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Speculum, Vol. 45, No. 1. (Jan., 1970), pp. 98-114.

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THE COUNCIL OF PISA, 1135: A RE-EXAMINATION OF THE EVIDENCE FOR THE CANONS

By ROBERT SOMERVILLE

THE *Sacrorum conciliorum nova et amplissima collectio* of Mansi¹ terminated over two centuries of conciliar study.² It is the standard initial textual recourse for most mediaeval church councils. The quality of that voluminous collection is inferior, however, to the scholarship of the greatest ecclesiastical historians of the preceding age such as Baluze and Hardouin.³ Mistakes abound; but concluding an era of historiography the *Amplissima* is invaluable as a record, although not always a lucid and accurate record, of knowledge to the end of the eighteenth century regarding any particular council.⁴ Portions of the work naturally have

¹ Assistance in preparing this study gratefully is acknowledged. Professor Stephan Kuttner, Yale University, provided advice at numerous points, especially in the presentation of the text; Professor Giles Constable, Harvard University, made several timely suggestions; Mr Roger Reynolds, Carleton University, Ottawa, Canada, aided in solving some difficult palaeographical problems; and the Bayrische Staatsbibliothek, Munich, and the Archivio capitolare del Duomo in Pistoia permitted citations to be made from their MSS.

The following abbreviations will be used: Bernheim, "Bericht" = E. Bernheim, "Ein bisher unbekannter Bericht vom Concil zu Piza im Jahr 1135," *Zeitschrift für Kirchenrecht*, xvi (1881), 147-154; *Decreta* = *Conciliorum oecumenicorum decreta* (Freiburg im Breisgau, 1962); Fliche, *Histoire* 9.1 = A. Fliche, *Du premier Concile du Latran à l'avènement d'Innocent III (1123-1198)* (*Histoire de l'église* . . . 9.1; St Dizier, 1944); Fournier-Le Bras, *Histoire* = P. Fournier and G. Le Bras, *Histoire des collections canoniques* . . . 2 vols. (Paris, 1931-32); Hefele-Leclercq, *Histoire* 5.1 = K.-J. Hefele and J. Leclercq, *Histoire des conciles* 5.1 (Paris, 1912); Jaffé, *Regesta* = P. Jaffé, *Regesta pontificum Romanorum*, 2nd edition, 2 vols. (Leipzig, 1885-88; reprinted Graz, 1956) — papal letters from 883-1198 are cited by Jaffé number, prefaced by JL for Jaffé-Loewenfeld (S. Loewenfeld revised this section of the original *Regesta* for the second edition); Mansi = J. D. Mansi, *Sacrorum conciliorum nova et amplissima collectio* . . . 31 vols. (Florence and Venice, 1759-98); MGH Const. 1 = *Monumenta Germaniae historica: Legum 4, Constitutiones* 1, ed., L. Weiland (Hannover, 1893).

² H. Quentin, *Jean Dominique Mansi et les grandes collections conciliaires* (Paris, 1900), 81-83, has noted that the idea for the *Amplissima* probably was not Mansi's, but came instead from the Venetian publisher Antonio Zatta. After obtaining permission from Mansi to combine material from the *Ad concilia Veneto-Labbeana Supplementum* (6 vols. [Lucca, 1748-52]), with N. Coleti's *Sacrosancta concilia* (23 vols. [Venice, 1728-33]), Zatta then persuaded him to be the principal collaborator of the enterprise. Although Mansi's name is attached to the entire collection, his direct supervision of the project covered only the first fourteen volumes. He died in 1769, as Archbishop of Lucca. The fifteenth volume (Venice, 1770) announces this in a preface (p. v), with a promise to subscribers that the series would continue.

³ Baluze had projected an edition of the councils, but produced only a single volume — *Nova collectio conciliorum* (Paris, 1683). Some of his mediaeval conciliar notes are available, nevertheless, concealed in the *Capitularia regum Francorum*, and in his editorial comments to the works of Peter de Marca (beginning with the Paris 1663 edition of De Marca's *De concordia sacerdotii et imperii*). For a recent discussion of Baluze see J. Rambaud-Buhot, "Baluze, bibliothécaire et canoniste," *Études d'histoire du droit canonique dédiées à Gabriel Le Bras*, 1 (Paris, 1965), 325-342. Jean Hardouin was librarian of the Jesuit Collège de Clermont in Paris from 1683 until his death in 1729. His *Acta conciliorum* (11 vols. in 12 [Paris, 1714-15]), exhibits a concision and clarity rare in an age of simple compilation. Due to the ultramontane flavor of this work, however, there was great difficulty getting it into circulation. For Hardouin see Quentin, *op. cit.*, 38ff.

⁴ For a general discussion of Mansi and the previous conciliar collections see Quentin, *ibid.* See also

been superseded.⁵ In addition, recent analysis of provincial synods has indicated significant omissions.⁶ In the study of many important mediaeval councils, nevertheless, reliance still is placed on editions in Mansi which are products of the sixteenth, seventeenth, and eighteenth centuries.⁷

For no period is this state of affairs more lamentable than the second half of the eleventh-first half of the twelfth century: from the beginning of the Reform Papacy through the Second Lateran Council, and even beyond. The importance of that era's councils is obvious; but knowledge of them is far from satisfactory. At the end of the last century L. Weiland reexamined certain of these synods.⁸ For some the canons as presented in Mansi were reedited with a brief discussion of MSS. In other cases where possible decrees discovered since the *Amplissima* were assembled. Although the resulting discussions are superior to Mansi, grave problems still exist.⁹

As has been noted recently, ". . . it is only by . . . enlarging and correcting the antiquated conciliar collections that the institutional history of the council as an organ of government in the mediaeval church can be written."¹⁰ The im-

the recent analysis by R. Kay, "Mansi and Rouen: A Critique of the Conciliar Collections," *Catholic Historical Review*, LII (1966), 155-185.

⁵ For post-Mansi work on the councils the following can be consulted: A. van Hove, *Prolegomena ad Codicem iuris canonici*, 2nd ed. (Commentarium Lovaniense in Codicem iuris canonici, 1.1; Malines-Rome, 1945), 387-394; J. W. Sawicki, *Bibliographia synodorum particularium* (Monumenta iuris canonici, Series C: Subsidia 2; Vatican City, 1967); the bibliography accompanying individual articles in the *New Catholic Encyclopedia*, 15 vols. (New York, 1967); and the yearly bibliography in the *Bulletin* of the Institute of Medieval Canon Law, printed in *Traditio*.

⁶ See especially R. Kay, "Mansi and Rouen," (cf. above, n. 4); the pertinent studies by C. R. Cheney noted both in *Councils and Synods*, 2.1, edd., F. M. Powicke and C. R. Cheney (Oxford, 1964), xliii-xliv, and also in Sawicki, *op. cit.* 92-93; and Sawicki's own work on the Polish councils, listed *ibid.*, 250-252.

⁷ Despite Mansi's position as a terminal point for the great age of conciliar scholarship, A. M. Stickler, *Historia iuris canonici latini*, 1: *Historia fontium* (Turin, 1950), 298 declares: "Nulla autem hucusque — quod valde est dolendum — habetur collectio conciliorum generalis et completa, critice bona. Auffugendum ergo studiosis ad collectionem Harduini una cum collectionibus particularibus critice melioribus necnon ad monographias et observationes criticas his illic circa hanc materiam proditas."

⁸ MGH Const. 1.537-579. Weiland treated two Lateran councils of Nicholas II (April 1059 and 1060); two Roman councils of Gregory VII (February 1079 and March 1080); Urban II's 1095 Council of Piacenza; four councils of Paschal II — Guastalla (1106), Troyes (1107), and two Lateran synods (1110 and 1112); Calixtus II's 1123 Lateran council, and the 1135 Council of Pisa convened by Innocent II. The work of the nineteenth-century German scholar K.-J. Hefele, known primarily through the revision by Henri Leclercq (cf. n. 1), did not evaluate critically the conciliar corpus. See Kay, "Mansi and Rouen" (cf. n. 4 above), 57-58.

