

CHAOS TO ORDER: CLERMONT, 1095 TO LATERAN IV, 1215*

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Abstract: Although I am delighted to be asked to speak at this International Congress, I may be present here under a somewhat false assumption. While I have studied and written on medieval papal councils of the eleventh and twelfth centuries, I have never worked on Lateran IV, which is the focus of this Congress. Many of our speakers have done so, and certainly have a deeper knowledge of that event than do I. But what I can do, as my title suggests, is to look backward from November, 1215, considering papal councils of the previous century plus, in order to discuss aspects of how the decrees of those gatherings are known. The legislative records that survive for papal synods from the late eleventh century through the twelfth frequently are a mess and not well ordered, but, in contrast, the decrees of Lateran IV are transmitted in a consistent order within a reasonably stable set of texts. It is possible to give reasons why the 1215 decrees are well ordered; it is worthwhile to consider why the *fortuna* of many earlier papal assemblies is disordered, sometimes decidedly so.

Keywords: IV Council of Lateran, Innocent III, papal synods, Council of Clermont

Resumen: Aunque es un placer hablar en este Congreso Internacional, es posible que esté aquí presente con una suposición falsa. Porque a pesar de que he estudiado y escrito sobre los concilios papales medievales en los siglos XI y XII, nunca he trabajado en el Concilio de Letrán IV, el cual es el objeto de este Congreso. Muchos ponentes sí lo han hecho, y con un conocimiento de este concilio más profundo. Sin embargo, lo que sí puedo hacer, es mirar hacia atrás desde Noviembre de 1215, considerando los concilios papales del siglo anterior. Con el fin de discutir aspectos como por ejemplo cómo son conocidos los decretos de estos concilios. Los registros legislativos que aún quedan de los sínodos papales desde finales del siglo XI hasta el XII son frecuentemente confusos y están desordenados, sin embargo, los decretos de Letrán IV han sido transmitidos en un orden coherente establecido por un conjunto estable de textos. Las razones por las cuáles los decretos de 1215 están ordenados correctamente son dignos de estudio, más cuando los registros de muchas asambleas papales anteriores están desordenados, a veces intencionadamente.

Palabras clave: Concilio de Letrán IV, Inocencio III, sínodos papales, Concilio de Clermont

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1. SOME BASIC TERMS

The assemblies under discussion are designated in the singular as a “council” (*concilium*) or synod (*synodus*). These terms are used interchangeably, and can be modified by various adjectives, e.g., *generalis -e*; *sancta -um*; *universalis -e* [cf. Lateran IV, c.71, at the end]; *plenaria -um*, and this is not a full list of possibilities.

The legislation promulgated in councils is designated as “*decrees/canons/sentences/constitutions [for Lateran IV]*” (the obvious Latin equivalents are not listed). The word “*decretal*”, although it can be taken as equivalent to “*decree*”, properly should be reserved for papal decretal letters.

2. LATERAN IV

The council met from the 11 to 30 November, 1215. The canons or constitutions, which are presented in García's edition as 71 long texts, make up the most substantial collection of synodal legislation put together by any medieval pope. Innocent III's purpose was to map out a thorough reform of the Church and early thirteenth-century society. Lateran IV was a general council in the sense that the term was understood in the late twelfth century, but Pope Innocent also saw the gathering harkening back to the great Church councils of Antiquity which provided Classical definitions of ecclesiology and theology. This clearly is visible in

Innocent's bull of convocation for the assembly, *Vineam Domini*¹, issued more than two years earlier, on April 19, 1213. The canons of the council were quickly taken up into the lively intellectual traditions of the schools, and were inserted into the Decretals of Pope Gregory IX, the great canon law collection which was promulgated in 1234, and through the Gregorian Decretals the Lateran IV rulings formed part of the Latin Church's official canon law until 1917 and the promulgation of the first *Code of Canon Law*. All but two canons went into the Decretals, i.e., cc.42 and 49, on the boundary between canonical and secular justice, and on unjust excommunication. Antonio García y García, in fact, pointed out that the constitutions of Lateran IV are cited 228 times in the notes to the 1917 *Code*². 1215 -- 1234 -- 1917 -- this is a long history, indeed. A number of the constitutions are famous canons, and treat matters of great interest which transcend the thirteenth-century Church, e.g., c.1 [elaborate professional of faith]; c.5, [ranking of the great patriarchates]; c.21[the “*Easter duty*” for all the faithful]; c.50[marriage within four degrees of consanguinity]; c.62[regulating the use of relics]; cc.67-70[regarding the Jews].

