

Second Council of Lyons

Summary

In 1274 **Blessed Pope Gregory X** called the Second Council of Lyons, which teemed with 15 cardinals, 500 prelates and well over a thousand clerics and dignitaries including **Saint Bonaventure**. Another great Doctor of the Church, **Saint Thomas Aquinas** passed to his Heavenly reward enroute to the Council. This Council's main docket was the attempt to reunite with the Eastern Church, but it was only temporary and the schism grew wider after the solidification of the Dogmatic *Filioque* in which it was reaffirmed emphatically that the **Holy Ghost** proceeds from both the **Father** and the **Son**. Also addressed were regulations for Papal election and how to recover Palestine from the Turks

Introduction

After the death of Pope Clement IV (29 November 1268) almost three years passed before the cardinals were able to elect a new pope, Gregory X (1 September 1271). The political aspect of Europe in those times was undergoing great change. The popes themselves in their struggles with the German emperors had sought help from various states and had placed Charles of Anjou on the throne of Sicily. This long conflict, which the popes fought in order to protect their freedom and immunity, had finally upset the traditional system of government in Christendom. This system depended on two institutions, the papacy and the empire. In the East, moreover, the emperor Michael VIII Palaeologus had captured Constantinople in 1261 and brought the Latin empire there to an end.

Since the state of affairs was undoubtedly complex and difficult, Gregory X had conceived a very broad plan involving the whole christian world. In this plan the eastern question was of the highest importance. The pope sought to conclude a treaty with Michael VIII Palaeologus and to unite the eastern and western churches. For if the churches were united and the strength of all christian peoples were combined, the problem of the holy

Land could be resolved and the Roman church could flourish with fresh authority and influence in the western states.

Gregory X, therefore, when he convoked the general council on 31 March 1272, outlined three themes: union with the Greeks, the crusade, and the reform of the church. Regarding the third theme, which was not only traditional in medieval councils but was also required by the actual state of ecclesiastical morals, the pope in March 1273 sought the opinion of all christian people and asked for their help. Some reports sent to him for this purpose are still extant. After long preparatory arrangements the council assembled at Lyons and opened on 7 May 1274. Probably there were present about 300 bishops, 60 abbots and a large number of other clergy, many of whom apparently were theologians (Thomas Aquinas died while on his journey to Lyons), as well as king James of Aragon and the delegates sent by the rulers of France, Germany, England and Sicily. The Greeks arrived late, on 24 June, since they had been shipwrecked. Meanwhile a delegation of Tartars had also arrived. Although the number of participants does not seem to have been especially large, the whole christian world was present either in person or through representatives, and it was evident that the council, as Gregory X had wished, was universal and ecumenical.

The council had six general sessions: on 7 and 18 May, 4 or 7 June, 6, 16 and 17 July. In the fourth session the union of the Greek church with the Latin church was decreed and defined, this union being based on the consent which the Greeks had given to the claims of the Roman church. In the last session the dogmatic constitution concerning the procession of the holy Spirit was approved, this question having been a cause of disagreement between the two churches. The union however appears to have been imposed, on the Greek side by the emperor Michael VIII. He wanted the support of the pope in order to deter Charles of Anjou from an attack on the Byzantine empire, while the majority of the Greek clergy opposed the union. The union was therefore fleeting, either because in the

East the clergy steadily resisted it, or because the popes after Gregory X changed their plan of action.

The weakness of the union with the Greeks also rendered a crusade impossible. Gregory X won the approval of the principal states of Europe for the undertaking and was able, in the second session, to impose heavy taxes (a tenth for six years) in order to carry it out (const. *Zelus fidei*, below pp. 309-314). The council however merely decided to engage in the crusade; no start was made at getting things done and the project came to nothing. Moreover Gregory died soon afterwards (10 January 1276), and he was not sufficiently influential or powerful to bring to a conclusion his plans for church and state.

With regard to the reform of the church, Gregory complained in the council's last session that discussion had not been sufficient to pass any definite decree. However, he was able to bring about that certain constitutions relating to the parish should be delegated to the curia. For the rest, some constitutions concerning church institutions were approved in various sessions. The most important one prescribed that a pope should be elected by the college of cardinals assembled in conclave (const. 2); constitution 23 attempts to adjust relations between secular clerics and religious; constitutions 26-27 treat of usury; and others treat of particular questions about the reform of morals and of the church.