⁹ Claudio Leonardi has considered some of those related to the 1123 Lateran Council (and, for the period under discussion here, notice should be taken also of Leonardi's analysis of Innocent II's Lateran Council of 1139): see that author's work on the mediaeval ecumenical councils in *Decreta* 163ff. Cf., in addition, the same writer's "Per la tradizione dei concili di Ardera, lateranensi I-II, e Tolosa," *Bullettino dell' Istituto Storico Italiano per il Medio Evo e Archivio Muratoriano*, LXXV (1963), 57-70; and his "Per una storia dell' edizione Romana dei concili ecumenici (1608-12) da Antonio Agustín a Francesco Aduarte," *Mélanges Eugène Tisserant*, 6 (Studi e Testi 236; Vatican Library, 1964), 583-637. Reference also should be made to S. Kuttner's remarks on Urban II and Gratian, and Antonio Agustín and the Correctores in "Brief Notes," *Traditio*, xxiv (1968), 504ff.

¹⁰ R. Kay, "Hostiensis and Some Embrun Provincial Councils," *Traditio*, xx (1964), 513.

portance of pre-Gratian canonical collections in that process, for the eleventh- and twelfth-century councils, is clear on examining MS descriptions of those compilations. Synodal decrees exist as integral parts of the collections. In addition, supplemental material from papal letters and councils can be found at the beginning, end, or any blank space within the MSS.¹¹ Important provisions also occur in brief series of diverse texts which occasionally are appended to the major compilations.¹² Analysis of the corpus of pre-Gratian canonical material can yield significant new information for the history of mediaeval councils.¹³

Following these ideas the author wishes to consider an important council held by Innocent II — the 1135 Council of Pisa. That pope's pontificate is known chiefly for the tenth ecumenical council — the Lateran Council of 1139. But the fourth decade of the twelfth century found the Roman Church separated into rival obediences. The period was a battleground for the papacy, a time of schism between Innocent II and a papal rival Anacletus II.¹⁴

The Council of Pisa, convened at the height of the dispute, was a central event in this struggle which Klewitz has characterized as marking the end of the reform papacy.¹⁵ Innocent had crowned Lothair of Saxony emperor at Rome in

¹¹ It is impossible to give here a complete list of canonical MS descriptions which also include information on decrees of councils. For the pre-Gratian collections Fournier-Le Bras, *Histoire*, is invaluable, as are the articles by Fournier mentioned in the notes of that work. (For a complete Fournier bibliography see *Mélanges Paul Fournier* [Paris, 1929], xxxix–lxiv; and the additions in G. Le Bras, "Paul Fournier, sa carrière, son oeuvre, son esprit," *Revue historique de droit français et étranger*, xv [1936], 51–54.) The MS descriptions in the *Histoire* are not complete; but they are useful for pointing out how the compilations were constructed, and, in some cases, what sorts of additional texts can be found in the same codex. Cf. the recent report by J. J. Ryan, "Observations on the Pre-Gratian Canonical Collections: Some Recent Work and Present Problems," *Congrès de Droit Canonique Méditerranéen, Louvain et Bruxelles 22–26 Juillet 1958* (Bibliothèque de la Revue d'histoire ecclésiastique xxxiii, Louvain, 1959), 88–103.

¹² See the comments by G. Fransen, "Varia ex manuscriptis," *Traditio*, xxi (1965), 516–517. As has been shown, such short collections need not be unsystematic gatherings, but can be excerpts from another important collection: R. Somerville, "The Council of Beauvais, 1114," *Traditio*, xxiv (1968), 493–503.

¹³ A prime example of this is the work of M. Sdrlek, *Wolfenbüttler Fragmente* (Kirchengeschichtliche Studien 1.2; Münster i.W., 1891). Although Sdrlek was concerned primarily with describing the canonical collections in MS Gud. 212 at the Landesbibliothek in Wolfenbüttel, his investigations yielded important new lists of conciliar canons: see *ibid.* 132–142. Attention also should be called to S. Williams, "Concilium Claromontanum, 1095: A New Text," *Studia Gratiana* 13 (Collectanea S. Kuttner 3; 1967), 29–43; and R. Somerville, *op. cit.*

¹⁴ The literature on this schism is vast. See F.-J. Schmale, *Studien zum Schisma des Jahres 1130* (Forschungen zur kirchlichen Rechtsgeschichte und zum Kirchenrecht 3; Cologne and Graz, 1961), who gives an extensive bibliography, and, on pp. 1–12, a historiographical discussion of the schism. See also P. Palumbo, "Nuovi Studi (1942–62) sullo scisma di Anacleto II," *Bullettino dell' Istituto Storico Italiano per il Medio Evo e Archivio Muratoriano*, lxxv (1963), 71–103; Mario da Bergamo, o.f.m. capp., "Osservazioni sulle fonti per la duplice elezione papale del 1130," *Aevum*, xxxix (1965), 45–65; and the very recent article of E. Kennan, "The 'De Consideratione' of St. Bernard of Clairvaux and the Papacy in the Mid-Twelfth Century: A Review of Scholarship," *Traditio*, xxiii (1967), 73–115, which considers at several points the problems of the 1130's.

¹⁵ H.-W. Klewitz, "Das Ende des Reformpapsttums," *Deutsches Archiv für Geschichte des Mittelalters*, iii (1939), 371–412. Klewitz' analysis of the schism, which interpreted the conflict not as a contest between rival Roman factions, but as an ideological battle involving much of Latin Christendom, has been influential. See, for example, H. Bloch, "The Schism of Anacletus II and the Glanfeuil

June 1133.¹⁶ But with the German's hasty departure the pope's position in the Eternal City was so shaky that in September of the same year he fled to Pisa.¹⁷ Here he remained, not far from Rome, awaiting a favorable turn of events. Against such a background Innocent convoked a council in late May 1135.¹⁸

The synod had been announced in November of the preceding year. But in a diet at Bamberg in March 1135 (at which St Bernard of Clairvaux was present), the Emperor Lothair proposed a new Italian expedition. This decision, two months before the council, surely strengthened Innocent's hand. Invitations to Pisa survive for both French and German clergy.¹⁹ An extraordinary number attended, plus a large contingent from Italy.²⁰ Influential French supporters of Innocent II such as St Bernard and Peter the Venerable of Cluny made the journey (despite the latter's physical discomfort in the Italian climate).²¹ The Council of Pisa was a partisan show of strength.

The extant records of the synod are poor. The proceedings must be gathered from twelfth-century chronicles, letters, and the like, in addition to a fifteenth-century fragment of the conciliar acts.²² The prime concern at present, however,

Forgeries of Peter the Deacon of Monte Cassino," *Traditio*, VIII (1952), 160 n. 1 and 161 n. 6; H. V. White, "The Gregorian Ideal and St. Bernard of Clairvaux," *Journal of the History of Ideas*, XXI (1960), 335 n. 39; and Schmale, *op. cit.*, 5-12, and *passim*.

¹⁶ The chronology here and in the next paragraph is from Fliche, *Histoire* 9.1 63-164.

¹⁷ JL 7660 was written to the church at Dol, inviting the clergy of that see to the Council of Pisa. In that letter Innocent described his departure from Rome thus: "Ut autem de statu ecclesiae vobiscum tutius tractare possimus, et levior vobis ad nos pateret accessus, ordinato in urbe vicario, et dispositis iis, quae fidelibus nostris opportuna esse cognovimus, cum fratribus nostris sani, Deo gratias, et incolumes Pisis moramus. . . ."

¹⁸ The council is placed in the year 1134 by Mansi 21 (Venice, 1776), 485ff. P. Jaffé, *Geschichte des deutschen Reiches unter Lothar dem Sachsen* (Berlin, 1843), 169 n. 72, and 259, has shown, however, that the correct date is 1135. See also Hefele-Leclercq, *Histoire* 5.1 796-797; and G. Constable, *The Letters of Peter the Venerable*, 2 (Harvard Historical Studies 78; Cambridge, Mass., 1967), 113-114.