Turning specifically to the transmission of the Lateran IV constitutions, García, writing in the late 1970s, knew 66 medieval manuscripts of these decrees, and was aware of 14 more that he could not locate. He then used 30 of these manuscripts for his edition. The canons were inserted into the official papal chancery register of Innocent III, but, although much of Innocent's register survives for his eighteen-year pontificate, unfortunately, the section covering the end of the year 1215 and thus covering the Lateran council is lost. In his study García identified the earliest manuscripts of the rulings, and argued that their text derived from Innocent's register. A great deal is thus clear about the transmission of the

¹ Potthast #4706 - Reference according to numbered entries in POTTHAST, A., *Regesta pontificum Romanorum*, Berlin 1874.

² The critical edition of the Lateran IV constitutions prepared by García is in *Constitutiones Concilii quarti Lateranensis una cum Commentariis glossatorum*, Città del Vaticano 1981, a work included in the *Monumenta iuris canonici*, Series A, *Corpus Glossatorum*, Vol. 2. García's text is included in *Conciliorum oecumenicorum generaliumque decreta*, II.1, ALBERIGO, G. & MELLONI, A. (eds), et al., Turnhout 2013, pp. 149-204.

Lateran IV provisions, and their insertion into the Gregorian Decretals in 1234 insured for them a place in the Church's law. Unresolved issues remain, nevertheless, preeminently perhaps the question as to how far Pope Innocent III himself was involved in the drafting of the decrees. Yet notwithstanding such imponderables, the Lateran IV constitutions and their diffusion tell a much clearer story, much clearer by far, than the picture that emerges of the decrees of papal councils from Pope Leo IX [1049-54] to Lateran IV. And it is to those earlier synods that we now shall turn.

3. PAPAL COUNCILS, 1049-1215: SOME CONSIDERATIONS

What I will offer can perhaps best be characterized as comments that are more historiographical and methodological than contextual. This is a choice dictated by the state of the sources. That is to say, it is obvious that I cannot, in this lecture, trace a full history of the papal councils from Leo IX to Innocent III, summarizing the main legislative themes in that 150-year history. There are accurate summary accounts of that history. The multi-volume *Histoire des conciles* of Hefele-Leclercq [see n.13 below], for example, although more than a century old and heavily dependent on Mansi, is, nonetheless, still of use. But my purpose here is not an attempt at a general history, but rather to consider the basis on which we know what we know about these assemblies.

The audience at this Congress certainly does not need a long series of comments about the rise of papal power and prestige in the second half of the eleventh century, a reforming movement sometimes termed the Gregorian Reform, named after Pope Gregory VII [1073-85]. One of the vehicles used by Gregory and other Roman pontiffs of the age for formulating and disseminating their ideas was the papal general council. These assemblies came to prominence in the eleventh century as venues for defining papal programs, and for vigorously advocating the authority of the bishops of Rome. Writing of these developments, Gérard Fransen

noted that even in the face of a blunt proclamation of absolute papal powers such as is found in Gregory VII's *Dictatus papae*, legislation intended for the entire Church was set forth by these Reformers primarily in their synods³.

But notwithstanding the importance of these gatherings, the surviving records of their *acta* are not easy to use. Two major difficulties can be highlighted. In the first place, the chancery registers are lost for all of the popes of this period except for Gregory VII. Other than for Gregory, from the pontificate of Leo IX through the pontificate of Celestine III [1191-98], papal registers are not at hand. A second major problem is the fact that there is no official canon law collection in the Church until the early thirteenth century and Innocent III's reign. And in addition to the absence of both the registers and official canonical collections, the surviving historical sources provide only episodic information about how conciliar decrees were drafted, enacted, preserved, and diffused. It is necessary to cobble together the information by piecing together the story from narrative sources, from unofficial canon law books, from cartularies, and from random lists of conciliar decrees that survive copied for safe keeping on the flyleaves and empty spaces of twelfth-century manuscripts of many sorts, e.g., in legal, theological, liturgical, and historical works⁴.

