusata reddatur, et raptor a patre superiori condicionis satisfactione teneatur obnoxius.

XI. Iustiniani regis.

Diaconissas creari constitutio praecepit, L, an-norum aetatem agentes. Ita tamen ut uirgines sint, uel si unum tantummodo maritum habuerint. Si autem

IX. 6 ab--parte] (ab om.) utrique parti.


XI. 2 diaconissas] autem add. praecepit] si add. 3 agant

X. Aurelianense I, 2 (CCL 148A, 5).

XI. Jul. epit. 6, 29, 6 (Ha 31).
5 mulier propter aliquam necessitatem, minor quinquaginta annis, diaconissa facta fuerit, non liceat ei alibi degere, quam in assisterio sanctimonialium mulierum, ubi neque mares conuersantur, uiuere liceat ei quomodo uelit. Nulla autem facultas diaconissis attributa est habere quosdam secum, nisi fratres, siue cognatos, uel quos dicere solent agapetos, id est dilectos. Nam diaconissae super se habitare debent, et nullum alium admittere secum, nisi re uera fratrem. Si autem aliqua suspicio sit, quasi simulatus frater, 15 ut cum ea degat, uel ab initio non consecretur, uel si sacrata fuerit amittat honorem. Poenam autem cum corruptore patiatur, eam quam sacrae constitutiones ad usum corruptoris definiunt. Eo autem tempore, quo diaconissae consecrantur, admonendae sunt, ut si post- 20 ea nupserint, uel aliam elegerint uitam, gladio uleris sternantur, et facultates earum in monasteriiis siue aecclesiis addicantur. Is autem qui corruptit eam, puniatur quidem eodem supplicio. Bona autem eius, Fisci iuribus uendidantur.
XII. Iustiniani regis. Titulus CCCCLXXXIII.

Caueant diaconissae cum masculis habitare, per quos inhonestam uitam suspectio possit emergere. Si autem haec non observeruauerint, sacerdos cui subjictae sunt, admonitione abstineat conversationem masculorum. Si autem hoc distulerint facere, aecclesiastico ministerio et suis sacris careant, et monasterio tradantur, et uitam suam ibi peragant. Res autem earum, si quidem liberos habeant, inter ipsas, et illos, secundum numerum eorum personarum diuidantur, ut competens eiusdem mulieris portio monasterio addicatur, et alat eam. Si autem non habeat liberos, tota ipsius substantia intra monasterium ubi ipsa missa est, et aecclesiam in qua prius fuerat, ex aequa portione diuidatur.

XIII. Hlodouici regis.

De uiduis et pupillis, et pauperibus, ut quando-

XII. 3 inhonestae uitaear. 4 sacerdotis. 5 abst-

XII. Jul. epit. 115, 477, 51 (Ha 159).

XIII. Capitulare eccl. Ludouici (a. 818-9) c. 3 (Mgh Cap. 1, 281).
cunque in mallum, ante comites peruenerint, primum eorum causam audiant et diffinant. Et si testes per se ad causas suas querendas habere non potuerint, uel leges nescierint, comes illos et illas adiuvet, et det illis tales hominem, qui rationem eorum teneat, uel pro eis loquatur.

XIV. Hlotharii regis.

De iustitiis aecclesiarum Dei, uiduarum, orpharorum, et pupillorum, ut in publicis iudicis non despicientur reclamantes, et ut non increpentur, sed diligenter audiantur.

XV. Karoli regis.

Primum omnium placuit nobis, ut cartulas obligationis quae factae fuerint de singulis hominibus, qui se et uxoris, seu filios, uel filias suas in seruitium tradiderint pro necessitate famis, ut ubi-


XIV. 4 clamantes et--increpentur om.

XV. 2 primis 3 fuerint] sunt 4 seu om. 5 seruitio tradiderunt pro--ut om. ubicunque] ubi
cunquie inuentae fuerint, reddantur, et frangantur, et sint liberi sicut olim fuerunt.

XVI. Guidis regis.

De clericis, qui arma baiolant, et in suis propriis resident, ad aecclesiam, seu ad episcopium non militant, negotia saecularia agunt, in lege uiuant, sicut et ceteri Langobardi, tam ipsi, quam et filii eorum.

XVII. Hlodouici regis.

De feminis quae defunctis uiris lex Langobardorum, prohibit, ante anni spatium uuestem religionis mutare, uelumque suscipere, si petierint, uolumus, ut per nostram licentiam, mox ut eis diuina pietas inspirauerit, eas indemnes licere suscipere. Nos autem considerantes, quia praeterito pro ipsa dilatione, multae etiam raptu infra eodem spatio ad aliam

XV. 6 reddantur et om. 7 olim] primatus.

XVI. 3 episcopum.

XVII. 4 si om. petierunt uolumus om. 5 per om. nostra licentia mox--eis] eius (ut om.) mox tr. 6 inspirauerat 7 praeterita 8 infra] intra

XVI. Widonis regis Capitulare (a. 889-91) (MGH Cap. 2, 106).

XVII. Capitulare Papiense (a. 856) c. 2 (MGH Cap. 2, 90).
partem distractae fuerunt. Ideo petitiones quas ius-
10 tas censuimus, suscepimus, et eis ita fieri concedimus.