¹⁹ JL 7660 (cf. n. 17 above); and JL 7661, written 11 November 1134, to the abbots of the province of Salzburg. Louis VI of France was reluctant to allow French clergy to attend: Fliche, *Histoire* 9.1 65. Through the efforts of St Bernard, however, permission was granted: see Letter 255 of St Bernard, written to the French king (J. P. Migne, *Patrologiae cursus completus* . . . , Series latina² 182 [Paris, 1854], 462-463).

²⁰ An important document for this council was discovered toward the end of the last century in a Vienna MS by E. Bernheim: Bernheim, "Bericht." That text, plus a brief description, was reproduced by Weiland, MGH Const. 1. 577-579. It will be analyzed below; but it should be noted here that contained in this report was a long partial attendance list: *op. cit.* 148-149 (MGH Const. 1. 577-578). See also Letters 27 and 53 of Peter the Venerable (ed., Constable [cf. above, n. 18] 1.51 and 154, and the commentary in 2.114 and 134).

²¹ Cf. Constable, *ibid.* St Bernard not only was influential in persuading the King of France to permit French clergy to come to Pisa, he also played a leading role in the council: see the *Vita* by Ernaldus 2.2 (Migne, *Pat. lat.* [cf. n. 19 above] 185 [Paris, 1855] 273). For Peter the Venerable's difficulties with Italian weather see Constable, *op. cit.* 2.247-251.

²² The contemporary sources for the council are listed by Hefele-Leclercq, *Histoire* 5.1 706-707. The acts fragment is that discovered by Bernheim (see above in n. 20). Jaffé, *Regesta* 1.865-866, lists in very concise form the conciliar canons previously known, in addition to the items in Bernheim's discovery. For a fuller narration of these matters see Hefele-Leclercq, *op. cit.* 706-713, and the brief discussion by Fliche, *Histoire* 9.1 65.

The excommunication of the anti-pope and his supporters certainly was one of the highlights of the synod. The *Bernardi vita* of Ernaldus speaks thus: "Actiones concilii longum est prosequi: summa

is a discussion of the canons. Mansi had edited six decrees in his *Supplementum* to the conciliar tomes of Labbe-Cossart and Coleti.²³ Since the *Supplementum* was incorporated into the *Amplissima*, those canons also occur there.²⁴

In his edition, Mansi noted that the provisions had been extracted “ex additionibus ad Pannormiam in MS codice Pistoriensis.”²⁵ The *Panormia* was an important canonical collection compiled at the end of the eleventh century by Ivo of Chartres.²⁶ But Mansi’s MS was not the *Panormia*. It contained instead an early twelfth-century Italian compilation — the *Collection in Three Books* (also called *Liber ordinis Romani vel canonum*) — and today the codex is MS 135(109) of the Archivio capitolare del Duomo in Pistoia.²⁷

The Pisa decrees occur as additions, in the margin and in the text of the *Three Books*.²⁸ The supplementary material confirms that the entire MS was written over a period of years. Letters and decrees of Innocent II comprise the latest additions.²⁹ The marginalia have been dated at the end of the twelfth century; but the present writer believes that they could be earlier.³⁰ The texts from the

tamen in excommunicatione Petri (= Anacletus II) et irregressibili fautorum ejus dejectione constitit. . . . (Migne, *Pat. lat.* [cf. n. 19 above] 185.273). (This same text is given in Mansi 21.485).

²³ *Supplementum* (cf. above, n. 2) 2 (1748), 416ff. For Coleti cf. also n. 2. The work of the French Jesuits Philippe Labbe and Gabriel Cossart, *Sacrosancta concilia* . . . , 17 vols., appeared in Paris, 1761–72.

²⁴ Mansi 21.489–490.

²⁵ *Ibid.* 490.

²⁶ For the *Panormia* See Fournier-Le Bras, *Histoire* 2.85–99; P. Fournier, *Les collections canoniques attribuées à Yves de Chartres* (Extrait de la *Bibliothèque de l'École des chartes* 57 and 58 [1896–97]; Paris, 1897), 91–110 (*BEC* 58.293–312); and F. J. Gossman, *Pope Urban II and Canon Law*, The Catholic University of America Canon Law Studies, 403; (Washington, 1960), 54–58.

²⁷ This information was called to the author’s attention by Professor Kuttner. For the Pistoia MS see L. Chiappelli, “I manoscritti giuridici di Pistoia,” *Archivio Giuridico*, xxxiv (1885), 245–257. For the *Three Books* see Fournier-Le Bras, *Historie* 2.198–203; P. Fournier, “Une collection canonique italienne du commencement du XII^e siècle,” *Annales de l’enseignement supérieur de Grenoble*, vi (1894) 343–438 (this work has not been seen by the author); Gossman, *op. cit.* 41–44; van Hove, *op. cit.* (cf. n. 5 above), 328; and Kuttner, *op. cit.* (cf. above, in n. 9). Mansi used the same Pistoia codex at other points in the *Amplissima*. In his treatment of Calixtus II’s 1123 Lateran Council a set of Lateran I canons which follows the *Three Books*, at fols 284^v–285^v, were edited (21.301–304). Subsequent to presentation of the letters of Innocent II (21.436), a decree is given which “Extat in addit. ad Panorm. in MS Cod. Pistoriensis.” This provision, found in Pistoia MS 135 at fol. 241^v, carries the enigmatic inscription “Ex dictis Innocentii pape.” It repeats an item from one tradition of Urban II’s 1095 Council of Clermont (for Clermont, cf. below, n. 36), found in Mansi 20.902. The “dictum Innocentii” begins by stating that the pope is confirming “predecessorum nostrorum sancte memorie Urbani atque Calixti sententiam”; but the decree is not found in any of the extant conciliar acts of Calixtus II. (Incidentally, when presenting the 1185 Pisa decrees Mansi remarked [21.490] “. . . de quo [codice] in prefatione Collectionis huius disserui.” These comments have been omitted in the Preface to the *Amplissima* [Mansi (Florence, 1759), xi–xx], although according to Chiappelli, *op. cit.*, 246 n. 6, they are found in the *Supplementum* [cf. n. 2 above] 1 [1748], vii).

²⁸ The first four canons occur in the margin, the final two are supplements to the third book of the collection.

²⁹ Chiappelli, *op. cit.* That author, *ibid.* 56–57, dates the main portion of the MS in the early years of the third decade of the twelfth century (cf. Fournier-Le Bras, *Histoire* 2.199).

³⁰ Chiappelli, *op. cit.* 251, places the additions at the end of the twelfth or beginning of the thirteenth century.

1135 Council of Pisa thus would be near in time (as well as in space) to the event. Mansi's presentation of those decrees left something to be desired. Before proceeding to additional material regarding the synod it is useful to reproduce them accurately.

Folio 58^b

Innocentius papa II in generali concilio Pisis residens statuit:

⟨1.⟩ Si quis symoniace ordinatus fuerit, ab officio omnino cadat quod illicite usurpavit. Vel si quis prebendas aut honorem vel promotionem aliquam ecclesiasticam, interveniente execrabili ardore avaritie, per pecuniam acquisivit, honore male acquisito careat; et emptor ac venditor et interventor nota infamie percellantur.

Idem in eodem, capitulum IX:

⟨2.⟩ Prohibemus autem ne adolescentibus vel infra sacros ordines constitutis, sed qui prudentia et merito vite clarescant, predicti concedantur honores.

Folio 68^b

Innocentius papa II, capitulum VII, in generali concilio Pisis habito statuens dixit:

⟨3.⟩ Innovamus autem et precipimus ut nullus in archidiaconum vel decanum nisi diaconus vel presbyter ordinetur. Archidiaconi vero decani vel prepositi qui infra ordines prenotatos (MS: prenotato) existunt, si inobedientes ordinari contempserint, honore suscepto priventur.