There are at least two redactions (conciliar and post-conciliar) of the council's constitutions, as S. Kuttner has shown. In the second session the fathers had approved the decree *Zelus fidei*, which was rather a collection of constitutions about the holy Land, the crusade, the war against Saracens and pirates, and the order and procedure to be observed in the council (here for the first time the nations appear as ecclesiastical parts of a council). Next, twenty-eight constitutions were approved in the following sessions: const. 3-9, 15, 19, 24, 29-30 in the third, const. 2, 10-12, 16-17, 20-22, 25-28, 31 in the fifth, const. 1, 23 in the sixth session. The pope promulgated a collection of the council's constitutions on 1 November

1274, sent this to the universities with the bull *Cum nuper*, and informed all the faithful in the encyclical *Infrascriptas*. In this collection, however, three of the thirty-one constitutions are post-conciliar (const. 13-14, 18). These concern the parish, on which subject the pope and the council fathers had decided in the last session of the council that some decrees should be made later on. Moreover the constitution *Zelus fidei* is missing from the collection, perhaps because it contained no juridical statutes of universal validity; and the other constitutions had been subjected to the examination of the curia and emended, notably as far as we know const. 2 on the conclave and const. 26-27 On usury.

The collection of constitutions promulgated by Gregory X was incorporated into Boniface VIII's *Liber Sextus* (1298). It also survives, together with the encyclical *Infrascriptas*, in Gregory X's register (=R), on which we have based our text. The conciliar redaction, however, is known only in part. The constitution *Zelus fidei* was discovered first by H. Finke in an Osnabruck codex (=O), and then by S. Kuttner, without its beginning, in a Washington codex (=W), it is also extant in three English cartularies, which we have not examined; our edition relies on the transcriptions of Finke (=F) and Kuttner (=K). The other constitutions of the conciliar redaction we know only from W and, as regards const. 2, from eight scrolls containing the approval of the council fathers for this constitution (Vatican Archives, AA. arm. I-XVIII, 2187-2194 = V I-8). We therefore give the conciliar redaction on the basis of V and W; but W is very incomplete, having only 20 constitutions (const. 2-8, 9 mutilated, 10-12 16-17, 20, 22-23, 25-27, 31), and is full of errors. As the best solution at this intermediate stage, we therefore give the constitution *Zelus fidei* (below pp. 309-314) separately from the post-conciliar collection (below pp. 314-331), and we note in the critical apparatus the latter the variant readings of the conciliar redaction. In the main editions of the council's acts only the collection of constitutions promulgated by Gregory X is to be found; all these editions depend on Rm (4, 95-104), which is taken from R (R was edited later by Guiraud).

CONSTITUTIONS [I]

[1a]. Zeal for the faith, fervent devotion and compassionate love ought to rouse the hearts of the faithful, so that all who glory in the name of Christian grieved to the heart by the insult to their redeemer, should rise vigorously and openly in defence of the holy Land and support for God's cause. Who, filled with the light of the true faith and thinking over with filial affection the marvellous favours conferred on the human race by our saviour in the holy Land, would not burn with devotion and charity, and sorrow deeply with that holy Land, portion of the Lord's inheritance? Whose heart will not soften with compassion for her, from so many proofs of love given in that land by our creator? Alas! the very land in which the Lord deigned to work our salvation and which, in order to redeem humanity by payment of his death, he has consecrated by his own blood, has been boldly attacked and occupied over a long period by the impious enemies of the christian name, the blasphemous and faithless Saracens. They not only rashly retain their conquest, but lay it waste without fear. They slaughter savagely the christian people there to the greater offence of the creator, to the outrage and sorrow of all who profess the catholic faith. "Where is the God of the Christians?" is the **Saracens'** constant reproach, as they taunt them. Such scandals, which neither mind can fully conceive nor tongue tell, inflamed our heart and roused our courage so that we who from experience overseas have not only heard of those events but have looked with our eyes and touched with our hands, might rise to avenge, as far as we can, the insult to the crucified one. Our help will come from those afire with zeal of faith and devotion. Because the liberation of the holy Land should concern all who profess the catholic faith, we convoked a council, so that after consultation with prelates, kings, princes and other prudent men, we might decide and ordain in Christ the means for liberating the holy Land. We also proposed to lead back the Greek peoples to the unity of the church; proudly striving to divide in some way the Lord's seamless tunic, they withdrew from devotion and obedience to the apostolic see. We purposed also a reform