XVIII. Hlodouicus.

Quod uero sepe in nostris conciliis prohibitum
est, uduas inconsulto episcopo non debere uelari,
et eadem constitutione a quibusdam praeuaricari nunc
5 cognouimus, prorsus deinceps fieri interdiximus. Et
si quispiam presbyterorum deinceps huius constitutionis,
contumaciter transgressor extiterit, scilicet,
ut aliquam uduam inconsulto episcopo uelare praesumat,
gradus sui periculum incurrat.

XIX. Justiniani regis.

Neque episcopus, neque presbyter, neque diaconus,
neque subdiaconus, neque lector, neque alius cuiusque
religiosi consortii, uel habitus tabulizare audeat,

XVII. 9 ide] et eorum add. petitionem quam
iustam.

XVIII. 2 quod] quia ergo praem. uero om.
uestris 3 inconsultis episcopis uelari post
episcopo tr. 4 eadem] eandem 5 prorsus] ne add.
fieret

XIX. 3 cuiusque] cuiuscumque 4 habitus] con-
stitutus add. tabulizare

XVIII. Episcoporum ad Hlodouicum Imp. Relatio
(a. 829) c. 47 (MGH Cap. 2, 42).

XIX. Jul. epit. 115, 439, 13 (Ha 151).
5 uel socius ludentium fieri, uel in quodcunque spectaculum spectandi causa uenire. Nam si quis contra haec fecerit, per tres annos, permissi sacro ministerio prohibeat tur, et in monasterio mittatur. Si autem dignam poenitentiam interiore tempore osten-
10 derit, statim reuocetur. Scientibus sacerdotibus qui talia peccata scientes dissimulauerint, quia ipsi de eo Deo rationem reddunt.

XX. Karoli regis.

Ut episcopi, abbates, presbyteri, diaconi, nullus-que ex omni clero canes ad uenandum, aut accipitres, falcones, seu sparuarios habere praesumat. Sed pleni-
5 ter se unusquisque in ordine suo, canonice, uel regu-
lariter custodiat. Qui autem praesumpserit, sciat unusquisque honorem suum perdere. Caeteri uero tale exinde damnum patiantur, ut reliqui metum habeant, ne talia usurpare uideantur.

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XX. 2 diaconus 3 acceptores 4 praesumant 6 custodian 8 patiatur 9 ne om. talia] sibi add. uideantur om.

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XX. Capitulare missorum generale (a. 802) c. 19 (MGH Cap. 1, 95).
XXI. Justinianus.

Nemo episcopus, neque presbyter, excommunicare audeat aliquem antequam causa probetur, propter quam aecclesiastici canones hoc fieri iubent. Si quis autem contra hoc excommunicauerit aliquem, ille qui-dem qui excommunicatus est, maioris sacerdotis auctoritate, ad gratiam sanctae communionis redeat, is autem qui non legitime excommunicavit, in tanto se abstineat sacrae communionis tempore quantum maioris sacerdoti uisum fuerit, ut id quod iniuste fecit, iuste patiatur.

XXII. Karoli regis.

Nullus presbyter, aut laicus, poenitentem inuitet unum bibere, aut carnem manducare, nisi ad praesens pro ipso, unum uel duos denarios, iuxta qualitatem poenitentiae dederit.

XXIII. . .

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XXI. 2 neque] nemo excommunicet 3 audeat om. 5 contra hoc] aduersus ea 8 tantum se om. 9 sacrae--tempore] (a praem.) sacra communione tempus 10 id om. fecit] ipse add.
XXII. 2 nullus] ut praem.

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XXI. Jul. epit. 115, 441, 15 (Ha 151).
XXII. Caroli Magni Cap. eccl. (a. 810-13) c. 12 (MGH Cap. 1, 179).
Epilogus
INCIPIT EPILOGVS

Igitur quoniam librum hunc, volumen claeronomiale, id est haereditale, siue codicem libertatis appellari censuimus, eo quod huius sacratissimi Pharphensis coenobii proprias ab initio immobiles libere legaliterque demonstrat iure acquisitas res et possessiones, iccirco in primordio sui, cunctarum Christi aeclesi- arum praecipue monasteriorum optimae libertatis et qui- etudinis, diuersorum statuta sanctorum patrum catholi- corum, uaeridicasque sententias orthodoxorum concilio- rum, et regum uel imperatorum ratas secundum legis cen- suram praecessiones, siue iustas concessiones, aequa studuimus colligere ratione, ut his fundamentur uaerae firmitatis, et robur optimae libertatis, ac securitatis et quietudinis, in rebus aeclesiasticis, et maxime monasticis, indicis, demonstremus, quatinus sicut dignum est omnia iura aeclesiastica, quies et inconcussa, ac sine aliqua perturbatione diuino cultui mancipata perma- neant, et absque Rei Publicae. siue rerum mundialium lesionem exactorum, ea possidere prauealeant ministri at- que praelati sanctorum aeclesiaria. Praeponimus uero, qualiter erga uasa sacrata et ornamenta aeclesiastica habeatur a ministris custodia, et quemadmodum Dei sacer- dotibus atque claericis, a uiris saecularibus exhibeat, reuerentia, et qui eos dehonestaerint, quomodo condemnen-
tur censura canonica. De oblationibus etiam fidelium, et pecuniis aecclesiarum atque rebus earum, censuras et instituta sanctorum inseruimus patrum.
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