Folio 120^{va}

Innocentius papa II in Pisano concilio residens statuit:

⟨4.⟩ Ut autem lex continentie et Deo placens munditia in ecclesiasticis personis et sacris ordinibus dilatetur, statuimus quatenus episcopi, presbyteri, diaconi, subdiaconi, regulares canonici, et monachi qui sacrum transgredientes propositum uxores sibi copulare presumpserint separentur. Huiusmodi namque copulationem, quam contra ecclesiasticam regulam constat esse contractam, matrimonium non esse sanctimus (MS: sancimus). Qui etiam ab invicem separati pro tantis excessibus, condignam penitentiam agant. Idipsum quoque de sanctimonialibus feminis si, quod absit, nubere attemptaverint (MS: atemptaverint) observari decernimus.

Folio 226^r

Innocentius papa II, capitulum XIII, in synodo habita Pisis:

⟨5.⟩ Precipimus etiam ut ⟨in⟩eos qui ad ecclesiam vel cimiterium confugiunt, nullus omnino manum mittere audeat. Quod qui fecerit, excommunicetur.

Folio 226^r

Innocentius papa II in concilio Pisis habito, capitulum XII:

⟨6.⟩ Precipimus ut quis suadente diabolo huius sacrilegii reatum incurrerit, quod

in clericum vel monachum violentas manus iniecerit, anathemati subiaceat; et nullus episcoporum illum absolvere presumat, nisi mortis urgente (MS: urgente) periculo, donec apostolico conspectui presentetur et eius mandatum suscipiat.

MS Clm 11316 at the Bayrische Staatsbibliothek in Munich is a twelfth-thirteenth century copy of the *Panormia*. Its provenance is the library of the Augustinian Canons at Polling, in the diocese of Augsburg.³¹ Appended to the *Panormia*, which ends on fol. 111^v, is an eleven folio supplement of various texts, among which are several lists of late eleventh and early twelfth-century conciliar canons:

- 1) canons 1–5 of Calixtus II's Council of Reims (1119), fols 111^v–112^r;
- 2) canons 1–14 of Urban II's Council of Piacenza (1095), fols. 114^v–115^r;
- 3) canons 1–18 of Eugene III's Council of Reims (1148), fols 115^v–116^r;
- 4) various canons of the Third Lateran Council (1179) of Alexander III, fols 117^r–121^v.

Those decrees are edited in Mansi and elsewhere.³² What is most intriguing in this set of additional material, however, is a series of nine lengthy canons titled, "Capitula Phisani concilii." These texts, found at fols 113^v–114^v, belong to the 1135 council of Innocent II. The canons are not numbered. They are written continuously down the page without spatial breaks, separated by triangular markings before an enlarged capital letter of the first word of each decree. For identification a comparison can be made with the canons from Lateran II, and with the Pisa decrees from Pistoia.

The table below, used with the edited text and apparatus, shows exactly what portion of the Lateran II legislation was enacted at Pisa. The two extant sets of Pisa canons also are correlated. The Roman numerals following certain of the Lateran and Pistoia numbers identify the parts of these canons corresponding to the Munich text. The apparatus clarifies this. The numerals in square brackets after the Pistoia numbers are those given in the MS (none is provided for the first and fourth provisions).³³

³¹ C. Halm et al., *Catalogus codicum latinorum Bibliothecae regiae Monacensis*, 2.2 (Munich, 1876), 13. The MS comes "ex bibliotheca canonice Polliganae." According to L. H. Cottineau, *Répertoire topo-bibliographique des abbayes et prieurés*, 2 (Mâcon, 1937), 2316, this is the house of St Salvator at Polling.

³² Reims (1119), Mansi 21.233–236; Piacenza (1095), *ibid.* 20.805–806 (a better edition is given by Weiland in MGH Const. 1.560–563); Reims (1148), Mansi 21.713–718; Lateran III (1179), Mansi 22.217–233. An up-to-date analysis of this last council, together with the canons, is given by Leonardi in *Decreta* 181–201.

³³ The Pistoia canons simply are listed in the same order they take in the MS. Numbering canons of mediaeval councils is a problem. Many MSS do not number the decrees, including Clm 11316, although in that case the division clearly is marked. The extremely long first canon of the Munich series is an example of the vagaries of individual codices. This decree comprises portions of seven canons of Lateran II. The enumeration in the Pistoia MS follows another tradition. But comparison of the four Pistoia numbers and the Munich series gives an interesting parallel: Munich 3 (II and III) = Pistoia 7 and 9; Munich 7 and 8 = Pistoia 12 and 14. This indicates that either the Munich MS does not present a complete text, or that the order of the canons in that codex does not follow the official ordering of the Pisa decrees. Cf. also below, n. 41.

<i>cf. Pistoia 135 (109)</i>	<i>Clm 11316</i>	<i>cf. L II</i>
1	1. { Statuimus ut — usurpavit Vel si — percellantur A suis — prohibemus Precipimus etiam — sanc- tatem Illud autem — subiciantur	1 2(I) 3(I) 4(I) 5
4	{ Ut autem — agant Idipsum — attemptaverint 2. Prava autem — arceantur 3. Precipimus etiam ut laici- subiaceant	7(II) 8 9 10(II)
3[7]	Innovamus autem — pri- ventur	10(III)
2[9]	Prohibemus autem — honores	10(IV)
	4. Precipimus etiam ne con- ducticiis — sacerdotem	10(V)
	5. Precipimus etiam ut pres- byteri — securi sunt Treugam autem — incurrat	11 12
6(I)[12]	6. Illam sane — feriat	—
5[14]	7. Item placuit — subiaceat 8. Precipimus etiam ut in eos — excommunicetur	15(I) 15(III)
	9. Indubitatum est — carebit	16

The Munich set of canons adds significantly to the records from the 1135 council. The decrees from Pistoia comprise only a portion of the nine statutes in Clm 11316. Other than the final clause of canon 6[12], the Pistoia text is present totally in the Munich list. The similarity of this last series to Lateran II is striking. With the exception of canon six, every known decree of the 1135 synod was repeated in 1139.

The Pisa canons from Clm 11316 are edited below. The apparatus compares this text to Lateran II (LII) and Pistoia MS 135 (109) (P). The numbering for the Pistoia canons in the apparatus follows the order in which they occur in the MS — the unbracketed numbers in the chart above. All significant variants are noted; but minor differences of word order and spelling have been omitted.

Folio 113^v

Capitula Phisani concilii

(1.) Statuimus ut^a si quis symoniace ordinatus fuerit omnino ab officio cadat quod illicite usurpavit. Vel si quis prebendas aut honorem^b vel promotionem aliquam ecclesiasticam,^c interveniente execrabili ardore avaricie, per pecuniam acquisivit, honore male acquisito careat; et emptor ac venditor et interventor nota infamie percellantur.^d A suis episcopis excommunicatos ab aliis recipi^e modis

omnibus prohibemus.^f Precipimus etiam quod tam episcopi quam clerici in statu mentis, in habitu corporis, Deo et hominibus placere studeant; et nec in superfluitate, fissura,^g aut colore vestium,^h intuentium quorum forma et exemplum esse debent, offendant aspectum, sed quod eorum deceat sanctitatem.ⁱ Illud autem quod in sacro Calcedonensi constitutum est concilio inrefragabiliter conservari precipimus, ut videlicet decedentium bona episcoporum a nullo omnino hominum diripiantur, sed ad opus ecclesie et successoris sui illibata^j in libera yconomi et clericorum permaneant potestate. Cesset igitur de cetero illa detestabilis et seua rapacitas. Si quis autem hoc amodo attemptare presumpserit, excommunicationi subiaceat. Qui vero morientium presbyterorum aut^k clericorum bona rapuerint, simili sententie^l subiciantur.^m Ut autem lex continentie et Deo placens mundicia in ecclesiasticis personis et sacris ordinibus dilatetur, statuimus quatenus episcopi, presbyteri, diaconi, subdiaconi, regulares canonici, et monachiⁿ qui sacrum^o transgredientes propositum uxores sibi copulare presumpserint separentur. Huiusmodi namque copulationem, quam contra ecclesiasticam regulam constat esse contractam, matrimonium non esse sanctimus.^p Qui etiam ab invicem separati pro tantis excessibus, condignam penitentiam agant. Idipsum autem^q de sanctis monialibus^r feminis statuimus, si, quod absit, nubere attemptaverint.^s

