

## **First Council of Lyons – 1245 A.D.**

### **Summary**

30-years after Lateran IV, **Pope Innocent IV** called the First Council of Lyons in 1245, having been forced to flee Rome for the refuge of Lyons France at the invitation of the holy French Monarch **King Saint Louis IX**. The latter was designated to lead the Seventh Crusade against the infidel Saracens. Though only 140 bishops were at Lyons, it had the support of the Patriarchs of Antioch, Constantinople, Venice and the Emperor of the East. The Council reinforced the excommunication **Pope Gregory IX** had imposed on **Frederick II**, the slacker emperor who had betrayed the trust placed in him. He was deposed. Great concern was also given to the Mongol hordes invading Europe and the loss of Jerusalem to the infidel, as well as problems with lax clergy.

### **INTRODUCTION**

The dispute, distinctive of the Middle Ages, between the papacy and the empire became very serious under Pope Innocent IV and Emperor Frederick II. Already in 1240 Pope Gregory IX had tried to define the questions between the two powers by calling a general council, but Frederick II by arms had prevented the council from meeting. When Innocent IV succeeded as pope in 1243 he gave his earnest attention to renewing this policy. He was able to make his way in 1244 to Lyons, which was outside the direct authority of the emperor, and there proclaimed a council. Some letters of summons exist, dated 3 January 1245 and the days following, in which the **purpose of the council** is stated thus: *“That the church, through the salutary counsel of the faithful and their fruitful help, may have the dignity of its proper position; that assistance may speedily be brought to the unhappy crisis in the holy Land and the sufferings of the eastern empire; that a remedy may be found against the Tartars and other enemies of the faith and persecutors of the christian people; further, for the issue between the church and the emperor; for these reasons we think that the kings of the earth, the prelates*

of the church and other princes of the world should be summoned”. The chief purposes for which the council was called -- and from the beginning it was called “general” -- seem to have been political ones.

When the council opened on *26 June 1245*, in a meeting which was probably only preparatory, there were present three patriarchs and about 150 bishops besides other religious and secular persons, among whom was the Latin emperor of Constantinople. Emperor Frederick II sent a legation headed by Thaddaeus of Suessa. Many bishops and prelates were unable to attend the council because they had been prevented by the invasions of the Tartars in the east or the attacks of the Saracens in the holy Land, or because Frederick II had intimidated them (especially the Sicilians and Germans). Thus, it was that the four chief parties of the council were the French and probably the Spanish, English and Italian. In the *three sessions* which were held during the council (*26 June, 5 and 17 July*) the fathers, not without hesitation and dispute, had to treat especially of Frederick II. There seems to have been a bitter conflict between Innocent IV on the one side and Thaddaeus of Suessa on the other. The sources, especially the *Brevis nota* and Matthew Paris, tell us clearly about the nature of the discussion and the determined attitude of the pope, who induced the council to depose the emperor at the session on 17 July 1245, a matter that appeared unprecedented to the fathers themselves. The council on this question shows us clearly the critical position reached by the medieval theory and practice of ruling a christian state, which rested on a double order of authority.

In the same session of 17 July, the council also approved some strictly legal constitutions and others on usury, the Tartars and the Latin east. But the council, unlike the previous councils of the Middle Ages, did not approve canons concerning the reform of the church and the condemnation of heresy. Enthusiasm for the Gregorian reform movement seems to have died down completely. The council, however, concerned

itself with promoting and confirming the general canonical legislation for religious life.

*The transmission of the text of the constitutions is involved and still partly obscure. Only in recent times has it been realised that the authentic and definitive drawing up of the constitutions, and their promulgation, took place after the council.* This collection consists of 22 constitutions, all of which are of a legal nature, and was sent to the universities by Innocent IV on 25 August 1245 (Coll. I). A second collection of 12 decrees was published by Innocent IV on 21 April 1246 (Coll. II). A final collection (Coll. I + II and 8 other decrees) was issued on 9 September 1253 (Coll. III), and was included (except for const. 2) in Liber Sextus in 1298. Coll. I, however, is not identical with the constitutions of the council. For in it can be found neither the condemnation of Frederick II, which seems to have been the chief matter of the council, nor the five constitutions pertaining to the important questions introduced by Innocent IV at the opening of the council, namely those concerned with the Tartars, the Latin east and the crusades.

Stephen Kuttner has shown that the constitutions have been transmitted to us through three versions: the conciliar version (= M), known principally from the chronicle of Matthew of Paris (const. 1-19, and the const. on the crusade corresponding to R 17); the intermediate version (= R), known from the register of Innocent IV (const. 1-17, of which const. 1-12 correspond to M 1-10); and the definitive version (= Coll. I), containing two constitutions (18 and 22) which are absent from the other versions, but lacking the constitutions not directly concerned with the law (R 13-17).

Indeed, the origins of the constitutions must be placed before the council, as is shown by an earlier version of constitutions M 13, 15 and 19, antedating the council. Evidently the council fathers were discussing matters which had already been partly worked out, and it was somewhat

later that the constitutions acquired their more accurate and definite legal form.

The constitutions taken from Matthew Paris were edited in Bn[1] III/2 (1606) 1482-1489. Those from the register of Innocent IV were edited in Rm IV (1612) 73-78. All later editions followed Rm. However, I. H. Boehmer and Msi[1] 2 (1748) 1073-1098 (afterwards in Msi 23 (1779) 651-674) printed Coll. III. in addition. Coll. I, as such, has never been edited; but there exists both an indirect transmission (Coll. I + II, Coll. III, Liber Sextus) and a direct, single-family transmission through eight manuscript codices: Arras, Bibl. Municipale 541; Bratislava, formerly Cathedral Library, 13; Innsbruck, Universitaetsbibl., 70, fos. 335v-338v (= I); Kassel, Landesbibl., Iur. fol. 32; Munich, Bayerische Staatsbibl., Lat. 8201e, fos. 219v-220r, and Lat. 9654; Trier, Stadtbibl., 864; Vienna, Nationalbibl., 2073, fos. 238v-242v (= W).

Our edition of the constitutions tries to give all the documents truly belonging to the council. Coll. I has been taken as the base, and variants from M and R are set out in the critical apparatus. The text of Coll. I has been established from codices I and W, which we have seen in microfilm. With regard to M, the edition of H.R. Luard has been used. With regard to R, we have examined directly the register of Innocent IV. We think, moreover, that the last five constitutions in R (13-17, 17 is also in M and Annales de Burton) should also be included among the constitutions of the council, even though they were not included in Coll. I. We have printed the text of these five constitutions from the register of Innocent IV; as regards const. 17 we have also compared M and Annales de Burton (=Bu).

We think that the bull of deposition of the emperor Frederick II must be considered a statute of the council, and we place this in front of the constitutions. The transmission of the text of the bull is involved, and the editions are very faulty. There are three copies of the bull: Vatican Archives, AA. Arm. I-XVIII, 171 (= V); Paris, Archives Nationales, L

245 no. 84 (= P); Lyons, Archives du Rhone, Fonds du chap. primat., Arm. Cham. vol. XXVII no. 2 (= L). Of these only V has been published. Other transcriptions of the bull are given in the register of Innocent IV, in some chronicles (Matthew of Paris, Annals of Plasencia, Annals of Melrose), in collections of decretals, and in some more recent publications (Bzovius). Our edition takes as its base V, P and L.

{The headings are added by the hypertext editor. Endnotes are given in parenthesis {}. They should be noted for variant readings and numberings.}

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## **Bull Deposing The Emperor Frederick II**

Innocent {1}, bishop, servant of the servants of God, in the presence of the holy council, for an everlasting record.