of morals, which have become corrupt owing to the sins of both clergy and people. In everything we have mentioned he to whom nothing is impossible will direct our acts and counsels; when he wills, he makes what is difficult easy, and levelling by his power the crooked ways, makes straight the rough going. Indeed, in order the more readily to effect our plans, having regard to the risks from wars and dangers of journeys for those whom we judged should be summoned to the council, we did not spare ourself and our brothers but rather sought hardships so that we might arrange rest for others. We came to the city of Lyons with our brothers and curia, believing that in this place those summoned to the council might meet with less exertion and expense. We came undertaking various dangers and troubles, running many risks, to where all those summoned to the council were assembled, either in person or through suitable representatives. We held frequent consultations with them about help for the holy Land, and they, zealous to avenge the insult to the Saviour, thought out the best ways to succour the said Land and gave, as was their duty, advice and insight. [I b].

Having listened to their advice, we rightly commend their resolutions and praiseworthy enthusiasm for the liberation of that Land. Lest, however, we seem to lay on others' shoulders heavy burdens, hard to bear, which we are unwilling to move with our finger, we begin with ourself; declaring that we hold all we have from God's only-begotten Son, Jesus Christ, by whose gift we live, by whose favour we are sustained, by whose blood even we have been redeemed. We and our brothers, the cardinals of the holy Roman church, shall pay fully for six successive years a tenth of all our ecclesiastical revenues, fruits and incomes for the aid of the holy Land. With the approval of this sacred council, we decree and ordain that for the said six years, beginning from the next feast of the birthday of blessed John the Baptist, all ecclesiastical persons of whatever rank or pre-eminence, condition, order, or religious state or order-and we wish none to invoke for themselves and their churches any privileges or indults, in whatever form of words or expression these were granted, rather we

recall completely those we have granted till now--shall pay wholly and without any reduction a tenth of all ecclesiastical revenues, fruits and incomes of each year in the following way: that is, half on the feast of the Lord's birth and the other half on the feast of blessed John the Baptist. In order to observe more carefully the reverence due to him whose undertaking this is, in himself and in his saints and especially in the glorious Virgin whose intercession we ask in this and in our other needs, and in order that there may be a fuller subsidy for the holy Land, we order that the constitution of Pope Gregory our predecessor of happy memory against blasphemers be inviolably observed. The fines prescribed in this constitution are to be exacted in full through the authorities of the place where blasphemy is committed, and through others who exercise temporal jurisdiction there. Coercive measures, if necessary, are to be taken through diocesan and other local ordinaries. The money is to be assigned to the collectors for the subsidy. Moreover, we strictly command confessors who hear confessions by ordinary jurisdiction or by privilege to prompt and enjoin on their penitents to give the said money to the holy Land in full satisfaction for their sins; and they should persuade those making wills to leave, in proportion to their means, some of their goods for aid to the holy Land. We direct also that in each church there should be placed a box fitted with three keys, the first to be kept in the possession of the bishop, the second in that of the priest of the church, the third in that of some conscientious lay person. The faithful are to be instructed to place their alms, as the Lord inspires them, in this box for the remission of their sins. Mass is to be sung publicly in the churches once a week, on a certain day to be announced by the priest, for the remission of such sins and especially of those offering alms. Besides these measures, to provide more assistance for the holy Land, we exhort and urge kings and princes, marquises, counts and barons, magistrates, governors and other secular leaders to arrange that in the lands subject to their jurisdiction each of the faithful pays a coin to the value of a tournois or of one sterling in accordance with the customs or circumstances of the region, and they

should order a further small tax of no burden to anyone for the remission of sins; these contributions are to be made each year in aid of the holy Land, so that just as nobody may excuse himself from compassion for the wretched state of the holy Land, nobody may be dismissed from contributing or shut out from meriting. Also, lest these prudent arrangements concerning the subsidy to the holy Land be hindered by anyone's fraud or malice or craft, we excommunicate and anathematise one and all who knowingly offer hindrance, directly or indirectly, publicly or secretly, to the payment, as described above, of the tithes in aid of the holy Land.