^aStatuimus ut *om. P (c.1)* ^bVel si honorem: Si quis praebendam vel prioratum seu decanatum aut honorem *L II (c.2)* ^cseu quodlibet sacramentum ecclesiasticum utpote chrisma vel oleum sanctum consecrationes altarium vel ecclesiarum *add. L II (c.2)* ^dEt nec pro pastu nec sub obtentu alicuius consuetudinis ante vel post a quoquam aliquid exigatur vel ipse dare praesumat, quoniam simoniacum est; sed libere et absque imminutione aliqua, collata sibi dignitate atque beneficio perfruatur. *add. L II (c.2)* ^esuscipi *L II (c.3)* ^fQui vero excommunicato, antequam ab eo qui eum excommunicaverit absolvatur, scienter communicare presumpserit, pari sententiae teneatur obnoxius. *add. L II (c.3)* ^gscissura *L II (c.4)* ^hnec in tonsura *add. L II (c.4)* ⁱsed quod — sanctitatem: sed potius, quae eos deceat, sanctitatem prae se ferant. Quod si moniti ab episcopis, emendari noluerint, ecclesiasticis careant beneficiis. *L II (c.4)* ^jillibata *om. L II (c.5)* ^kvel *L II (c.5)* ^lsententia *MS* ^mAd haec praedecessorum nostrum Gregorii VII, Urbani et Paschalis Romanorum pontificum vestigiis inhaerentes, praecipimus ut nullus missas eorum audiat, quos uxores vel concubinas habere cognoverit. *praemittit L II (c.7)* ⁿatque conversi professi *add. L II (c.7)* ^osanctum *L II (c.7)* ^pcensem *L II (c.7)* ^qquoque *L II (c.8)*, *P (c.4)* ^rsanctimonialibus *L II (c.8)*, *P (c.4)* ^sfeminis — attemptaverint: feminis si, quod absit, nubere attentaverint, observari decernimus. *L II (c.8)*, *P (c.4)*

(2.) Prava autem consuetudo, prout accepimus, et detestabilis inolevit quoniam monachi et regulares canonici post susceptum habitum et professionem factam, sprete beatorum magistrorum Benedicti et^a Augustini regula, leges temporales et medicinam gratia lucri temporalis addiscunt. Avaricie namque flammis accensi se patronos causarum faciunt; et cum psalmodie et ymnis vacare deberent,^b gloriose vocis confisi munimine allegationum suarum varietate iustum et iniustum fasque^c nefasque confundunt. Attestantur vero imperiales constitutiones absurdum immo etiam^d obprobrium esse^e clericis si peritos se velint disceptationum^f esse forensium.^g Ipsi quoque neglecta animarum/Folio 114r/cura, ordinis sui propositum nullatenus attendentes, pro detestanda pecunia sanitatem pollicentes, humanorum curatores se faciunt corporum. Cumque impudicus oculus impudici cordis sit nuntius, illa etiam^h de quibus loqui erubescit honestas, non debet religio

pertractare. Ut ergo ordo monasticus et canonicus Deo placens in sancto proposito inviolabiter conservetur, ne hoc ulterius presumatur auctoritate apostolica interdiciamus. Episcopi autem et¹ abbates et priores tante enormitati consentientes et non corrigentes propriis honoribus spolientur vel¹ ab ecclesie liminibus arceantur.

^aet om. MS ^bdebeant L II (c.9) ^cfas L II (c.9) ^det L II (c.9) ^eesse om. MS ^fdisceptationum MS ^gHuiusmodi temeratores graviter feriendos apostolica auctoritate decernimus. add. L II (c.9) ^hetiam om. L II (c.9) ⁱet om. L II (c.9) ^jet L II (c.9)

(3.) ^aPrecipimus etiam ut laici qui ecclesias tenent aut eas episcopis restituant aut excommunicationi subiaceant. Innovamus autem et precipimus ut nullus in archidiaconum vel decanum nisi diaconus vel presbyter ordinetur. Archidiaconi vero decani vel prepositi qui infra ordines prenominatos^b existunt, si inobedientes ordinari contempserint, honore suscepto priventur. Prohibemus autem ne adolescentibus vel infra sacros ordines constitutis, sed qui^c prudentia et merito vite clarescant,^d predicti concedantur honores.

^aDecimas ecclesiarum, quas in usu pietatis concessas esse canonica demonstrat auctoritas, a laicis possideri apostolica auctoritate prohibemus. Sive enim ab episcopis vel regibus vel quibuslibet personis eas acceperint, nisi ecclesie reddiderint, sciant se sacrilegii crimen committere et periculum aeternae damnatione incurrere. *praemittit L II (c.10)* ^bprenotatos P (c.3) ^cnisi conicit Baronius ad L II (c.10) ^dclarescunt L II (c.10)

(4.) Precipimus etiam ne conducticiis presbyteris^a ecclesie committantur et unaqueque ecclesia cui facultas suppetit proprium habeat sacerdotem.

^apresbyteriis MS

(5.) Precipimus etiam ut presbyteri, clerici, monachi, peregrini, et mercatores, rustici euntes et redeuntes et in agricultura persistentes,^a et boves aratorii, et pecora omni tempore sint secura.^b Treugam autem ab occasu solis in III feria usque ad ortum solis in secunda feria, et ab adventu Domini usque ad octavas Epiphaniae, et a Quinquagesima usque ad octavas^c Pasce, et VIII diebus circa festum assumptionis beate MARIE^d ab omnibus inviolabiter observari decernimus.^e Si quis autem treugam frangere temptaverit, post terciam commonitionem, si non satisfecerit, episcopus suus in eum excommunicationis sententiam dictet et scriptam convicinis episcopis^f annuntiet. Episcoporum autem nullus excommunicatum in communionem^g suscipiat, immo scripto suscepto^h sententiam quisque confirmet. Si quis autem hoc violare presumpserit, ordinis sui periculo subiacebit. Et quoniam *funiculus triplex difficile rumpitur*,³⁴ precipimus ut episcopiⁱ ad solum Deum et salutem populi habentes respectum, omni trepiditate seposita ad pacem firmiter tenendam mutuam sibi consilium et auxilium prebeant, neque hoc alicuius amore aut odio pretermittant. Quod si quis in hoc Dei opere tepidus inventus fuerit dampnum proprie dignitatis incurrat.

^aet add. L II (c.11) ^bet boves — secura: et animalia cum quibus aratur et semina portant ad agrum, et oves, omni tempore securi sint. L II (c.11) ^coctavam L II (c.12) ^det VIII — MARIE om. L II (c.12) ^eprecipimus L II (c.12) ^fconvicinis episcopis: episcopis vicinis L II (c.12) ^gcommunionem L II (c.12) ^hsusceptam L II (c.12) ⁱepiscopi om. MS

³⁴ Ecclesiastes 4:12.