Raised, though unworthy, to the highest point of the apostolic dignity, by the will of the divine majesty, we ought to exercise a watchful, diligent and wise care of all Christians, to examine with close attention the merits of individuals and to weigh them in the balance of prudent deliberation, so that we may raise by suitable favours those whom a rigorous and just examination shows to be worthy, and depress the guilty with due penalties, weighing always the merit and the reward in a fair scale, repaying to each the amount of penalty or favour according to the nature of his work. Indeed since the terrible conflict of war has afflicted some countries of the christian world for a long time, as we desired with our whole heart the peace and tranquillity of the holy church of God and of all the christian people in general, we thought that we should send special ambassadors, men of great authority, to {2} the secular prince who was the special cause of this discord and suffering. He was the man whom our predecessor of happy memory, Pope Gregory {3}, had bound by anathema because of his excesses. The ambassadors we sent, men eager for his salvation, were our venerable brethren Peter of Albano {4}, at that

time bishop of Rouen, William of Sabina {5}, at that time bishop of Modena, and our beloved son William {6}, cardinal-priest of the basilica of the Twelve Apostles and at that time abbot of Saint Facundus. Through them we proposed to him, because we and our brethren desired to have peace with him and with all people, as far as lay in our power, that we were ready to grant peace and tranquillity to him and also to the rest of the whole world.

Because the restitution of the prelates, clerics and all others whom he kept in captivity, and of all both clerics and laymen whom he had taken in the galleys<sup>7</sup>, could especially lead the way to peace, we asked and begged him through our said ambassadors to set these prisoners free. This both he and his envoys had promised before we had been called to the apostolic office. Further we informed him that our ambassadors were ready on our behalf to hear and treat of peace, and even of satisfaction, should the emperor be ready to make it with regard to all those things for which he had incurred excommunication; and besides to offer him that if the church had injured him in anything contrary to justice-though it did not believe it had done so -- it was ready to put it to rights and restore the proper position. If he said that he had harmed the church in nothing unjustly, or that we had harmed him contrary to justice, we were ready to call the kings, prelates and princes, both ecclesiastical and lay, to some safe place where either by themselves or by official representatives they might come together, and that the church was ready on the advice of the council to satisfy him if in anything it had harmed him, and to recall the sentence of excommunication if it had been brought unjustly against him, and with all clemency and mercy, in so far as it could be done without offence to God and its own honour, to receive satisfaction from him for the injuries and wrongs done to the church itself and its members through him.

The church also wished to secure peace for his friends and supporters and the enjoyment of full security, so that for this reason they should never incur any danger. But though in our relations with him, for the sake of

peace, we have always taken care to rely on paternal admonitions and gentle entreaty, yet he, following the hardness of Pharaoh and blocking his ears like an asp, with proud obstinacy and obstinate pride has despised such prayers and admonitions. Furthermore on the Maundy Thursday previous to that which has just passed, in our presence and that of our brother cardinals, and in the presence of our dear son in Christ, the illustrious emperor of Constantinople {8}, and of a considerable gathering of prelates, before the senate and people of Rome and a very large number of others, who on that day because of its solemnity had come to the apostolic see from different parts of the world, he guaranteed on oath, through the noble count Raymond of Toulouse, and Masters Peter de Vineia and Thaddaeus of Suessa, judges of his court, his envoys and proctors who had in this matter a general commission, that he would keep our commands and those of the church. However afterwards he did not fulfil what he had sworn. Indeed it is likely enough that he took the oath, as can be clearly gathered from his following actions, with the express intention of mocking rather than obeying us and the church, since after more than a year he could not be reconciled to the bosom of the church, nor did he trouble to make satisfaction for the losses and injuries he had caused it, even though he was asked to do this. For this reason, as we are unable without giving offence to Christ to bear any longer his wickedness, we are compelled, urged on by our conscience, justly to punish him.

To say nothing about his other crimes, he has committed four of the greatest gravity, which cannot be hidden by evasion. For, he has often failed to keep his oath; he deliberately broke the peace previously established between the church and the empire; he committed a sacrilege by causing the arrest of cardinals of the holy Roman church and of prelates and clerics of other churches, both religious and secular, who were coming to the council which our predecessor had decided to summon; he is also suspect of heresy, by proofs which are not light or doubtful but clear and inescapable.

It is clear that he has often been guilty of perjury. For, once when he was staying in Sicily, before he had been elected to the dignity of emperor, in the presence of Gregory of happy memory, cardinal deacon of Saint Theodore {9} and legate of the apostolic see, he took an oath of loyalty to our predecessor Pope Innocent<sup>10</sup> of happy memory and his successors and the Roman church, in return for the grant of the kingdom of Sicily made to him by this same church. Likewise, as is said, after he had been elected to that same dignity and had come to Rome, in the presence of Innocent and his brother cardinals and before many others, he renewed that oath, making his pledge of homage in the pope's hands. Then, when he was in Germany he swore to the same Innocent, and on his death to our predecessor Pope Honorius {11} of happy memory and his successors and the Roman church itself, in the presence of the princes and nobles of the empire, to preserve as far as was in his power, the honours, rights and possessions of the Roman church, and loyally to protect them, and without difficulty to see to the restoration of whatever came into his hands, expressly naming the said possessions in the oath: afterwards he confirmed this when he had gained the imperial crown. But he has deliberately broken these three oaths, not without the brand of treachery and the charge of treason. For against our predecessor Gregory and his brother cardinals, he has dared to send threatening letters to these cardinals, and in many ways to slander Gregory before his brother cardinals, as is clear from the letters which he then sent to them, and almost throughout the whole world, as it is said, he has presumed to defame him.

He also personally caused the arrest of our venerable brother Otto {12}, bishop of Porto, at that time cardinal deacon of Saint Nicholas in Carcere Tulliano, and James of happy memory, bishop of Palestrina {13}, legates of the apostolic see, noble and important members of the Roman church. He had them stripped of all their goods, and after more than once being led shamefully through different places, committed to prison. Furthermore this privilege which our lord **Jesus Christ handed to Peter**



**and in him to his successors**, namely, whatever you bind on earth shall be bound in heaven, and whatever you loose on earth shall be loosed in heaven, in which assuredly consists **the authority and power of the Roman church**, he did his best to diminish or take away from the church itself, writing that he did not fear Pope Gregory's condemnations. For, not only by despising the **keys of the church** he did not observe the sentence of excommunication pronounced against him, but also by himself and his officials he prevented others from observing that and other sentences of excommunication and interdict, which he altogether set at nought. Also without fear he seized territories of the said Roman church, namely the Marches, the Duchy, Benevento, the walls and towers of which he has caused to be demolished, and others with few exceptions in parts of Tuscany and Lombardy and certain other places which he holds, and he still keeps hold of them. And as if it were not enough that he was clearly going against the aforesaid oaths by such presumption, either by himself or through his officials he has forced the inhabitants of these territories to break their oath, absolving them in fact, since he cannot do it in law, from the oaths of loyalty by which they were bound to the Roman church, and making them nonetheless forswear the said loyalty and take an oath of loyalty to himself.

It is absolutely clear that he is the violator of the peace. For, previously at a time when peace had been restored between himself and the church, he took an oath before the venerable John of Abbeville {14}, bishop of Sabina, and Master Thomas {15}, cardinal priest of the title of Saint Sabina, in the presence of many prelates, princes and barons, that he would observe and obey exactly and without reserve all the commands of the church with regard to those things for which he had incurred excommunication, after the reasons of that excommunication had been set out in order before him. Then, when remitting every sanction and penalty to the Teutonic knights, the inhabitants of the kingdom of Sicily and any others who had supported the church against him, he guaranteed on his soul through Thomas, count of Acerra, that he would never wrong them

or cause them to be wronged on the ground that they had supported the church. But he did not keep the peace and violated these oaths without any sense of shame that he was guilty of perjury. For afterwards he caused some of these very men, both nobles and others, to be captured; and after stripping them of all their goods, he had their wives and children imprisoned; and contrary to the promise he had made to bishop John of Sabina and cardinal Thomas, he invaded the lands of the church without hesitation, even though they promulgated in his presence that henceforth he would incur sentence of excommunication if he broke his promise. And when these two ecclesiastics, by their apostolic authority, ordered that neither by himself nor through others should he hinder postulations, elections or confirmations of churches and monasteries in the kingdom of Sicily from being held freely in future according to the statutes of the general council; that henceforth nobody in the same kingdom should impose taxes or collections on ecclesiastical persons or their property; that in the same kingdom no cleric or ecclesiastical person should in future be brought before a lay judge in a civil or criminal case, except for a suit in civil law over feudal rights; and that he should make adequate compensation to the **Templars, Hospitallers** and other ecclesiastical persons for the loss and injury inflicted upon them; he nevertheless refused to obey these commands.