Never in the history of the Church did councils under the leadership of the bishops of Rome convene as frequently as during the 75 years from 1049 to 1124. Putting aside the period from Pope Leo IX's reign through the pontificate of Alexander II [1061-73], i.e., the quarter of a century from 1049 up to 1073 and the beginning of Gregory VII's pontificate, some numbers about the frequency of papal

³ FRANSEN, G., «L'Écclésiologie des conciles médiévaux», in *Le concile et les conciles*, Gembloux 1960, pp. 132-133. For the *Dictatus* (found at II.55a of the Register of Gregory VII), see FUHRMANN, H., «Papst Gregor VII. und das Kirchenrecht. Zum Problem des Dictatus Papae», in *Studi Gregoriani 13*, 1989, pp. 123-149. Much valuable information is found in the detailed survey by GRESSER, G., *Die Synoden und Konzilien in der Zeit des Reformpapstums in Deutschland und Italien von Leo IX. bis Calixt II. 1049-1123*, Paderborn 2006.

⁴ A number of these issues will be treated by the author in a chapter prepared for the volume of the *History of Medieval Canon Law*, edd. Wilfried Hartmann & Kenneth Pennington, dealing with the pre-Gratian period, edited by Christof Rolker.

councils are revealing. Gregory celebrated 11 synods in 12 years; his successor Victor III [1086-87] held two in less than two years; Urban II [1088-99] presided at 10 in 11 years; Paschal II [1100-18] celebrated at least 15 councils in 17 years; Gelasius II [1118-19] seemingly held one council in two years; Calixtus II [1119-24] convened five in five years. This tabulation offers evidence for at least 44 papal councils in 50 years, and very likely the number is higher. Some synods survive as little more than a textual wisp; others are well-known assemblies of prominence from which legislation is at hand. It is important to note, however, that very few of those synods which issued decrees have a single, straightforward canonical transmission. To put it another way, few of these synods resemble Lateran IV in possessing one consistent legislative *fortuna*. A good deal of research has been done in recent decades on the history of councils of the eleventh and twelfth centuries, but the starting point of these investigation often remains the late eighteenth-century 31-volume collection assembled by Giovanni Domenico Mansi, i.e., the *Sacrorum conciliorum nova et amplissima collectio*, and those who brave these formidable tomes can see how variegated and confusion the historical record can be.

Let me now turn to an extreme case of the problems to be confronted in the synodal records of the period, an instance that warrants the term “*chaotic*”. The example given is a brief discussion of Urban II's Council of Clermont, convened in November, 1095. This assembly is well known, first of all as a pivotal synod for late eleventh-century Reform, and secondly, but more generally and popularly, as the point at which the First Crusade was inaugurated. Urban was in the midst of a papal schism with Clement III, who had the support of the German Emperor Henry IV, and Urban's strategy for liquidating that schism included presiding at Church councils held throughout Italy and beyond, e.g., at locations as widespread as Melfi [1089] in Apulia, to Piacenza [1095] in Lombardy, at Tours in the French kingdom [1096], and back in Italy at the Lateran [1097], Bari [1098], and St. Peter's [1099]. It is important to bear in mind that the records of these gatherings survive in private

copies, and the accounts that have survived for the Council of Clermont are unbelievably disparate and confused.

This situation with the records from Clermont is particularly perplexing because Urban II held an equally important synod at Piacenza, in March, 1095, and the transmission of the decrees of Piacenza is comparatively uniform⁵. Clermont is anything but. Texts of what purport to be rulings from Clermont are extant in about a dozen different versions - at times markedly different versions - covering more than 60 topics. As one investigator remarked, after examining this *mélange*, a person could conclude that Urban II had no specific program at all for Clermont. The topics cover nearly everything which could interest a late eleventh-century reforming cleric: regulations prohibiting simony, clerical incontinence, and lay investiture; decrees dealing with sacred orders, liturgy, the Truce and Peace of God, and a little, but just a little, about the Crusade. It is easy to focus both on the very dense forest, i.e., the full array of so-called Clermont decrees, and on specific trees, i.e., individual measures. But it is hard to discern any systematic structure in that welter of information.