(6.) Illam sane inhumanam et Deo odibilem consuetudinem qua (MS: quia) videlicet pro ambitione pecunie filii matribus et mariti auferuntur uxoribus necessario duximus corrigendam. Si enim redemptor noster, cum omnium dominus (MS: diues) esset ut nos a servitute diaboli liberaret dignatus est morte turpissima condemnari, indignum valde est ut liber/Folio 114^v/homo, ad imaginem et similitudinem eius conditus, quasi brutum animal caro aut vili precio comparetur. Ideoque omnimodis prohibemus ut nullus de cetero marchio, nulla prorsus magna humilisque persona, quemlibet, liberum Christianum Corsum vel alium vendere audeat. Quod qui fecerit excommunicationis sententia feriat.³⁵

(7.) Item placuit^a ut si^b quis suadente diabolo huius sacrilegii reatum incurrit quod in clericum vel monachum violentas manus iniecerit, anathematis subiaceat.^d

^aItem placuit: Precipimus *P* (c.6) ^bsi *om. P* (c.6) ^canathemati: vinculo subiaceat *L II* (c.15) ^det nullus episcoporum illum praesumat absolvere, nisi mortis urgente periculo, donec apostolico conspectui praesentetur et eius mandatum suscipiat. *add. L II* (c.15), *P* (c.6).

(8.) Precipimus etiam ut in eos qui ad ecclesiam vel cimiterium confugiunt^a nullus omnino manus^b mittere audeat. Quod qui^c fecerit, excommunicetur.

^aconfugerint *L II* (c.15) ^bmanum *L II* (c.15), *P* (c.5) ^csi *L II* (c.15)

(9.) Indubitatum est quoniam honores ecclesiastici sanguinis non sunt sed meriti, et ecclesia Dei non hereditario iure aliquem non^a secundum carnem successorem expetit,^b sed ad sui regimen^c et officiorum suorum dispensationem^d honestas sapientes et religiosas personas exposcit. Eapropter auctoritate prohibemus apostolica ne quis ecclesias, prebendas, preposituras, capellanas, aut aliqua ecclesiastica officia hereditario iure audeat^e vindicare aut expostulare presumat. Quod si quis improbus et^f ambitionis reus attemptare presumpserit debita pena multabitur et postulatis carebit.

^aneque *L II* (c.16) ^bexpectat *L II* (c.16) ^csua regimina *L II* (c.16) ^ddispensationes *L II* (c.16) ^evaleat *L II* (c.16) ^faut *L II* (c.16)

The similarity of the Lateran II decrees and the newly discovered Pisa canons has been noted. The question arises, however, concerning the latter's originality. There is evidence prior to Innocent II that synods often repromulgated provisions from earlier councils. The pontificate of Urban II, which, incidently, also was a time of schism in the Roman Church, presents good examples of this.³⁶ But with the conciliar legislation of Innocent II the phenomenon becomes most clear.

³⁵ For a discussion of this decree see the Appendix.

³⁶ The traditions for the canons of Urban II's 1095 Council of Clermont are confused. (The best summary of the problem is by Gossman, *Pope Urban* [cf. n. 26 above] 4-10. See also S. Williams, *op. cit.* [cf. above, n. 13], and a future study by the present writer. One set of Clermont canons (Mansi 20.902) contains a decree stating: "Confirmata sunt in eodem concilio capitula superiorum omnium conciliorum, quae per eundem papam, aut Melphiae (Melfi, a. 1089), aut Beneventi (Benevento, a. 1091), aut Trojae (Troia, a. 1093), aut Placentiae (Piacenza, a. 1095) celebrata sunt." (Cf. Bernold of Constance's *Chronicon*, a. 1095, *MGH Scriptores* 5, ed., G. H. Pertz [Hannover, 1844], 463.) The Councils of Nîmes and Tours, held after Clermont, in 1096, reconfirmed certain statutes from the 1095 synod. For Tours see G. Morin, "Un écrivain inconnu du XI^e siècle: Walter, moine de Honne-

Decrees survive from two pre-1135 councils of Innocent II, the Council of Clermont (1130), and the Council of Reims (1131). Baluze found a series of thirteen canons attributed to the former synod in a MS from the ecclesiastical archives in Barcelona.³⁷ The situation concerning Reims is more complex. Two lists of decrees are extant. A set of seventeen provisions had been discovered by J. Sirmond (1559–1651), in a MS from Mont-St.-Michel; and a second series of fourteen exists in the so-called codex Udalrici.³⁸ These traditions display affinities; but the first has been criticized by S. Loewenfeld because of its similarity to the 1130 Clermont canons: “Acta . . . videntur potius esse altera recensio canonum in synodo Claromontana a. 1130 promulgatorum.”³⁹

The matter is not so simple. The Clermont canons duplicate nearly verbatim several of the 1135 Pisa decrees. Thus the correspondence of the Clermont, Pisa, and Lateran II canons indicates that Sirmond’s Reims list cannot be dismissed solely on grounds of resemblance to the 1130 synod.⁴⁰ The question poses prob-

court, puis de Vézelay,” *Revue Bénédictine*, xxii (1905), 165; for Nîmes see Mansi 20.933. Compare both places to the Clermont decrees in Mansi 20.902. Finally, the Council of Rome, 1099, reissued several of the provisions from the 1095 Council of Piacenza: cf. Mansi 20.961–964, and compare to Weiland’s Piacenza edition, MGH Const. 1.560–563.

³⁷ These decrees were edited first in the *Miscellanea*, 7 (Paris, 1715), 74ff. (2.119–121 in the 1761 edition from Lucca). They appeared in the conciliar corpus in the work of Coleti (cf. above, n. 2) *Sacrosancta concilia*, 12 (1730), 1445ff. (Mansi 21.437–440).

³⁸ Sirmond’s text was printed initially by Labbe-Cossart (cf. n. 23 above) *Sacrosancta concilia*, 10 (1671), 982–987 (Mansi 21.457–462). The decrees are described as taken “Ex veteri codice MS S. Michaelis de Tumba” (*ibid.* 982 [457]). This, according to Cottineau, *op. cit.* (cf. above, n. 31) 2.1897, is Mont-St-Michel, usually known in Latin as “S. Michaelis in periculo maris.”

The Reims canons from the codex Udalrici are found in the edition of that document, *Bibliotheca rerum Germanicarum*, 5, ed., P. Jaffé (Berlin, 1869), 440–442, and also in Mansi 21.463–466. Mansi (465–466), and Hefele-Leclercq, *Histoire* 5.1 698–699, have compared this rendition of brief decrees with Sirmond’s. (Hefele-Leclercq also include a comparison with the decrees of Clermont.) Although some matters not mentioned in the latter, are discussed in the former, it seems that the Udalricus tradition basically is an abbreviation of the Reims conciliar canons. The manner in which they are introduced in the Codex could support this: “Haec sunt *exemplaria* eorum, quae a domno Innocentio . . . decreta et a tota synodo Remensi . . . sunt recepta.” Further, Mansi, in comments on A. Pagi’s notes to Baronius’ *Annales (Annales ecclesiastici*, 18 [Lucca, 1746], 433; also in Mansi 21.465–466, “Ex adnotationibus . . .”), refers to these decrees as “summa canonum Remensium.” The series provides information on items which the provisions of Sirmond neglect, indicating that the latter are incomplete. JL 7586, written by Innocent II in July 1132 to Archbishop Hugh of Rouen corroborates this: cf. Hefele-Leclercq, *loc. cit.* 698 (where Hugh is called Archbishop of Tours).

³⁹ Jaffé, *Regesta* 1.851.

⁴⁰ The promulgation of many of the same canons by Clermont, Reims, Pisa, and Lateran II, has been mentioned briefly by H. Hüffer, “Das Privilegium Canonis,” *Archiv für katholisches Kirchenrecht*, III (1858), 157–158. See also P. Legendre, *La pénétration du droit romain dans le droit canonique classique de Gratien à Innocent IV (1140–1254)* (Paris, 1964), 42–43. Leonard’s notes to Lateran II in *Decreta* 173–179 show the extent to which this council repeated provision of previous synods. (Cf. Hefele-Leclercq, *Histoire* 5.1 725–33.) There seems little doubt that Sirmond’s Reims canons are authentic. In his comments to the decrees, the erudite Jesuit remarked (Labbe-Cossart, *loc. cit.* 10.987 [Mansi 21.462]), “Hos canones concilio Remensi tribuit etiam collectio codicis Ebrouicensis.” That MS is today lat. 10743 at the Bibliothèque nationale in Paris (from, as Sirmond noted, the cathedral library in Évreux), containing an early twelfth-century canonical collection, the *Collection in Ten Parts*. The presence of the Reims provisions in this codex had been noted in passing by Fournier, *Les collections . . . Yves de Chartres* (cf. above, n. 26) 154 n. 3 (*BEC* 58.440 n. 3), without mention of

lems, beyond the focus of the present discussion, which properly belong in a full study of the conciliar activity of Innocent II. At present, however, it is pertinent to see what portion of the legislation from the Council of Pisa previously had been enacted at Clermont and Reims.