It is clear that in the kingdom of Sicily eleven or more archiepiscopal and many episcopal sees, abbasies and other churches are at present vacant, and through his agency, as is patent, these have long been deprived of prelates, to their own grave loss and the ruin of souls. And though perhaps in some churches of the kingdom elections have been held by chapters, since however they have elected clerics who are Frederick's dependants, it can be concluded in all probability that they did not have a free power of choice. Not only has he caused the possessions and goods of churches in the kingdom to be seized at his pleasure, but also the crosses, thuribles, chalices and other sacred treasures of theirs, and silk cloth, to be carried off, like one who sets at nought divine worship, and although it is said that

they have been restored in part to the churches, yet a price was first exacted for them. Indeed clerics are made to suffer in many ways by collections and taxes, and not only are they dragged before a lay court but also, as it is asserted, they are compelled to submit to duels and are imprisoned, killed and tortured to the disturbance and insult of the clerical order. Satisfaction has not been made to the said Templars, Hospitallers and ecclesiastical persons for the loss and injury done to them.

It is also certain that he is guilty of sacrilege. For when the aforesaid bishops of Porto and Palestrina, and many prelates of churches and clerics, both religious and secular, summoned to the apostolic see to hold the council which Frederick himself had previously asked for, were coming by sea, since the roads had been entirely blocked at his command, he stationed his son Enzo with a large number of galleys and, by means of many others duly placed long beforehand, he laid an ambush against them in the parts of Tuscany on the coast; and so that he might vomit forth in more deadly fashion the poison which had long gathered within him, by an act of sacrilegious daring he caused them to be captured; during their seizure some of the prelates and others were drowned, a number were killed, some were put to flight and pursued, and the rest were stripped of all their possessions, ignominiously led from place to place to the kingdom of Sicily, and there harshly imprisoned. Some of them, overcome by the filth and beset by hunger, perished miserably.

Furthermore, he has deservedly become suspect of heresy. For, after he had incurred the sentence of excommunication pronounced against him by the aforesaid John, bishop of Sabina, and cardinal Thomas, after the said pope Gregory had laid him under anathema, and after the capture of cardinals of the Roman church, prelates, clerics and others coming at different times to the apostolic see; he has despised and continues to despise the **keys of the church**, causing the sacred rites to be celebrated or rather, as far as in him lies, to be profaned, and he has consistently asserted, as said above, that he does not fear the condemnations of the

aforesaid pope Gregory. Besides, he is joined in odious friendship with the **Saracens**; several times he has sent envoys and gifts to them, and receives the like from them in return with expressions of honour and welcome; he embraces their rites; he openly keeps them with him in his daily services; and, following their customs, he does not blush to appoint as guards, for his wives descended from royal stock, eunuchs whom it is seriously said he has had castrated. And what is more loathsome, when he was in the territory overseas, after he had made an agreement, or rather had come to a wicked understanding with the sultan, he allowed the name of Mahomet to be publicly proclaimed day and night in the Lord's temple. Recently, after the sultan of Babylon and his followers had brought serious loss and untold injury to the holy Land and its christian inhabitants, he caused the envoys of the sultan to be honourably received and lavishly entertained throughout the kingdom of Sicily with, it is said, every mark of honour being paid to the sultan. Using the deadly and hateful service of other unbelievers against the faithful, and securing a bond by friendship and marriage with those who, wickedly making light of the apostolic see, have separated from the unity of the church, he brought about by assassins the death of the famous duke Ludwig of Bavaria {16}, who was specially devoted to the Roman church, with disregard of the christian religion, and he gave his daughter in marriage to Vatatzes {17}, that enemy of God and the church who, together with his counsellors and supporters, was solemnly separated by excommunication from the communion of the faithful.

Rejecting the customs and actions of christian princes and heedless of salvation and reputation, he gives no attention to works of piety. Indeed to say nothing of his wicked acts of destruction, though he has learnt to oppress, he does not care mercifully to relieve the oppressed, and instead of holding out his hand in charity, as befits a prince, he sets about the destruction of churches and crushes religious and other ecclesiastical persons by constant affliction. Nor is he seen to have built churches, monasteries, hospitals or other pious places. Surely these are not light but

convincing proofs for suspecting him of heresy? The civil law declares that those are to be regarded as heretics, and ought to be subject to the sentences issued against them, who even on slight evidence are found to have strayed from the judgment and path of the catholic religion. Besides this the kingdom of Sicily, which is the special patrimony of blessed **Peter** and which Frederick held as a fief from the apostolic see, he has reduced to such a state of utter desolation and servitude, with regard to both clergy and laity, that these have practically nothing at all; and as nearly all upright people have been driven out, he has forced those who remain to live in an almost servile condition and to wrong in many ways and attack the Roman church, of which in the first place they are subjects and vassals. He could also be rightly blamed because for more than nine years he has failed to pay the annual pension of a thousand gold pieces, which he is bound to pay to the Roman church for this kingdom.

We therefore, after careful discussion with our brother cardinals and the sacred council on his wicked transgressions already mentioned and many more besides, since though unworthy **we hold on earth the place of Jesus Christ**, and to us in the person of the blessed apostle **Peter** has been said, whatever you bind on earth etc., denounce the said prince, who has made himself so unworthy of the empire and kingdoms and every honour and dignity and who also, because of his crimes, has been cast out by God from kingdom and empire; we mark him out as bound by his sins, an outcast and deprived by our Lord of every honour and dignity; and we deprive him of them by our sentence. We absolve from their oath for ever all those who are bound to him by an oath of loyalty, firmly forbidding by our apostolic authority anyone in the future to obey or heed him as emperor or king, and decreeing that anyone who henceforth offers advice, help or favour to him as to an emperor or king, automatically incurs excommunication. Let those whose task it is to choose an emperor in the same empire, freely choose a successor to him. With regard to the aforesaid kingdom of Sicily, we shall take care to provide, with the counsel of our brother cardinals, as we see to be expedient.

Given at Lyons on 17 July in the third year of our pontificate.

## **CONSTITUTIONS**

### **1. On rescripts**

Since in many articles of law failure to define their scope is blameworthy, after prudent consideration we decree that by the general clause “certain others” which frequently occurs in papal letters, no more than three or four persons are to be brought to court. The petitioner should state the names in his first citation, lest by chance a place is left for fraud if the names can be freely altered {18}.

### **2. {19} Those to whom cases should be entrusted**

By {20} the present decree we ordain that the apostolic see or its legates should not entrust cases to any persons except those who possess a dignity or belong to cathedrals or other collegiate churches of high standing; and such cases are to be conducted only in cities or large and well-known places where are to be found many men learned in the law. Judges who, contrary to this statute, cite either one or both parties to other places may be disobeyed without penalty, unless the citation takes place with the consent of both parties.