Furthermore, since corsairs and pirates greatly impede those travelling to and from that Land, by capturing and plundering them, 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 sell. We also order rulers of cities and their territories to restrain and curb such persons from this iniquity; otherwise it is our wish that prelates of churches exercise ecclesiastical severity in their land. We excommunicate and anathematise, moreover, those false and impious Christians who, in opposition to Christ and the christian people, convey to the Saracens arms and iron, which they use to attack Christians and timber for their galleys and other ships; 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 Christians and especially 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 six 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 considerable help which they have been accustomed to receiving from this. 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, with the approval of this holy and general synod, that peace be generally kept in the whole world among Christians, so that those in conflict shall be led by the prelates of churches to observe inviolably for six years a definitive agreement or peace or a firm truce. Those who refuse to comply shall be most strictly compelled to do so by a sentence of 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 of crossing the sea to aid the holy Land, in person and at their own expense, full pardon for their sins about which they are truly and 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 wish to grant to share in this remission, according to the nature 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, and all who make available their own ships for the help of the holy Land or who undertake to build ships for this purpose. Finally, this dutiful and holy 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 to their salvation. [Id].

Not to us but to the Lord we give glory and honour; let us also thank him that to so sacred a council a very great number of patriarchs, primates, archbishops, bishops, abbots, priors provosts, deans, archdeacons and other prelates of churches, both personally and by suitable procurators, and the procurators of chapters, colleges and convents, have assembled at our call. However, although for the happy pursuit of so great an enterprise their advice would be useful, and their presence as beloved sons is so delightful, filling us in a certain way with spiritual joy, there are difficulties for some as to staying on. Various inconveniences result from their great number; we do not wish them to suffer any longer the squeezing of the enormous crowd; and their absence may be harmful to them and their churches. A certain prudent love moves us to decide with our brothers' advice how to lighten the burden of these representatives, while pursuing our object no less ardently or zealously. We therefore have decided that all patriarchs, primates, archbishops, bishops, abbots and priors whom we summoned specially and by name are to remain, they are not to depart without our special leave before the council ends. The other non-mitred abbots and priors and the other {1} abbots and priors, who were not summoned by us specially and by name, and the provosts, deans, archdeacons and other prelates of churches, and the procurators of any prelates, chapters, colleges and convents, have our gracious leave to depart with the blessing of God and our own. We commission all who so depart to leave enough procurators, as described below, to receive our commands and both the decrees of our present council and any other decrees that may, with God's inspiration, be issued in the future. Thus, all so departing are to leave behind the following adequate number of procurators: namely, four from the realm of France, four from the realm

of Germany, four from the realms of the Spains, four from the realm of England one from the realm of Scotland {2} , two from the realm of Sicily, two from Lombardy, one from Tuscany, one from the states of the church, one from the realm of Norway, one from the realm of Sweden, one from the realm of Hungary {3} , one from the realm of Dacia, one from the realm of Bohemia, one from the duchy of Poland. Furthermore {4} , it has come to our ears that some archbishops, bishops and other prelates, when they were summoned by us to the council, asked an excessive contribution from their subjects and committed great extortion, imposing heavy taxes on them. Some of these prelates, although they made great exactions, did not come to the council. Since it neither was nor is our intention that prelates in coming to the council should associate the virtue of obedience with the oppression of their subjects, we admonish prelates one and all with great firmness, that none may presume to use the council as a pretext for burdening his subjects with taxes or exactions. If in fact some prelates have not come to the council and have made demands on the pretext of coming, it is our will and precise command that they make restitution without delay. Those however who have oppressed their subjects, demanding excessive contributions, should take care to make amends to them without creating difficulties, and so fulfil our commands that we do not have to apply a remedy by our authority.

ENDNOTES

{1} non-mitred ... other omitted in W

{2} one from the realm of Scotland omitted in W

{3} tow from the realm of Sicily ... Hungary omitted in o.

{4} Furthermore ... by our authority omitted in O.

CONSTITUTIONS [II]

1. On the supreme Trinity and the Catholic Faith {5}

1. We profess faithfully and devotedly that the holy Spirit proceeds eternally from the Father and the Son, not as from two principles, but as from one principle; not by two spirations, but by one single spiration. This the holy Roman church, mother and mistress of all the faithful, has till now professed, preached and taught; this she firmly holds, preaches, professes and teaches; this is the unchangeable and true belief of the orthodox fathers and doctors, Latin and Greek alike. But because some, on account of ignorance of the said indisputable truth, have fallen into various errors, we, wishing to close the way to such errors, with the approval of the sacred council, condemn and reprove all who presume to deny that the holy Spirit proceeds eternally from the Father and the Son, or rashly to assert that the holy Spirit proceeds from the Father and the Son as from two principles and not as from one.