Clermont is 120 years before Lateran IV. Between the years 1095 and 1215 about 30 papal councils were celebrated, give or take a council or two. None of the records for any of those gatherings is as chaotic as for Clermont, but, on the other hand, only a small number has a relatively clear tradition of enacted legislation, such as for Urban II's synod at Piacenza. The pontificates of Urban II⁶, Calixtus II⁷,

⁵ SOMERVILLE, R., *Pope Urban II's Council of Piacenza*, Oxford 2011; for a contrast between Piacenza and Clermont see pp. 116-118, and the references in the notes at that point.

⁶ TANGL, G., *Die Teilnehmer an den allgemeinen Konzilien des Mittelalters*, Weimar 1923, p. 172, saw in Urban's Council of Piacenza in 1095 "*der erste grosszügig gedachte und auch wirklich ausgeführte Konzilsplan des Abendlandes, der eine Beteiligung weiter Schichten beabsichtigt*" (but cf. SCHMALE, F. J., «Synoden Papst Alexanders II. [1061-1073]: Anzahl, Termine, Entscheidungen», in *Annuario historiae conciliorum* 11, 1979, p. 311, for speculation about non Italians invited to Alexander II's Roman Council of 1063). Idem, in *Ibid.* 8 (1976) pp. 98 followed by ROBINSON, I., *The Papacy*, Cambridge 1990, pp. 124-126, see Urban II's pontificate as a turning point in increasing papal control over synods. The issue is not easy to evaluate, however, especially because the councils of Gregory VII after 1080 and those of Victor III are poorly documented.

⁷ ANDRESEN, C., «The History of the Medieval Councils in the West», in MARGULL, H. J., *The Councils of the Church* (1961), English translation, Philadelphia 1969, pp. 100ff., devoted separate

and Innocent II [1130-43]⁸, each has been singled out by scholars for various reasons as crucial in the development of papal synodal ideas and practice. Yet whatever formal changes can be seen in conciliar activity as the papacy traversed the late-eleventh and moved into the twelfth century, e.g., shifts in legislative themes, increased authority on the part of the cardinals⁹, increasing attendance¹⁰, and even progressive lengthening of the texts of canons, it would be difficult to consider papal synods after 1123 [Lateran I], or even after 1139 [Lateran II], as conceived in a manner fundamentally different from those of Popes Innocent II, Calixtus II, or their immediately predecessors¹¹.

sections to "*The Roman Lenten Synod of the Reform Papacy*", and to "*The Classic General Councils of the High Middle Ages*". The first heading is in one sense inaccurate because the author obviously knew that some of the Reform Papacy's most important synods met neither at Rome nor during Lent (e.g., Reims, October, 1049; Clermont, November, 1095; Guastalla, September, 1106; Reims, October, 1119). Andresen used Calixtus II's Lateran Council of 1123 as a point of transition between the two sections. Lateran I is seen both concluding the period marked by the earlier Gregorian synods, and introducing the development of medieval papal councils which culminated with Pope Innocent III. Cf. also Robinson, as in the previous note, p. 131, for the pivotal position of Calixtus II, but an analysis based on the use of the terms *synodus* and *concilium* must be viewed with caution. E.g., *Ibid.*: "*The term concilium, which is sometimes used to describe the synods of the reform papacy both in official documents and in the chronicles, becomes the sole usage for the three councils of the pontificate of Calixtus II...and for all subsequent papal councils of the twelfth century.*" The term *concilium* does seem gradually to become more prevalent, but *synodus* never disappears. One example can suffice here: for Reims, 1119, see the contemporary narrative by Hesso (*Monumenta Germaniae historica, Libelli de lite*, 3, WATTENBACH, W. (ed.), Hannover 1897, p. 26, line 34, and see also the heading *DECRETA SYNODALIA*, on p. 27, preceding the canons.)