### **3. {21} Curtailing legal expenses**

As we wish, to the best of our power, to curtail the expenses of lawsuits by shortening the legal process, extending the decree of Innocent III of happy memory on this matter, we decree that if anyone wishes to bring several personal claims against another, he must be careful to gain letters on all these claims to the same judges and not to different ones. If anyone acts contrary to this, his letters and the processes initiated by them are to lack all validity; besides if he has caused inconvenience to the defendant by them, he is to be condemned to pay the legal expenses. Also if the defendant during the course of the same trial declares that he has a charge against the plaintiff, he ought, through benefit either of reconvention or of

convention, if he prefers to obtain letters against him, to have his case tried before the same judges, unless he can reject them as being suspect. If he acts contrary to this, he should suffer the same penalty.

#### **4. {22} On challenging elections etc.**

We decree that if anyone attacks an election, postulation or provision already made, bringing some objection to the form or the person, and should happen to appeal to us in this matter, both the objector and the defendant, and in general all those who are concerned and whom the case affects, either by themselves or by their procurators instructed for the case, should make their way to the apostolic see within a month of the lodging of the objection. But if one party {23} does not come after twenty days, and the other party has arrived and is waiting, the case about the election may proceed according to law, notwithstanding the absence of anyone. We wish and command that this is to be observed in dignities parsonages and canonries. We {24} also add that anyone who does not fully prove the objection he has brought regarding the form, shall be condemned to pay the expenses which the other party claims to have incurred on this account. But anyone who fails to prove his objection against the person, should know that he is suspended from ecclesiastical benefices for three years, and if within that time he continues to act with similar reckless conduct, that by the law itself he is deprived of these benefices for ever, and he is to have no hope or confidence of mercy in this matter, unless it is established by the clearest proof that a probable and sufficient cause excuses him from a malicious accusation.

#### **5. {25} Only unconditional votes valid**

In {26} elections, postulations and ballots, from which the right of election arises, we completely disapprove of conditional, alternative and indefinite votes, and we decree that the said votes are to be held invalid, and that the election is to be determined by unconditional votes; for the power of decision of those who do not express a clear opinion is transferred to the others {27}.

## **6. {28} Jurisdiction of conservators**

We decree that conservators, whom we frequently appoint, may defend from manifest injury and violence those whom we entrust to their protection, but that their power does not extend to other matters which require a judicial investigation.

## **7. {29} Legates and benefices**

We are required by our office to watch for remedies for our subjects, because while we relieve their burdens and remove their stumbling blocks, so we rest in their ease and enjoy their peace. Therefore, we enact by the present decree that legates of the Roman church, however much they hold the full power of legates whether they have been sent by us or claim the dignity of that office on behalf of their own churches, have no power from the office of legate of conferring benefices, unless we have judged that this is specially to be granted to a particular one. We do not, however, wish this restriction to hold with our brother cardinals while acting as legates, because just as they rejoice in a prerogative of honour, so we wish them to exercise a wider authority.

## **8. {30} Judge delegates**

The law seems to be clear that a judge delegate, unless he has received a special concession for the purpose from the apostolic see, cannot order either of the parties to appear in person before him, unless it be a criminal case or, in order to obtain a statement of the truth or an oath regarding calumny, the necessity of the law demands that the parties appear before him.

## **9. {31} On peremptory exceptions**

The objection of a peremptory exception or of any major defence concerning the trial of a case, raised before the contestation of the suit, shall not prevent or hold up the contestation, unless the objector makes an exception concerning a matter already judged or concluded or brought to



a solution, even though the objector says that the rescript would not have been granted if the grantor had been aware of the things which are adverse to the plaintiff.

## **10. {32} The objection of robbery**

We are well aware of the frequent and persistent complaint that the exception of robbery, sometimes maliciously introduced in trials, hinders and confuses ecclesiastical cases. For while the exception is admitted, sometimes appeals are introduced. Thus, the hearing of the chief case is interrupted and often comes to nothing. Thus, we who are ever ready to take labours upon ourselves so that we may win peace for others, wishing to limit lawsuits and to remove material for malicious accusations, decree that in civil suits a judge is not to hold up the proceedings of the major issue on account of an objection of robbery brought by anyone except the plaintiff. But if the defendant declares in civil suits that he has been robbed by the plaintiff, or in criminal cases by anyone at all, then he must prove his assertion within fifteen days after the day on which the claim is put forward; otherwise he is to be condemned to pay the expenses which the plaintiff has incurred on this account, after a judicial estimate has been made, or let him be punished otherwise if the judge thinks right. By the word “robbed” we wish to be understood in this case a criminal accusation whereby someone declares that he has been stripped by violence of all his substance or a greater part of it. This we think is the only honest interpretation of the canons, for we ought not to meet our opponents either naked or without arms. For the one stripped has the advantage that he cannot be stripped again. Among the schoolmen the matter is debated, whether one who has been robbed by a third party can bring an exception against his accuser, or whether a time should be granted him by the judge within which he should ask for restitution, lest perchance he should wish to continue in this state in order to evade every accuser, and this we think is fully according to justice. If he does not seek restitution within the time granted, or does not bring his case to a conclusion even though he could

do so, then he can be accused regardless of the exception of robbery. In addition to this we decree that robbery of private goods cannot in any way be brought up against one for ecclesiastics or vice versa.

#### **11. {33} No-show plaintiffs**

A plaintiff who does not take the trouble to come on the date for which he has caused his appeal to be cited, should be condemned on his arrival to pay the expenses incurred by the defendant on account of this, and he is not to be admitted to another citation unless he gives a sufficient surety that he will appear on the date.

#### **12. {34} On early possession for the sake of preservation**

We decree that a person who, in order to obtain a dignity, parsonage or ecclesiastical benefice, brings a suit against the possessor, may not be admitted to possession of it for the sake of its preservation, on the grounds of the other's contumacy; this is to prevent his entering upon it from appearing irregular. But in this case the divine presence may make up for the absence of the contumacious one, so that though the suit is not opposed, the matter may be brought to the proper conclusion after a careful examination.

#### **13. {35} On the acceptability of negative assertions**

We decree that negative assertions, which can only be proved by the admission of the opponent, may be accepted by the judges if they see this to be expedient in the interests of equity.

#### **14. {36} The exception of major excommunication**

After due consideration our holy mother the church decrees that the exception of a major excommunication should hold up the suit and delay the agents, in whatever part of the proceedings it is produced. Thus ecclesiastical censure will be the more feared, the danger of communion avoided, the vice of contumacy checked, and those excommunicated, while they are excluded from the acts of the community, may the more

easily be brought, through a sense of shame, to the grace of humility and reconciliation. But with the growth of human evil what was provided as a remedy has turned to harm. For while in ecclesiastical cases this exception is frequently brought up through malice, it happens that business is delayed and the parties worn out by toil and expense. Therefore, since this has crept in like a general plague, we think it right to apply a general remedy. Thus if anyone brings up the objection of excommunication, he should set out the kind of excommunication and the name of the person who imposed the penalty. He must know that he is bringing the matter into public notice, and he must prove it with the clearest evidence within eight days, not counting the day on which he brings it forward. If he does not prove it, the judge should not fail to proceed in the case, condemning the accused to repay the sum which the plaintiff shows he has incurred, after an estimate has been made. If however later, while the hearing continues and the proof is progressing, an exception is made either with regard to the same excommunication or another and is proved, the plaintiff is to be excluded from the proceedings until he has deserved to gain the grace of absolution, and all that has gone before shall nevertheless be regarded as valid; provided that this exception is not put forward more than twice, unless a new excommunication has arisen or a clear and ready proof has come to light concerning the old. If such an exception is brought forward after the case has been decided though it will prevent the execution it will not weaken the verdict, with the qualification that, if the plaintiff has been publicly excommunicated, and the judge knows this at any time, then even if the accused shall not make an exception on this score, the judge should not delay in removing the plaintiff from his office.