The chart below indicates the Pisa legislation which, given the state of the sources for the canons of Clermont and Reims, can be said to have been promulgated in those councils. For Clermont the Barcelona text of Baluze is followed. For Reims Sirmond's decrees, which are in the Clermont, Pisa, Lateran II textual tradition, and which seem to be closer than the Udalricus list to an official conciliar statement (see n. 38), are utilized.⁴¹

<i>cf. Clermont</i>	<i>Pisa</i>	<i>cf. Reims</i>
1	1(I). Statuimus-percellatur.	1
2	1(III). Precipimus-sanctitatem.	2
3	1(IV). Illud autem-subiciantur.	3
4	1(V). ⁴² Ut autem-attemptaverint	4
5	2. Prava autem-arceantur.	6
6	3(I). Precipimus-subiaceant.	7
7	3(II). Innovamus-priventur.	8(I)
—	3(III). Prohibemus-honores.	8(II)
—	4. Placuit-sacerdotem.	9
8	5. Precipimus-incurrat.	10-11
10(I)	7. ⁴³ Item placuit-subiaceat.	13(I)
—	8. Precipimus-excommunicetur.	14
11	9. Indubitatum est-carebit.	15

Much of the 1135 Pisa legislation clearly was not new. It formed part of a pro-

Sirmond's observation; (for the MS and the Ten Parts see Somerville, "Council of Beauvais" [cf. n. 12 above]). Sixteen of the seventeen Mont-St-Michel Reims canons occur, with identifications, at the end of the parts of this collection: Pt. 2, p. 121 — canons 9, 7, 14, 12; Pt. 2, 398-399 — cc. 1, 2, 3, 5, 6, 8, 15 (*partim*); Pt. 4, 253 — c. 3; Pt. 6, 334 — cc. 10, 11; Pt. 8, 408 — c. 16; Pt. 9, 449-50 — c. 17. (In some instances the decree numbers in the Paris MS differ from those of Sirmond, which are followed here.)

⁴¹ Of those provisions from the codex Udalrici which have no counterpart in Sirmond's list, none corresponds to any of the Pisa canons not covered by the more extensive tradition. Professor Kuttner has pointed out a parallel between the number of the Pisa decrees in the Pistoia MS (the numbers in square brackets on the first chart above) and Sirmond's Reims canons.

<i>P</i>	<i>SR</i>
(1)	cf. 1
7	cf. 8(I)
9	8(II)
12	cf. 13
14	cf. 14

Cf. also n. 43 below.

⁴² An interesting situation occurs here. The wording of the Clermont and Reims decree is quite different from the Pisa canon, although the same material is included in each place.

⁴³ The Reims canon includes the additional text found at the end of the Pistoia MS' rendition of this decree: see above, in the apparatus to canon (7). There also is an addition at the conclusion of the Clermont provision which does not occur in the Munich Pisa tradition — a simple "Quod qui fecerit, excommunicetur."

gram that was promulgated and repromulgated, from 1130–39. No canons as yet have come to light from a synod convened by Innocent II at Piacenza in 1132.⁴⁴ It is to be expected, however, that they would have much in common with what already is known. The extent to which this entire canonical program is novel cannot be investigated here. Whether or not it differs substantially from the aspirations of reforming popes such as Gregory VII, Urban II, and Calixtus II, could help provide, nevertheless, insight into the question of the pontificate of Innocent II as the end of the reform papacy.⁴⁵

The fragment discovered by E. Bernheim pertaining to the acts of the 1135 Council of Pisa exists in MS 5100 (Salisb. 20.B) of the Österreichische Nationalbibliothek in Vienna.⁴⁶ This is a fifteenth-century codex, probably from Regensburg.⁴⁷ The first fifty folios contain texts of the Council of Pisa held in 1409. Among these, fols 43^{a-b}, the account of the earlier synod is inserted. Bernheim maintained that this fragment depended on a twelfth-century model, probably of Italian provenance, which conceivably came into the hands of a cleric from Regensburg at the fifteenth-century council.⁴⁸ It was copied and bound together in a MS with the proceedings from the 1409 synod.

This report on the 1135 council is an extract describing certain conciliar acts. Following an introductory section listing participants it states: "In quo (concilio) nimirum multa statuta sunt que ad honorem Dei pertinere videbantur,"⁴⁹ Eight provisions follow. The first begins "E quibus (multis statutis)", indicating the document was intended as an excerpt of select facts from the council.⁵⁰ The eight synopses given concern tithes from monks and canons; marriage of those in the religious life; slave trading (see the Appendix); financial provisions for the Templars; deposition of certain bishops; excommunication of Anacletus II, Roger of Sicily, and their supporters; condemnation of schismatic ordinations; and regulation of certain affairs at Milan.

Bernheim pointed out the political emphasis in these selections, and also discussed the degree to which the information is historically new.⁵¹ Only one of the six canons from Pistoia corresponds to anything in this summary; and only a single additional topic from the synopsis is related to a canon in the Munich list.⁵² Decrees parallel to the remaining six provisions have not come to light. These

⁴⁴ The council of Piacenza met in June, 1132. See Mansi 21.479–480, and Hefele-Leclercq, *Histoire* 5.1 700–701. It is possible that Innocent II also held a council at Liège in March, 1131: *ibid.* 21.473–478, and 5.1 691.

⁴⁵ See above, note 15.

⁴⁶ Bernheim, "Bericht" 147 (MGH Const. 1.577). See also, *Tabulae codicum manuscriptorum praeter graecos et orientales in Bibliotheca Palatina Vindobonensi asservatorum* 4 (Vienna 1870), 23.

⁴⁷ Bernheim, *loc. cit.*

⁴⁸ *Ibid.* 151–152.

⁴⁹ *Ibid.* 149 (MGH Const. 1.578).

⁵⁰ *Ibid.* 149, 152, *loc. cit.*

⁵¹ *Ibid.* 152–154; cf. Fliche, *Histoire* 9.1 65–67.

⁵² The second notice in the Vienna codex corresponds to the fourth Pistoia canon — "Ut autem decernimus" — repeated in Clm 11316, end of the first canon. The canon pertaining to the third summary of Bernheim's document also is present in the Munich list: it is Clm 11316, c. 6. For a discussion of this decree see the Appendix.

items either are unknown apart from the Vienna MS, or must be sought in non-canonical twelfth-century sources.⁵³

The MSS from Pistoia, Munich, and Vienna are the chief documents for the history of the canonical legislation of the 1135 Council of Pisa. A full analysis of the conciliar activity of Pope Innocent II calls, in addition, for reexamination, beyond the sketches given here, of the known canons from this pontiff's councils of Clermont, Reims, and Lateran II. The present study has attempted to illustrate how the evidence for the canonical texts from these synods can be assembled.⁵⁴ There is no reason why a record from the 1132 Council of Piacenza might not also be unearthed some day, attached to a twelfth-century canonical collection. In 1881 Bernheim wrote: "Trotz dieses unvollständigen Charakters ist das Schriftstück (the Vienna fragment) nicht ohne Werth für die Zeitgeschichte, denn wir besitzen sonst keine directen Aufzeichnungen von jenem so wichtigen Generalconcil ausser den eben erwähnten 4(*sic*) Canones bei Mansi. . . ."⁵⁵ To this list now must be added the set of nine canons from Clm 11316.