2. On election and the power of the elected person {6}

2. {7} Where there is greater danger, there must certainly be greater foresight. We learn from the past how heavy are the losses sustained by the Roman church in a long vacancy, how perilous it is; we see this all too clearly when we wisely consider the crises undergone. Reason therefore openly challenges us, while we devote ourselves skilfully to the reform of lesser evils, certainly not to leave without appropriate remedy those of greater danger. We judge therefore that everything wisely instituted by our predecessors and especially by Pope Alexander III of happy memory, for avoiding discord in the election of the Roman pontiff, should remain altogether intact. We intend in no way to detract from this legislation, but to supply by the present constitution what experience has shown to be missing.

With the approval of the sacred council {8} , we decree that if the pope dies in a city where he was residing with his curia, the cardinals present

in that city are obliged to await the absent cardinals, but for ten days only. When these days have passed, whether those absent have arrived or not, all are to assemble in the palace where the pope lived. Each is to be content with one servant only, clerical or lay, at choice. We allow however those in evident need to have two, with the same choice. In this palace all are to live in common in one room, with no partition or curtain. Apart from free entry to a private room, the conclave is to be completely locked, so that no one can enter or leave. No one may have access to the cardinals or permission to talk secretly with them, nor are they themselves to admit anyone to their presence, except those who, by consent of all the cardinals present, might be summoned only for the business of the imminent election. It is not lawful for anyone to send a messenger or a written message to the cardinals or to any one of them. Whoever acts otherwise, sending a messenger or a written message, or speaking secretly to one of the cardinals, is to incur automatic excommunication. In the conclave some suitable window is to be left open through which the necessary food may be served conveniently to the cardinals, but no entry for anyone is to be possible through this way.

If, which God forbid, within three days after the cardinals have entered the said conclave, the church has not been provided with a shepherd, they are to be content for the next five days, every day both at dinner and supper, with one dish only. If these days also pass without the election of a pope, henceforth only bread, wine and water are to be served to the cardinals until they do provide a pope. While the election is in process, the cardinals are to receive nothing from the papal treasury, nor any other revenue coming from whatever source to the church while the see is vacant. Everything during this period remains in the custody of him to whose faithfulness and care the treasury has been entrusted, to be kept by him for the disposal of the future pope. Those who have accepted something are obliged from then on to abstain from receiving any of the revenues due to them until they have made full restitution of what they have accepted in this way. The cardinals are to devote their time so carefully to hastening the election as to occupy themselves with no other business whatever unless perhaps there occurs such an urgent necessity as

the defence of the states of the church or some part of them, or there be threat of such a great and evident danger that it seems to each and all the cardinals present, by general consent, that they should quickly counteract it.

Of course, if one of the cardinals does not enter the conclave, which we have described above, or having entered leaves without evident cause of illness, the others, without in any way searching for him and without re-admitting him to the election, may proceed freely to elect the next pope. If in fact, owing to sudden illness, one of them leaves the conclave, the election may proceed without the need for his vote, even while the illness lasts. But if after regaining his health or even before, he wishes to return, or even if other absentees, for whom a wait of ten days should be made as we have said, come on the scene while the election is still undecided, that is, before the church has been provided with a shepherd, they are to be admitted to the election in the state in which they find it; they are to keep the rules with the others as regards enclosure, servants, food and drink and everything else.

If the Roman pontiff happens to die outside the city in which he resided with his curia, the cardinals are obliged to assemble in the city in whose territory or district the pontiff died, unless perhaps the city lies under interdict or persists in open rebellion against the Roman church. In which case they are to meet in another city, the nearest which is neither under interdict nor openly rebellious. In this city also, the same rules about waiting for absentees, living together, enclosure and everything else, in the episcopal palace or any other residence specified by the cardinals, are to be observed as above when the pope dies in the city where he resided with his curia.