### **15. {37} On Judges Who Give Dishonest Judgment**

Since before the judgment seat of the eternal king a person will not be held guilty when a judge unjustly condemns him, according to the words of the prophet, the Lord will not condemn him when he is judged, ecclesiastical judges must take care and be on the watch that in the process

of justice dislike has no power, favour does not take an undue place, fear is banished, and reward or hope of reward does not overturn justice. Let them bear the scales in their hands and weigh with an equal balance, so that in all that is done in the court, especially in forming and giving the verdict, they may have God only before their eyes following the example of him who when entering the tabernacle referred the complaints of the people to the Lord to judge according to his command. If any ecclesiastical judge, whether ordinary or delegated, careless of his reputation and seeking his own honour, acts against his conscience and justice in any way to the injury of one party in his judgment, whether from favour or from base motives, let him know that he is suspended from the exercise of his office for a year and he is to be condemned to pay to the injured party the damages incurred; further, let him know that if during the period of his suspension he sacrilegiously takes part in the sacred rites of the church, he is caught in the noose of irregularity according to the canonical sanctions, from which he can be freed only by the apostolic see, saving the other constitutions which assign and inflict punishment on judges who give dishonest judgment. For it is right that he who dares to offend in so many ways should suffer a multiple penalty.

## **16. {38} On appeals**

It is our earnest wish to lessen lawsuits and to relieve subjects of their troubles. Therefore we decree that if anyone thinks that he should appeal to us in a court of law or outside it because of an interlocutory decree or a grievance, let him at once put in writing the reason for his appeal, seeking a writ which we order to be granted him. In this writ the judge is to declare the reason for the appeal, and why the appeal has not been granted or whether it was granted out of respect for a superior. After this let time be granted to the appellant, according to distance and the nature of the persons and the business, to follow up his appeal. If the appellee wishes it and the principals petition for it, let them approach the apostolic see, either by themselves or through agents who have been instructed and given a

commission to act, bringing with them the reasons and documents relating to the case. Let them come so prepared that if it seems good to us, when the matter of the appeal has been dealt with or committed to the parties for agreement, the principal case may proceed, insofar as it can and should by law; without however any change in what tradition has ordained about appeals from definitive sentences. If the appellant does not observe the above provisions, he is not to be reckoned an appellant and he must return to the examination of the former judge, and is to be condemned to pay the legitimate expenses. If the appellee disregards this statute, he shall be proceeded against as contumacious, as regards both the costs and the case, in so far as this is allowed by the law. Indeed it is right that the laws should raise their hands against someone who mocks the law, judge and litigant.

#### **17. {39} On the same**

When reasonable grounds for suspicion have been noted against a judge, and arbitrators have been chosen by the parties according to the form of law to investigate it, it often happens that when the two arbitrators fail to agree and do not summon a third one, with whom both or one of them can proceed to settle the matter as they are obliged, the judge brings a sentence of excommunication against them, which they through dislike or favour for long disregard. Thus the case itself, interrupted more than it should be, does not proceed to a settlement of the principal business. As it is our wish therefore to apply a necessary remedy for a disease of this nature, we decree that a fitting time-limit should be fixed by the judge for the two arbitrators, so that within it they may either agree or by consent summon a third one, with whom both or one of them may put an end to the suspicion. Otherwise the judge thenceforth shall proceed in the principal business.

#### **18. {40} On employing assassins**

The son of God, Jesus Christ, for the redemption of the human race descended from the height of heaven to the lowest part of the world and underwent a temporal death. But when after his resurrection he was about

to ascend to his Father, that he might not leave the flock redeemed by his glorious blood without a shepherd, he entrusted its care to the blessed apostle **Peter**, so that by the firmness of his own faith he might strengthen others in the christian religion and kindle their minds with the ardour of devotion to the works of their salvation. Hence, we who by the will of our Lord, though without merit of our own, have been made successors of this apostle and hold on earth, though unworthy, the place of our Redeemer, should always be careful and vigilant in the guarding of that flock and be forced to direct our thoughts continuously to the salvation of souls by removing what is harmful and doing what is profitable. Thus, casting off the sleep of negligence and with the eyes of our heart ever vigilant, we may be able to win souls to God with the cooperation of his grace. Since therefore there are people who with a terrible inhumanity and loathsome cruelty thirst for the death of others and cause them to be killed by assassins, and thus bring about not only the death of the body but also of the soul, unless the abundant divine grace prevents it, we wish to meet such danger to souls, so that the victims may be defended beforehand by spiritual arms and all power may be bestowed by God for justice and the exercise of right judgment, and to strike those wicked and reckless people with the sword of ecclesiastical punishment, so that the fear of punishment may set a limit to their audacity. We do so especially since some persons of high standing, fearing to be killed in such a way, are forced to beg for their own safety from the master of these assassins, and thus so to speak to redeem their life in a way that is an insult to christian dignity. Therefore, with the approval of the sacred council, we decree that if any prince, prelate or any ecclesiastical or secular person shall cause the death of any Christian by such assassins, or even command it -- even though death does not follow from this-or receives, defends or hides such persons, he automatically incurs the sentence of excommunication and of deposition from dignity, honour, order, office and benefice, and these are to be conferred on others by those who have the right to do so. Let such a one with all his worldly goods be cast out for ever by all christian people as

an enemy of religion, and after it has been established by reasonable evidence that so loathsome a crime has been committed, no other sentence of excommunication, deposition or rejection shall in any way be needed.

### **19. {41} On excommunication 1**

Since the aim of excommunication is healing and not death, correction and not destruction, as long as the one against whom it is pronounced does not treat it with contempt, let an ecclesiastical judge proceed with caution, so that in pronouncing it he may be seen as one who acts with a correcting and healing hand. Whoever pronounces an excommunication, therefore, should do this in writing and should write down expressly the reason why the excommunication was pronounced. He is bound to hand over a copy of this written document to the one excommunicated within a month after the date of sentence, if requested to do so. As to this request, we wish a public document to be drawn up or testimonial letters to be furnished, sealed with an official seal. If any judge rashly violates this constitution, let him know that he is suspended for one month from entering a church or attending divine services. The superior to whom the one excommunicated has recourse, should readily remove the excommunication and condemn the judge who pronounced it to repay the expenses and all losses, or punish him in other ways with a fitting penalty, so that judges may learn by the lesson of punishment how serious it is to hurl the bolt of excommunication without due consideration. We wish the same to be observed in sentences of suspension and interdict. Let prelates of churches and all judges take care that they do not incur the foresaid penalty of suspension. But if it happens that they take part in divine offices as before, they will not escape irregularity according to the canonical sanctions, in a matter where dispensation cannot be granted except by the sovereign pontiff.

### **20. {42} On excommunication 2**

The question is sometimes asked whether, when a person who asks to be absolved by a superior by way of precaution, asserting that the sentence

of excommunication pronounced against him is void, the act of absolution should be performed for him without objection; and whether one who declares before such absolution that he will prove in a court of law that he was excommunicated after a legitimate appeal, or that an intolerable mistake was clearly expressed in the sentence, should be avoided in all things except in what concerns the proof. To the first question we decree that the following is to be observed: absolution is not to be refused to the petitioner, even though the pronouncer of the sentence or the adversary opposes it, unless he says that the petitioner was excommunicated for a manifest offence, in which case a limit of eight days is to be granted to the one saying this. If he proves his objection, the sentence is not to be set aside unless there is sufficient guarantee of amendment or an adequate assurance that the petitioner will appear in court if the offence with which he is charged is still doubtful. To the second question, we decree that he who is allowed to submit a proof, as long as the matter of proof is in dispute, is to be avoided in all matters in the court in which he is engaged as an agent, but outside the court he may take part in offices, postulations, elections and other lawful acts.