⁸ SCHMALE, F. J., «Systematisches zu den Konzilien des Papsttums im 12. Jahrhundert», in *Annuario historiae conciliorum* 6, 1974, p. 32, argued for a shift in Innocent's councils away from decrees expressing disciplinary concerns in the mode of the Reform Papacy, but this was challenged by MALECZEK, W., «Das Kardinalskollegium unter Innocenz II. und Anaklet II.» in *Archivum historiae pontificiae* 19, 1981, p. 39, n.50; and REUTER, T., «Zur Anerkennung Papst Innocenz' II.: Eine neue Quellen», in *Deutsches Archiv* 39, 1983, p. 412, n.77; although reaffirmed in certain ways by Robinson, (as in n. 6 above), pp. 135-138. Robinson, for example, notes that the juridical function of papal synods, which previously had been an important feature, was from the time of Innocent II transferred increasingly to the meetings of pope and cardinals in consistory: *Ibid.*, pp. 139, and 145.

⁹ Cf. TIERNEY, B., *Foundations of the Conciliar Theory*, Cambridge 1955, pp. 70-71; Fransen (as in n.3 above) p. 134; Maleczek (as in the previous note), pp. 61-62. On the issue of general assent in councils and the role of the pope in "*les conciles oecuméniques*" as "*véritable seigneur du concile*", see FRANSEN, G., «Papes, conciles généraux et oecuméniques», in *Le istituzioni ecclesiastiche della "Societas christiana" dei secoli XI-XII*, Milano 1974, p. 212.

¹⁰ Tangl (as in n.6 above), p. 196.

¹¹ Fransen (as in n.3 above), pp. 131-132, offered an interesting set of observations about phraseology employed in the canons from Lateran I, II, III, e.g., the formula *Sanctorum patrum exempla*, or similar references to "*the fathers*", which repeatedly occur in the Reform synods down

After Calixtus II did papal councils occur less frequently than in earlier years? The pontificate of Honorius II [1124-30], seems to show that such assemblies fade from prominence in the sources, but did they actually meet less often? Calixtus II's reign is curious in this regard. His first year was marked by two relatively well-documented synods in 1119, in Toulouse and Reims. No trace appears of another until the Council of Crotona, early in January, 1122¹². Given the virtual non-existence of sources for that assembly, other councils, for which *all* traces now have vanished, also might have been celebrated between late 1119 and early 1122¹³. After the great Lateran Council of March, 1123, Calixtus presided over at least one additional synod, in late 1123 or early in 1124, again at the Lateran, but as with Crotona almost nothing is known about it¹⁴. In November, 1127, Pope Honorius II held a council at Troia, and he seems also to have convoked a Roman synod in April, 1128¹⁵. Little can be said about either assembly and both easily could have vanished from sight. Caution is advisable, therefore, in concluding that these were the only papal councils of Honorius' pontificate¹⁶.

to 1123, is found several times at Lateran I, once at Lateran II, but is absent at Lateran III. Cf. Fransen (as in n.9 above), *passim*, for a summary of Gregory VII's contribution to the development of papal councils, including a selection of relevant texts from the Register published in an Appendix. For the councils of Pope Gregory VII see SOMERVILLE, R., «The Councils of Gregory VII», in *Studi Gregoriani* 13, 1989, pp. 35-53.

¹² *Italia pontificia*, GIRGENSOHN, D. (ed.), Zurich 1975, 10.81, no.*9, referring to post JL 6941, i.e., post numbered entry in JAFFÉ, P., *Regesta pontificum Romanorum*, 2nd ed., entries edited by LOEWENFELD, S., hence JL, Leipzig 1885-1888.

¹³ HEFELE, C. J. & LECLERCQ, H., *Histoire des conciles*, Paris 1912, 5.1, pp. 608-609, saw Calixtus II holding a Roman council early in January, 1121, on the basis of JL 6886 (= *Italia pontificia*, KEHR, P. (ed.), Berlin 1914, 6.2.324, no. 7), but that text does not speak specifically of a council or synod.

¹⁴ See *Italia pontificia*, KEHR, P. (ed.), Berlin 1911, 5.58, no. *192, referring to post JL 7138 (see n.12 above); cf. BRETT, M., «The canons of the First Lateran Council in English manuscripts», in *Proceedings of the Sixth International Congress of Canon Law*, KUTTNER, S. & PENNINGTON, K. (eds.), Città del Vaticano 1985, p. 22, n. 29.