Moreover, since it is not enough to make laws unless there is someone to see that they are kept, we further ordain that the lord and other rulers and officials of the city where the election of the Roman pontiff is to be held, by the power given to them by our authority and the approval of the council, are to enforce the observance of everything prescribed above in

every detail, fully and inviolably without any deceit and trickery, but they may not presume to restrict the cardinals beyond what has been said. As soon as the said lord, rulers and officials hear of the supreme pontiff's death, they are to take an oath as a body, in the presence of the clergy and people specially mustered for the purpose, to observe these prescriptions. If it happens that they commit fraud in this matter or do not observe the regulations with care, of whatever pre-eminence, condition or status they may be, they lose all privileges; they are automatically subject to the bond of excommunication and are forever infamous; and they are permanently excluded from all honours, nor may they be admitted to any public office. We have decreed that over and above this they are automatically deprived of the fiefs goods and all they hold from the same Roman church or any other churches, this property returns fully and freely to the churches themselves, to be without any opposition at the disposal of the administrators of those churches. The city itself is to be not only laid under interdict but also deprived of its episcopal dignity.

Furthermore {9}, since when a disordered passion enslaves the will or some pledge compels it to one way of acting, the election is null from lack of freedom, we implore the cardinals through the tender mercy of our God', and we call them to witness through the sprinkling of his precious blood, that they consider very carefully what they are about to do. They are electing the vicar of Jesus Christ, the successor of Peter, the ruler of the universal church, the guide of the Lord's flock. They are to lay aside all the disorder of private affection, to be free from any bargain, agreement or pledge; they are not to consider any promise or understanding, to have no regard for their mutual advantage or that of their friends. They are not to look after their own interests or their individual convenience. Without any constraint on their judgment other than God, they are to seek purely and freely the public good, with the election alone in mind. They are to use every endeavour and care that is possible. Their one aim is to provide, by their service and speedily, what is so useful and necessary for the whole world, a fitting spouse for the church. Those who act otherwise are subject to the divine retribution, their fault never to be pardoned except after severe penance. We invalidate all bargains, agreements, pledges,

promises and understandings, whether confirmed by oath or any other bond; we nullify all these and decree that such have no force whatever. No one is constrained in any way to observe them, nor anyone to fear that by transgressing them he is breaking faith. Rather he deserves praise, for even human law testifies that such transgressions are more acceptable to God than the keeping of the oath.

Since the faithful should rely not so much on human resource, however solicitous, than on the urgency of humble and devoted prayer, we make an addition to this decree. In all the cities and important places, as soon as the death of the pope becomes known, solemn exequies are to be celebrated for him by clergy and people. After this, every day until undoubted news is brought that the church truly has her pastor, there is to be humble and devoted prayer to the Lord, that he who makes peace in his high heaven may so unite the hearts of the cardinals in their choice that provision may be made for the church swiftly, harmoniously, unanimously and beneficially, for the salvation of souls and the advantage of the whole world. And lest this salutary decree be disregarded on pretext of ignorance, we strictly order patriarchs, archbishops, bishops, other prelates of churches, and all who have faculties to explain the word of God, that they should often gather together the clergy and people for the purpose of urging them in sermons to pray earnestly and repeatedly for a swift and happy outcome of the conclave. With the same authority they should prescribe not only frequent prayer but also, as circumstances recommend, the observance of fasting.

3. {10} That we may, as far as possible, close the way to evil practices in ecclesiastical elections, postulations and provisions, and that churches may not have long and dangerous vacancies or the provision of parsonages, dignities and other ecclesiastical benefices be delayed, we make this perpetual decree. When opponents to elections, postulations or provisions raise difficulties against the form of the election, postulation or provision, or against the persons of the electors or of the one elected or of him for whom the provision was to be made or has been made, and for these reasons make an appeal, the appellants are to express in a public

document or letter of appeal every individual objection they intend to make against the form or persons. They shall do this in the presence of a qualified person or persons bearing witness to the truth on the above points, and they shall personally swear that they believe what they say to be true and can prove it. If this is not done, both the objectors and, during the time of appeal or afterwards, their adherents are to know that the power of objecting anything not expressed in these letters or documents is forbidden to them, unless there is some new evidence or there suddenly appears means of proving the former objections, or some facts of the past have newly come to the knowledge of the objectors, facts of which at the time of the appeal the appellants probably could have been, and in fact were, ignorant. They are to establish their good faith concerning this ignorance and the subsequent possibility of proof by taking an oath personally, adding in the same oath that they believe they have sufficient proof. It is our will certainly that the penalties imposed by Pope Innocent IV of happy memory on those who do not fully substantiate their objections against the form or the person, shall remain in force.