### **21. {43} On excommunication 3**

We decree {44} that no judge should presume to pronounce, before a canonical warning, a sentence of major excommunication upon persons who associate, in speech or other ways by which an associate incurs a minor excommunication, with persons already excommunicated by the judge; saving those decrees which have legitimately been promulgated against those who presume to associate with one condemned for grievous crime. But if the excommunicated person becomes hardened in speech or other ways by which an associate incurs a minor excommunication, the judge can, after canonical warning, condemn such associates with a similar censure. Otherwise excommunication pronounced against these associates is not to have any binding power, and those who pronounce it may fear the penalty of the law.



## **22. {45} On excommunication 4**

Since there is danger that bishops and their superiors in the execution of their pontifical office, which is often their duty, may incur in some case an automatic sentence of interdict or suspension, we have thought it right, after careful consideration, to decree that bishops and other higher prelates in no way incur, because of any decree, sentence or order, the aforesaid sentence by reason of the law itself, unless there is express mention in them of bishops and superiors. In the constitution *Solet a nonnullis*, previously promulgated by us, it is laid down that when someone offers in court to prove that a sentence of excommunication was passed against him after a legitimate appeal, he is not to be avoided during the period of proof in matters which lie outside the court, such as elections, postulations and offices. To this we add that this constitution should not be extended to the sentences of bishops and archbishops, but what was previously observed in such actions should be observed in the future for these too.

### **1. {46} Management of church debts**

Our pastoral care incites and urges us to look to the interest of those churches which have fallen into debt, and to provide by a salutary constitution that this should not happen for the future. The abyss of usury has almost destroyed many churches, and some prelates are found to be very careless and remiss in the payment of debts, especially those contracted by their predecessors, too ready to contract heavier debts and mortgage the property of the church, slothful in guarding what has been acquired, and preferring to win praise for themselves by making some small innovation than to guard their possessions, recover what has been thrown away, restore what is lost and repair damage. For this reason, so that they may not be able for the future to excuse themselves for an inefficient administration and to throw the blame on their predecessors and others, we lay down the following rules, with the approval of the present council. Bishops, abbots, deans and others who exercise a lawful and common administration, within one month after they have assumed

office, having first informed their immediate superior, so that he may be present either in person or through some suitable and faithful ecclesiastical person, in the presence of the chapter or convent especially summoned for this purpose, must see that an inventory is made of the goods that belong to the administration they have taken up. In this the movable and immovable goods, books, charters, legal instruments, privileges, ornaments or fittings of the church, and all things which belong to the equipment of the estate, whether urban or rural, as well as debts and credits, are to be carefully written down.

Thus, what was the condition of the church or the administration when they took it up, how they governed it during their incumbency, and what was its state when they laid it down by death or withdrawal, may be clearly known to the superior, if necessary, and those who are appointed for the service of the church. Archbishops who have no superior except the Roman pontiff, are to see to it that for this purpose they summon one of their suffragans, either in person or through another, as is expressed above, and abbots and other lesser exempt prelates, a neighbouring bishop, who is to claim no right for himself in the exempt church. The said inventory is to be furnished with the seals of the new incumbent and his chapter, and of the archbishop's suffragan or the neighbouring bishop called for the purpose. It is to be preserved in the archives of the church with due safeguards. Moreover a transcript of this inventory is to be given to both the new incumbent and the prelate summoned for the above purpose, and is to be similarly sealed. Existing goods are to be carefully guarded, their administration carried out in a worthy manner, and the debts which have been found are to be speedily paid, if possible, from the movable possessions of the church. If these movable goods are not sufficient for a speedy payment, all revenues are to be directed to the payment of **debts that are usurious** or burdensome; only necessary expenses are to be deducted from these revenues, after a reasonable estimate has been made by the prelate and his chapter. But if the debts are not burdensome or usurious, a third part of these revenues is to be set aside

for this obligation, or a greater part with the agreement of those whom we have said must be summoned to take the inventory.

Further we strictly forbid, with the authority of the same council, those mentioned above to mortgage to others their persons or the churches entrusted to them, or to contract debts on behalf of themselves or the churches which may be a source of trouble. If evident necessity and the reasonable advantage of their churches should persuade them, then prelates with the advice and consent of their superiors, and archbishops and exempt abbots with the advice and consent of those already mentioned and of their chapter, may contract debts which, if possible, are not usurious and which are never in fairs or public markets. The names of the debtors and creditors and the reason why the debt was contracted are to be included in the written contract, even if it is turned to the advantage of the church, and for this purpose we wish that in no way ecclesiastical persons or churches should be given as security. Indeed the privileges of churches, which we command should be faithfully guarded in a safe place, are never to be given as securities, nor are other things, except for necessary and useful debts contracted with the full legal forms mentioned above.

That this salutary constitution should be kept unbroken, and the advantage which we hope from it may be clearly seen, we consider that we must lay down by an inviolable decree that all abbots and priors as well as deans and those in charge of cathedrals or other churches, at least once a year in their chapters, should render a strict account of their administration, and a written and sealed account should be faithfully read out in the presence of the visiting superior. Likewise archbishops and bishops are to take care each year to make known to their chapters with due fidelity the state of administration of the goods belonging to their households, and bishops to their metropolitans, and metropolitans to the legates of the apostolic see, or to others to whom the visitation of their churches has been assigned by the same see. Written accounts are always to be kept in the treasury of the

church for a record, so that in the accounts a careful comparison can be made between future years and the present and past; and the superior may learn from this the care or negligence of the administration. Let the superior requite any negligence, keeping God only before his eyes and putting aside love, hate and fear of humans, with such a degree and kind of correction that he may not on this account receive from God or his superior or the apostolic see condign punishment. We order that this constitution is to be observed not only by future prelates but also by those already promoted.

## **2. {47} On help for the empire of Constantinople**

Though we are engaged in difficult matters and distracted by manifold anxieties, yet among those things which demand our constant attention is the liberation of the empire of Constantinople. This we desire with our whole heart, this is ever the object of our thoughts. Yet though the apostolic see has eagerly sought a remedy on its behalf by earnest endeavour and many forms of assistance, though for long Catholics have striven by grievous toils, by burdensome expense, by care, sweat, tears and bloodshed, yet the hand that extended such aid could not wholly, hindered by sin, snatch the empire from the yoke of the enemy. Thus not without cause we are troubled with grief. But because the body of the church would be shamefully deformed by the lack of a loved member, namely the aforesaid empire, and be sadly weakened and suffer loss; and because it could rightly be assigned to our sloth and that of the church, if it were deprived of the support of the faithful, and left to be freely oppressed by its enemies; we firmly propose to come to the help of the empire with swift and effective aid. Thus at the same time as the church eagerly rises to its assistance and stretches out the hand of defence, the empire can be saved from the dominion of its foes, and be brought back by the Lord's guidance to the unity of that same body, and may feel after the crushing hammer of its enemies the consoling hand of the church its mother, and after the blindness of error regain its sight by the possession

of the catholic faith. It is the more fitting that prelates of churches and other ecclesiastics should be watchful and diligent for its liberation, and bestow their help and assistance, the more they are bound to work for the increase of the faith and of ecclesiastical liberty, which could chiefly come about from the liberation of the empire; and especially because while the empire is helped, assistance is consequently rendered to the holy Land.

Indeed, so that the help to the empire may be speedy and useful, we decree, with the general approval of the council, that half of all incomes of dignities parsonages and ecclesiastical prebends, and of other benefices of ecclesiastics who do not personally reside in them for at least six months, whether they hold one or more, shall be assigned in full for three years to the help of the said empire, having been collected by those designated by the apostolic see. Those are exempt who are employed in our service or in that of our brother cardinals and of their prelates, those who are on pilgrimages or in schools, or engaged in the business of their own churches at their direction, and those who have or will take up the badge of the cross for the aid of the holy Land or who will set out in person to the help of the said empire; but if any of these, apart from the crusaders and those setting out, receive from ecclesiastical revenues more than a hundred silver marks, they should pay a third part of the remainder in each of the three years. This is to be observed notwithstanding any customs or statutes of churches to the contrary, or any indulgences granted by the apostolic see to these churches or persons, confirmed by oath or any other means. And if by chance in this matter any shall knowingly be guilty of any deceit, they shall incur the sentence of excommunication.