¹⁵ *Italia pontificia*, KEHR, P. (ed.), Berlin 1935, 8.34, no. *124, referring to ante JL 7294, for Troia; post JL 7308, for Rome (for JL see n.12 above).

¹⁶ HefeLe-Leclercq (as in n.13 above), 5.1.661 (also see FOREVILLE, R., *Latran I, II, III et Latran IV*, Paris 1965, p. 54). Honorius II appears not to have assembled a formal Roman council in July, 1126: see JL 7266 (see n.12 above) (= *Italia pontificia*, KEHR, P. (ed.), Berlin 1908, 3.323-24, no. 22). The pontiff did convoke a group of clergy to deal with a continuing dispute between Pisa and Genoa regarding jurisdiction over Corsica (and in the process registers of Urban II, Gelasius II, and Calixtus II seem to have been consulted), but evidence that this meeting was a synod is problematic.

The impression remains strong, however, that the convocation of papal councils was a devalued activity during the third decade of the twelfth century. The reasons might be sought in several places, e.g., political tensions at Rome¹⁷; the ratified concord between Pope Calixtus II and Emperor Henry V on lay investiture and the concomitant slate of legislation from Lateran I in 1123 has been proposed to explain the subdued conciliar activity in the years immediately thereafter¹⁸. Yet whether or not in partial eclipse, the schism spilling out of the conclave assembled in early 1130 to choose a successor for Pope Honorius II revived papal councils on one side of the ensuing conflict.

Between 1130 and 1139 Pope Innocent II, the ultimate victor in this schism, convened at least six councils both in Italy and across the Alps, culminating with a Lateran Council in April, 1139, the so-called Second Lateran Council. These gatherings met at Clermont [1130], Liège [1131], Reims [1131], Piacenza [1132], Pisa [1135], and the Lateran [1139]. Decrees survive from four of them, i.e., Clermont, Reims, Pisa, and the Lateran, canons which at times are strikingly repetitive, and, by and large, reiterate the familiar issues of reform from previous decades, i.e., eradication of simony, stipulating clerical continence and free Church elections, and the like. Recently the decrees of Clermont, Reims, Pisa, and Lateran II have been edited anew based on a modern study of the manuscripts.¹⁹ This work allows investigators to see what is distinctive about each of these councils of Innocent II and what is repetitive, although this new investigation does not solve every problem associated with these assemblies. For Reims, 1131, for example, there is a list of canons that appears in the supplements to the *Codex Udalrici* which date around the year 1134, thus very close in time to the synod. They resemble the better attested list from Reims, but are not identical. Mention also can

¹⁷ Andresen (as in n.7 above), p. 125.

¹⁸ SOMERVILLE, R., *Pope Alexander III and the Council of Tours (1163)*, Berkeley 1977, p. 5.

¹⁹ Portions of this section duplicates what is found in BRETT, M. & SOMERVILLE, R., «The transmission of the councils from 1130 to 1139», in *Pope Innocent II (1130-1143)*, DORAN, J. & SMITH, D. (eds), Abingdon 2016, pp. 226ff.

be made of the puzzling decree attributed to Pope Innocent's Council of Pisa in May, 1135. This ruling prohibited the trading of slaves and is attested in several places, yet it does not appear in any of Innocent II's other synods, including Lateran II.

The Lateran Council of 1123 marked the end of a crisis, and the same is true of Innocent II's Lateran Council of 1139. Although perhaps fading in importance, papal councils do not vanish from view but do become increasingly rare. Developments were under way in the Church in the mid-twelfth century that will certainly reduce the impulse for popes to call and preside at synods. The institutional Church was undergoing significant changes which were to alter the conciliar landscape. The Norman monastic chronicler Ordericus Vitalis, for example, reported that the decrees from Lateran II, although circulated in all countries, were not treated seriously²⁰. The same is seen in responses to the canons of Pope Eugene III's Council of Reims in 1148. The substance of those provisions, such as we have them, was similar to the decrees of Lateran II, and John of Salisbury lamented the redundancy²¹. John also reported that "*some of these [decrees] give birth to ridicule*", and cited a protest by German prelates at Reims against the decree banning multi-colored cloaks for the clergy (c.2.)²² St. Bernard of Clairvaux later remonstrated similarly with Pope Eugene about the 1148 canons - "*You deceive yourself if you think they are observed*", Bernard said - and he chastized Eugene for caring more about legislating than about leadership to enforce what already had been decreed²³.