Appendix: Pisa 1135, canon 6, from Clm 11316

The sixth canon attributed to Pisa in the Munich codex is the only one of that set not to reappear in the extant decrees of Lateran II. This provision was edited above. It seems worthwhile to repeat it, and to compare it with a portion of the fragment brought to light by Bernheim.

Clm 11316, c. 6

Illam sane inhumanam et Deo odibilem consuetudinem qua videlicet pro ambitione pecunie filii matribus et mariti auferuntur uxoribus necessario duximus corrigendam. Si enim redemptor noster cum omnium dominus esset ut nos a servitute diaboli liberaret dignatus est morte turpissima condempnari, indignum valde est ut liber/Folio

⁵³ For example, regarding the excommunication of the anti-pope and his supporters see above at the conclusion of n. 22.

⁵⁴ It was mentioned at the outset that conciliar decrees often occur as integral parts of the pre-Gratian canonical collections: see p. 100. It should be noted that Fournier, *Les collections . . . Yves de Chartres* (cf. n. 26 above) 147 n. 2 (*BEC* 58.433 n. 2), speaks thus regarding a pre-Gratian compilation in MS Vat. lat. 1361: "Je dois signaler, sous le No. 44 (in Bk. 4), le canon suivant: 'Innocentius IIus. Statuimus quatinus episcopi, presbiter, diaconi, subdiaconi, regulares vel monachi qui sacrum transgredientes propositum, uxores sibi copulare presumpserint . . . interdictione mulctentur.' Par le début, ce canon reproduit une décision du concile tenu à Pise en 1134 (*sic*) par Innocent II. . . ."

This provision, part of the fourth canon according to the edition given above from the Pistoia MS, forms a portion of the long first decree of Clm 11316. But it also occurs as the second part of the seventh provision of Lateran II: *Decreta* 174 (Mansi 21.527-528). It thus is uncertain whether the attribution in Vat. lat. 1361 refers to the Council of Pisa. Fournier further notes, *loc. cit.*, that canons 1 and 15 of the 1131 Council of Reims also can be found at 4.42 and 47 of the same collection; but he does not provide the rubrics. (For the *Collection of Vat. lat. 1361* see Gossman, *Pope Urban* [cf. above, n. 26], 89-93, and the bibliography provided there.)

⁵⁵ Bernheim, "Bericht," 152.

114^v/homo ad imaginem et similitudinem eius conditus, quasi brutum animal caro aut vili precio comparetur. Ideoque omnimodis prohibemus ut nullus de cetero marchio, nulla prorsus magna humilive persona, quemlibet, liberum Christianum Corsum vel alium vendere audeat. Quod qui fecerit ex-communicationis sententia feriatur.

Bernheim

Hoc eciam addito et sub anathematis attestacione prohibito, ut nullus deinceps *nobilior nulla humilior* persona liberum Christianum *seu* (MGH: sive) *Corsariis seu* (MGH: sive) Torcis seu (MGH: sive) quibus aliis vendere audeat.⁵⁶

Bernheim remarks “. . . dass dem art. 3 (the present provision) nur durch sehr eingreifende Conjekturen zu einigem Sinn zu verhelfen war.”⁵⁷ The italicized words represent those conjectures. (The notes to the passage in Bernheim’s report and in the MGH reedition provide the confusing MS readings from which the edited text was derived.) It is interesting to observe that where the edition reads “nobilior nulla humilior” the MS actually gives “malichio nulla hm̄li ne.” Compare the “marchio nulla . . . humilive” of Clm 11316, c. 6. Further, the edited reading “seu (MGH: sive) Corsariis seu (MGH: sive) Torcis seu (MGH: sive) quibus aliis” is derived from “sui corpus sui torta (MGH: torsa) sui quibus alius” in the MS. (Compare the “Corsum vel alium” section of the Munich text.)

The editorial conjectures advanced by Bernheim are sensible: the Vienna MS is quite jumbled. There are, however, vague similarities between that MS’ readings and the sixth canon in the Pisa text from Clm 11316. Perhaps Bernheim’s document at this point presents a very corrupt reading of something like canon 6. Such distortion could have arisen when a fifteenth-century German cleric copied portions of a twelfth-century Italian account which had little meaning for him.

Assuming that Clm 11316, c. 6, as it stands, contains an authentic Pisa decree, what does the regulation stipulate? The canon is a prohibition against selling free Christians as slaves. Extensive commerical and maritime activity together with business contacts in the non-Christian world must have made slave trading a fact of life in twelfth-century Italy. The most interesting and enigmatic part of the canon, however, is the section providing that no free Christian “Corsum vel alium” is to be sold. Why would Innocent II at Pisa expressly forbid selling Corsicans as slaves?

The answer is not obvious. Perhaps “Corsum” should be changed to “corsariis” and “alium” to “aliis” as Bernheim did; but there is no concrete evidence to confirm this. Rather, the history of Corsican-Pisan relations in the twelfth century might support the correctness of “Corsum.”

The association of Pisa with Corsica was based in the Gregorian Reform. Pope Gregory VII, attempting to bring the island within the jurisdictional sphere of the Roman Church, appointed Landulf, Bishop of Pisa, papal legate for Corsica.⁵⁸

⁵⁶ *Ibid.* 149 (MGH Const. 1.578).

⁵⁷ *Ibid.* 147.

⁵⁸ C. B. Fisher, “The Pisan Clergy and an Awakening of Historical Interest in a Medieval Commune,” *Studies in Medieval and Renaissance History*, III (1966), 145; and cf. JL 5046, and 5048. The work of William Heywood, *A History of Pisa, Eleventh and Twelfth Centuries* (Cambridge, 1921), is still valuable as a general reference.

The following year Gregory entrusted this office perpetually to Pisa, and gave with it increased secular rights over the island.⁵⁹ Thirteen years later, in 1091, Pope Urban II further amplified these privileges: Corsica was given to the church in Pisa to be governed as a fief.⁶⁰

On 21 April 1092, Urban II granted to Daimbert of Pisa both the pallium and metropolitan jurisdiction over Corsica.⁶¹ This, together with the donation of the preceding year, accentuated unrest between Pisa and its neighbor and commercial rival, Genoa. A detailed examination of the dispute involves political and economic as well as ecclesiastical factors. Although many attempts were made to settle the conflict during the next forty years, a major step in that direction was taken in 1133 by Innocent II. Genoa was raised to the level of an archbishopric; and among other provisions jurisdiction over Corsica was divided between the two Italian cities.⁶²

The abatement brought by this solution was to prove temporary. But it probably was in effect, at least nominally, in 1135. Could it be, however, that the Corsicans to whom the conciliar decree under discussion refers were inhabitants of the northern part of the island — that portion under Genoese control — who ran afoul of the Pisans and ended as slaves? It certainly was in the interest of Innocent II to maintain calm between Pisa and Genoa, both of whom were helpful allies.⁶³

This is only a suggestion. The significance of the canon remains to be untangled. Since it does not seem to appear at Clermont, Reims, or Lateran II, it must have been intended only for local notice at Pisa. What is clear is a fact of historiography. Conciliar texts have contributions not only for the specific study of the mediaeval church, but also for general aspects of the society of the Middle Ages. This paper thus can conclude on the same theme as it began: a long hard look at great portions of the mediaeval conciliar corpus badly is needed.

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⁵⁹ Fisher, *loc. cit.* Cf. JL 5093.

⁶⁰ S. B. Casanova, *Histoire de l'église corse*, 1 (Ajaccio, 1931), 86.

⁶¹ Casanova, *ibid.*; Fisher, *op. cit.* 146. Cf. JL 5464.

⁶² Casanova, *op. cit.* 88. Cf. JL 7613, 7614, and 7620.

⁶³ Casanova, *Op. cit.* Heywood, *op. cit.* 80, tells that Pisan and Genoese galleys joined to attack Civitavecchia in 1133, thus preparing the way for Innocent's return to Rome. The war was renewed in earnest, however, less than twenty years later. Cf. Fliche, *Histoire* 9.1 61-62.