We ourselves, from the revenues of the church of Rome, after first deducting a tenth from them to be assigned to the aid of the holy Land, will assign a tenth part in full for the support of the said empire. Further, when help is given to the empire, assistance is given in a very particular way and directed to the recovery of the holy Land, while we are striving for the liberation of the empire itself. Thus trusting in the mercy of

almighty God and the authority of his blessed apostles **Peter and Paul**, from the power of binding and loosing which he conferred upon us though unworthy, we grant pardon of their sins to all those who come to the help of the said empire, and we desire they may enjoy that privilege and immunity which is granted to those who come to the help of the holy Land.

### **3. {48} Admonition to be made by prelates to the people in their charge**

In the belief that it is forever our native country, from times long past all the children of the church have not only poured out countless sums of money but have also freely shed their blood to recover the holy Land, which the Son of God has consecrated with the shedding of his own blood. This we learn, sad at heart, from what has happened across the sea where the unbelievers fight against the faithful. Since it is the special prayer of the apostolic see that the desire of all for the redemption of the holy Land may, if God so wills, be speedily accomplished, we have made due provision, in order to win God's favour, to arouse you to this task by our letter. Therefore, we earnestly beg all of you, commanding you in our lord Jesus Christ, that by your pious admonitions you should persuade the faithful committed to your care, in your sermons or when you impose a penance upon them, granting a special indulgence, as you see it to be expedient, that in their wills, in return for the remission of their sins, they should leave something for the help of the holy Land or the eastern empire. You are carefully to provide that what they give for this support by way of money, through reverence of our crucified Lord, is faithfully preserved in definite places under your seal, and that what is bequeathed for this purpose in other forms is accurately recorded in writing. May your own devotion carry out this work of piety, in which the only aim is God's cause and the salvation of the faithful, so readily that with full assurance you may look at least for the reward of glory from the hand of the divine judge.

#### 4. {49} On the Tartars

Since we desire above all things that the christian religion should be spread still further and more widely throughout the world, we are pierced with the deepest sorrow when any people by aim and action go against our wishes, and strive with all their might to blot out utterly this religion from the face of the world. Indeed the wicked race of the Tartars, seeking to subdue, or rather utterly destroy the christian people, having gathered for a long time past the strength of all their tribes, have entered Poland, Russia, Hungary and other christian countries. So savage has been their devastation that their sword spared neither sex nor age, but raged with fearful brutality upon all alike. It caused unparalleled havoc and destruction in these countries in its unbroken advance; for their sword, not knowing how to rest in the sheath, made other kingdoms subject to it by a ceaseless persecution. As time went on, it could attack stronger christian armies and exercise its savagery more fully upon them. Thus when, God forbid, the world is bereaved of the faithful, faith may turn aside from the world to lament its followers destroyed by the barbarity of this people. Therefore, so that the horrible purpose of this people may not prevail but be thwarted, and by the power of God be brought to the opposite result, all the faithful must carefully consider and ensure by their earnest endeavour that the Tartar advance may be hindered and prevented from penetrating any further by the power of their mailed arm. Therefore, on the advice of the holy council, we advise, beg, urge and earnestly command all of you, as far as you can, carefully to observe the route and approaches by which this people can enter our land, and by ditches, walls or other defences and fortifications, as you think fitting, to keep them at bay, so that their approach to you may not easily be open. Word of their arrival should previously be brought to the apostolic see. Thus we may direct the assistance of the faithful to you, and thus you may be safe against the attempts and raids of this people. For to the necessary and useful expenses which you should make for that purpose, we shall contribute handsomely, and we shall see that contributions are made in

proportion by all christian countries, for in this way we may meet common dangers. Nevertheless, in addition to this, we shall send similar letters to all Christians through whose territories this people could make its approach.

## **5 [On the crusade]{50}]{51}**

Deeply sorrowful at the grievous dangers of the holy Land, but especially at those which have recently happened to the faithful settled there, we seek with all our heart to free it from the hands of the wicked. Thus with the approval of the sacred council, in order that the crusaders may prepare themselves, we lay it down that at an opportune time, to be made known to all the faithful by preachers and our special envoys, all who are ready to cross the sea should gather at suitable places for this purpose, so that they may proceed from there with the blessing of God and the apostolic see to the assistance of the holy Land. Priests and other clerics who will be in the christian army, both those under authority and prelates, shall diligently devote themselves to prayer and exhortation, teaching the crusaders by word and example to have the fear and love of God always before their eyes, so that they say or do nothing that might offend the majesty of the eternal king. If they ever fall into sin, let them quickly rise up again through true penitence. Let them be humble in heart and in body, keeping to moderation both in food and in dress, avoiding altogether dissensions and rivalries, and putting aside entirely any bitterness or envy, so that thus armed with spiritual and material weapons they may the more fearlessly fight against the enemies of the faith, relying not on their own power but rather trusting in the strength of God. Let nobles and the powerful in the army, and all who abound in riches, be led by the holy words of prelates so that, with their eyes fixed on the crucified one for whom they have taken up the badge of the cross, they may refrain from useless and unnecessary expenditure, especially in feasting and banquets, and let them give a share of their wealth to the support of those persons through whom the work of God may prosper; and on this account,



according to the dispensation of the prelates themselves, they may be granted remission of their sins. We grant to the aforesaid clerics that they may receive the fruits of their benefices in full for three years, as if they were resident in the churches, and if necessary they may leave them in pledge for the same time.

To prevent this holy proposal being impeded or delayed, we strictly order all prelates of churches, each in his own locality, diligently to warn and induce those who have abandoned the cross to resume it, and them and others who have taken up the cross, and those who may still do so, to carry out their vows to the Lord. And if necessary they shall compel them to do this without any backsliding, by sentences of excommunication against their persons and of interdict on their lands, excepting only those persons who find themselves faced with an impediment of such a kind that their vow deservedly ought to be commuted or deferred in accordance with the directives of the apostolic see. In order that nothing connected with this business of Jesus Christ be omitted, we will and order patriarchs, archbishops, bishops, abbots and others who have the care of souls to preach the cross zealously to those entrusted to them. Let them beseech kings, dukes, princes, margraves, counts, barons and other magnates, as well as the communes of cities, vills and towns -- in the name of the Father, Son and holy Spirit, the one, only, true and eternal God -- that those who do not go in person to the aid of the holy Land should contribute, according to their means an appropriate number of fighting men together with their necessary expenses for three years, for the remission of their sins, in accordance with what has already been explained in general letters and will be explained below for still greater assurance. We wish to share in this remission not only those who contribute ships of their own but also those who are zealous enough to build them for this purpose. To those who refuse, if there happen to be any who are so ungrateful to our lord God, we firmly declare in the name of the apostle that they should know that they will have to answer to us for this on the last day of final judgment before the fearful judge. Let them

consider beforehand, however, with what knowledge and with what security it was that they were able to confess before the only-begotten Son of God, Jesus Christ, to whom the Father gave all things into his hands, if in this business, which is as it were peculiarly his, they refuse to serve him who was crucified for sinners, by whose beneficence they are sustained and indeed by whose blood they have been redeemed.