We are entering a time when the operations of the institutional Church were increasingly handled in meetings of pope and cardinals, by the dispatch of papal

²⁰ *The Ecclesiastical History of Orderic Vitalis*, xiii.39, CHIBNALL, M. (ed.), Oxford 1978, VI, pp. 529-530.

²¹ JOHN OF SALISBURY, *Historia pontificalis*, iii, CHIBNALL, M. (ed.), Oxford 1986, pp. 8-9. See also n. 29 below.

²² *Ibid*, p. 8: *...de hiis quibusdam risu nascitur...*

²³ BERNARD OF CLAIRVAUX, «De consideration, III.5.19», in *S. Bernardi opera*, III, LECLERCQ, J & ROCHAIS, H. (eds.), Roma 1963, p. 446.

legates, and through issuing decretal letters which could encompass matters of concern beyond local churches. As a result, the 1140s and the 1150s witnessed no papal councils of consequence; such assemblies were no longer deemed pivotal for ecclesiastical government. The affairs of the institution were in the hands of men had been trained in the revived legal study which arose in the late eleventh century, which flourished in the twelfth-century schools, and which is associated with what is called the "*Renaissance of the Twelfth Century*". The papacy did not invent this new intellectual environment but benefitted from and perhaps even fostered it. The appearance of Gratian's *Decretum* in the middle of the century, although not directly connected with the papacy in a discernible way, offered a vehicle for the study of law, both ecclesiastical and secular, that was instantly popular, and which marked a dividing line between what is termed the *ius antiquum* and the *ius novum*, i.e., the old law that is essentially summarized in Gratian, and the new law that grew out of this renaissance. As one investigator succinctly wrote about the synodal decrees of the second half of the twelfth century, "...the[se] conciliar decrees were formulated by canon lawyers"²⁴.

Crises, nevertheless, demanded the general forum provided by a Church council. As Innocent II did in the 1130s, at a time of schism, so in the 1160s Pope Alexander III, away from Rome in France, celebrated synods as he dealt with a schism involving a series of popes supported by Frederick Barbarossa. The first such synod, poorly documented, met at Montpellier in May, 1162, and a second, much better known, met almost a year later at Tours²⁵. These gatherings, together with the Council of Venice in August, 1177²⁶, and especially the great Lateran Council of 1179 known as the Third Lateran Council, mark further stages in the transformation of papal council. Sets of decrees from both Tours and Lateran III are extant, and canons from both assemblies made their way into the Decretals of

²⁴ ROBINSON, I., (as in n. 6 above), p. 141.

²⁵ SOMERVILLE, R., (as in n.18 above), pp. 1-11.

²⁶ Ante JL 12901 (for JL see n.12 above).

Pope Gregory IX. Those rulings focus mainly on Church structure, administration, and the clergy. Some examples: Tours, c.8, repeated c.9 of the Lateran Council of 1139 which dealt with professed religious studying secular law or medicine; c.1 of the 1179 Lateran synod is an elaborate decree sharpening the procedure for papal election; Lateran III, c.18, authorized benefices for those who instruct the young; cc.21-22 of the same council elaborated the Peace and Truce of God; and c.26 treated Jews and Saracens.

Yet despite a relatively clear picture of the legislation, the sources for both of these councils raise questions about what actually happened, and in that sense Tours and Lateran III can resemble the earlier pre-Gratian synods rather than Lateran IV. There seems, for example, to have been a chancery text that lay behind the well-known rendition of nine canons from Tours, but there also survives a long decree found in several collections of papal decretals that deals with the immunity of churches. This text is not included in the Gregorian Decretals. There is, furthermore, a question about the "*textus receptus*" of the decrees from Tours. The English chronicler William of Newburgh knew a version containing only eight, not nine, decrees, presented in a different order and lacking the condemnation of schismatic orders, i.e., lacking c.9.