We therefore decree, with the general approval of the council, that all clerics, both those under authority and prelates, shall give a twentieth of the revenues of their churches for a full three years to the aid of the holy Land, by means of the persons appointed by the apostolic see for this purpose; the only exceptions being certain religious who are rightly to be exempted from this taxation and likewise those persons who have taken or will take the cross and so will go in person. We and our brothers, cardinals of the holy Roman church, shall pay a full tenth. Let all know, moreover, that they are obliged to observe this faithfully under pain of excommunication, so that those who knowingly deceive in this matter shall incur the sentence of excommunication. Because it is right that those who persevere in the service of the heavenly ruler should in all justice enjoy special privilege, the crusaders shall therefore be exempt from taxes or levies and other burdens. We take their persons and goods under the protection of St **Peter** and ourself once they have taken up the cross. We ordain that they are to be protected by archbishops, bishops and all prelates of the church of God, and that protectors of their own are to be specially appointed for this purpose, so that their goods are to remain intact and undisturbed until they are known for certain to be dead or to have returned. If anyone dares to act contrary to this, let him be curbed by ecclesiastical censure.

If any of those setting out are bound by oath to pay interest, we ordain that their creditors shall be compelled by the same punishment to release them from their oath and to desist from exacting the interest; if any of the creditors does force them to pay the interest, we command that he be

forced by similar punishment to restore it. We order that Jews be compelled by the secular power to remit interest, and that until they do so all intercourse shall be denied them by all Christ's faithful under pain of excommunication. Secular princes shall provide a suitable deferral for those who cannot now pay their debts to Jews, so that after they have undertaken the journey, and until there is certain knowledge of their death or of their return, they shall not incur the inconvenience of paying interest. The Jews shall be compelled to add to the capital, after they have deducted their necessary expenses, the revenues which they are meanwhile receiving from property held by them on security. For, such a benefit seems to entail not much loss, inasmuch as it postpones the repayment but does not cancel the debt. Prelates of churches who are negligent in showing justice to crusaders and their families should know that they will be severely punished. Furthermore, since corsairs and pirates greatly impede help for the holy Land, by capturing and plundering those who are travelling to and from it, we bind with the bond of excommunication them and their principal helpers and supporters. We forbid anyone, under threat of anathema, knowingly to communicate with them by contracting to buy or to sell; and we order rulers of cities and their territories to restrain and curb such persons from this iniquity. Otherwise, since to be unwilling to disquiet evildoers is none other than to encourage them, and since he who fails to oppose a manifest crime is not without a touch of secret complicity, it is our wish and command that prelates of churches exercise ecclesiastical severity against their persons and lands. We excommunicate and anathematise, moreover, those false and impious Christians who, in opposition to Christ and the christian people, convey {52} arms and iron and timber for galleys; and we decree that those who sell them galleys or ships, and those who act as pilots in pirate Saracen ships, or give them any help or advice by way of machines or anything else, to the detriment of the holy Land, are to be punished with deprivation of their possessions and are to become the slaves of those who capture them. We order this sentence to be renewed publicly on Sundays and feast-days in all maritime

towns; and the bosom of the church is not to be opened to such persons unless they send in aid of the holy Land all that they received from this damnable commerce and the same amount of their own, so that they are punished in proportion to their sins. If perchance they do not pay, they are to be punished in other ways in order that through their punishment others may be deterred from venturing upon similar rash actions. In addition, we prohibit and on pain of anathema forbid all Christians, for four years, to send or take their ships across to the lands of the Saracens who dwell in the east, so that by this a greater supply of shipping may be made ready for those wanting to cross over to help the holy Land, and so that the aforesaid Saracens may be deprived of the not inconsiderable help which they have been accustomed to receiving from this.

Although tournaments have been forbidden in a general way on pain of a fixed penalty at various councils, we strictly forbid them to be held for three years, under pain of excommunication, because the business of the crusade is much hindered by them at this present time. Because it is of the utmost necessity for the carrying out of this business that rulers and christian peoples keep peace with each other, we therefore ordain, on the advice of this holy and general synod, that peace be generally kept in the whole christian world for four years, so that those in conflict shall be brought by the prelates of churches to conclude a definitive peace or to observe inviolably a firm truce. Those who refuse to comply shall be most strictly compelled to do so by an excommunication against their persons and an interdict on their lands, unless the malice of the wrongdoers is so great that they ought not to enjoy peace. If it happens that they make light of the church's censure, they may deservedly fear that the secular power will be invoked by ecclesiastical authority against them, as disturbers of the business of him who was crucified.

We therefore, trusting in the mercy of almighty God and in the authority of the blessed apostles **Peter and Paul**, do grant, by the power of binding and loosing that God has conferred upon us, albeit unworthy, unto all

those who undertake this work in person and at their own expense, full pardon for their sins about which they are heartily contrite and have spoken in confession, and we promise them an increase of eternal life at the recompensing of the just. To those who do not go there in person but send suitable men at their own expense, according to their means and status, and likewise to those who go in person but at others' expense, we grant full pardon for their sins. We grant to share in this remission, according to the amount of their help and the intensity of their devotion, all who shall contribute suitably from their goods to the aid of the said Land or who give useful advice and help regarding the above. Finally, this holy and general synod imparts the benefit of its prayers and blessings to all who piously set out on this enterprise in order that it may contribute worthily to their salvation.

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## ENDNOTES

1. Pope Innocent IV
2. F(rederick) added in P
3. Pope Gregory IX (1227-1241)
4. Peter of Colmeiu, cardinal 1244-1253
5. William of Savoy, cardinal 1244-1251
6. William of Talliante, cardinal 1244-1250
7. On 3 May 1241
8. Baldwin II, Latin emperor in the east (d. 1261)
9. Gregory of Crescentio, cardinal 1205-1226
10. Pope Innocent III (1198-1216)
11. Honorius III (1216-1227)
12. Otto of Montferrat, cardinal 1227-1251
13. James of Pecoraria, cardinal 1231-1244
14. John Halgrin, cardinal 1227-1238
15. Thomas de Episcopo, cardinal 1216-1243
16. Ludwig I, duke of Bavaria (1183-1231)

17. John III Vatatzes, Greek emperor in the east (1222-1254)
18. The petitioner ... altered omitted in M.
19. const. 4 in M, 2 in R
20. In the conduct of cases uncertainty is insidious, and the renown of persons and places is very advantageous. Therefore by added in M.
21. const. 6 in M, 8 in R
22. const. 11 in M, omitted in R
23. the party which appealed W
24. const. 12 in M, omitted in R
25. const. 9 in M, 3 in R
26. Since legitimate acts are not tied to particular days and conditions by a legal sanction, and among legitimate acts the election of bishops is important, since by it the electors and the one elected are bound together by the ties of a spiritual marriage added in M.
27. for ... others omitted in M.
28. const. 10/11 in M, 4 in R
29. const. 13 in M, omitted in R
30. const. 7 in M, 5 in R.
31. const. 3 in M, 6 in R
32. const. 14 in M, omitted in R
33. const. 5 in M, 7 in R.
34. const. 2 in M, 9 in R.
35. const. 8 in M, 10 in R.
36. const. 15 in M, omitted in R
37. const. 16 in M, omitted in R
38. const. 17 in M, omitted in R
39. const. 11 in R, omitted in M
40. const. 22 in W, omitted in M R
41. const. 18 in M W, omitted in R
42. const 19 in M W, omitted in R
43. const. 1 in M, 12 in R, 20 in W

44. Judges damnably abuse an ecclesiastical censure when they use it rashly to try to expel innocent persons from the bosom of mother church on account of someone else's fault; thereby the persons illegally named are not harmed, and the censure is said to fall on the issuer on account of his misuse of the keys. Wishing to prevent such rashness we ordain by this decree added in M.
45. const 21 in W, omitted in M R
46. const. 13 in R, omitted in others
47. const. 14 in R, omitted in others
48. const. 15 in R, omitted in others
49. const. 16 in R, omitted in others
50. omitted in R
51. const 17 in R, omitted in others
52. to the Saracens added in M Bu.

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Translation taken from *Decrees of the Ecumenical Councils*, ed. Norman P. Tanner