Turning to Lateran III, there is evidence that additional canons were known beyond the series of 27 well attested texts²⁷. Furthermore, the order in which those 27 rulings survive is different in different manuscripts. The most recent investigators conclude that Alexander III did not issue one uniform rendition of the legislation, but if not, questions arise as to how the papal program was circulated?²⁸ Is there a hint about the lack of a regularized process for distribution of these

²⁷ *Chronicon universale anonymi Laudunensis*, *Monumenta Germaniae Historica, Scriptores* 26, HOLDER-EGGER, O. (ed.), Hannover 1882, p. 449; VAN LAARHOVEN, J., "*Non iam decreta sed Evangelium*": *Jean de Salisbury au Latran III*, in *Dalla Chiesa antica alla Chiesa moderna: Miscellanea per il cinquantenario della Facoltà di Storia Ecclesiastica della Pontificia Università Gregoriana*, FOIS, M. (ed.), et al., Roma 1983, p. 115: "*On ne la cite presque jamais....*" See also GUILLEMAIN, B., *L'épiscopat français à Latran III*, in *Le troisième concile de Latran (1179)*, LONGÈRE, J. (ed.), Paris 1982, p. 27.

²⁸ For this see the discussion by Larson and Pennington in COGD (as in n.2 above), p. 119.

decrees embedded in a comment reported by Peter the Chanter? Peter related that at the synod "*John of Chartres*" - probably a reference to John of Salisbury, who was bishop of Chartres, 1176-80 - said that the Church already had too many laws and did not need new ones²⁹. We can deeply regret the loss of the work composed by William of Tyre at the instigation of Pope Alexander III in which Lateran III's legislation was preserved³⁰.

It is clear, nevertheless, notwithstanding such questions, that the legislative records for the councils at Tours and at the Lateran are better preserved than for assemblies in the period before 1150. We cannot speak about *chaos* surrounding the rulings of any of the councils of this latter period, but we can certainly wonder about how far removed the surviving canons are from whatever actually was formulated at these synods. The *ius novum* as contained in the decrees of Tours and Lateran III, and in the flood of papal decretals emanating from the papacy chancery in the last decades of the twelfth century, gave rise to processes of collecting and editing which resulted in the production of new law books for the schools and local churches. This was a vigorous process after the 1170s, and has been studied by Walther Holtzmann, Stanley Chodorow, and Anne and Charles Duggan, among others³¹.

Whatever legal weight attached to the rulings from councils after the middle of the twelfth century, the books where they were copied and edited were, as was Gratian's *Decretum*, private collections. Their authority as books of law is difficult to assess. It is only with the thirteenth-century that the papacy moved to self-authorized law books, with Innocent III's collection of decretals known as the *Compilatio tertia* in the year 1209-10, then with the canons of Lateran IV in 1215,

²⁹ PETER THE CHANTER, *Verbum abbreviatum*, lix, in PL 205.235-236; there is a partial French translation in Foreville (as in n.16 above) pp. 208-209. See also n.21 above.

³⁰ WILLIAM OF TYRE, *Chronicon*, lxiii, HUYGENS, R., (ed.) et al., Turnhout 1986, p. 998, lines 20ff.; cf. GUILLEMAIN, B., (as in n.27 above), p. 27, for the loss of this work.

³¹ For this activity see the articles by PENNINGTON, K. & DUGGAN, C. *The History of Medieval Canon Law in the Classical Period, 1140-1234*, HARTMANN, W. & PENNINGTON, K. (eds.) (see n.4 above).

with Pope Honorius III's decretal collection, the so-called *Compilatio quinta* in 1226, and finally in 1234 with the often mentioned Decretals of Gregory IX. Gregory IX's Decretals open with a bull of promulgation, *Rex pacificus*, which was no doubt drafted by St. Raymond of Peñafort, Gregory's editor for his collection. The historian of the late eleventh-century papacy can deeply regret that no such bull of authorization survives announcing an official promulgation of the canons of Pope Urban II's Council of Clermont.

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