4. {11} Blind greed and criminal, dishonest ambition, seizing on certain minds, drive them to the rash attempt to usurp by ingenious fraud what they know is forbidden to them by the law. Some, indeed, are elected to the government of churches and, because the law forbids any interference in the administration of churches before the election has been confirmed, contrive to have the churches entrusted to themselves as procurators and managers. Since it is not good to give way to human trickery, we wish to take wider precautions in this general constitution. We decree that none may henceforth presume, before confirmation of his election, to conduct or accept the administration of an office to which he has been elected, or to interfere in it, under the pretext of management or procuratorship or some other newly invented disguise, in things spiritual or temporal, directly or through others, in part or in whole. We decree that all who act otherwise are by that very fact deprived of the right they would have acquired by the election.

5. {12} Not only do the laws bear witness but also experience, that effective teacher of reality, makes clear how damaging to churches is their vacancy, how dangerous it usually is to souls. Desirous, then, of counteracting the long duration of vacancies by suitable remedies, we make a perpetual decree that after there has been an election in any church, the electors are obliged to inform the elect as soon as conveniently possible and to ask his consent. The elect in his turn is to give it within a month from the day of being informed. If the elect delays beyond this, he is to know that from then on he is deprived of the right he would have acquired from his election, unless perhaps his condition is such that he cannot consent to his election without his superior's leave, on account of a prohibition or some disposition of the apostolic see {13}. The elect or his electors must then earnestly seek and gain the superior's leave as quickly as his presence or absence will permit. Otherwise, if the time has expired, even with the allowance made for the presence or absence of the superior, and permission has not been obtained, the electors are then free to proceed to another election. Furthermore, any elect must ask for confirmation of his election within three months after giving consent. If without lawful impediment he omits to do this within such a three-month period, the election is by that very fact null and void.

6. {14} We declare, with the force of a perpetual decree, that they who in an election vote knowingly for an unworthy candidate are not deprived of the power of electing, unless they have so far persisted as to make the election depend on their votes, even though in nominating an unworthy person they have deliberately acted against their consciences and may rightly fear divine retribution and a punishment, in accordance with the offence, from the apostolic see.

7. {15} We decree that nobody, after voting for someone whose election follows, or after giving consent to an election made by others, may oppose him concerning the election itself, except for reasons coming to light afterwards, or unless the elect's evil character previously hidden from the objector is now disclosed, or the existence of some other hidden vice or defect, of which in all probability he could have been ignorant, is revealed.

He is however to guarantee his good faith regarding this lack of knowledge by oath.

8. {16} If after two scrutinies one part of the electors is to be found more than double the number of the other, we by this decree take away from the minority all power of imputing lack of zeal, merit or authority to the majority or their candidate. We do not however forbid such objections as would render null, in virtue of the law itself, the election of the candidate so opposed.

9. {17} The constitution of Pope Alexander IV, our predecessor of happy memory, rightly includes cases about episcopal elections, and those arising therefrom, in the category of major cases and asserts that their judicial inquiry subsequent to any appeal falls to the apostolic see. We, however, wishing to curb both the rash boldness and unbridled frequency of appeals, have considered that we should make provision by this general constitution. If someone appeals extrajudicially with an evidently frivolous motive in the aforesaid elections or in others which concern dignities higher than the episcopate, such an appeal is by no means to go before the apostolic see. When however in the business of such elections an appeal is made in writing, judicially or extrajudicially, from a credible motive which on proof ought to be considered legitimate, such business is to be brought to the apostolic see. Furthermore, it is lawful for the parties in these cases, provided there is no malice, to withdraw from such appeals before they are laid before the said see. Subordinate judges, who were competent for these cases, should on withdrawal of the appeal first of all inquire carefully whether there has been any irregularity. If they find such, they are to have no further dealings with the case itself, but shall set for the parties a suitable fixed term in which they are to present themselves with all their acts and records to the apostolic see. I

10. {18} If among other objections against the elect or nominee or candidate to be promoted in any other way to some dignity, it is said that he clearly lacks the requisite knowledge or has some other obvious personal defect, we decree that there is to be an invariable order in

discussing the objections. The candidate is to be examined first of all concerning the alleged defect, the outcome deciding whether other objections are to be considered or not. If the result of the said examination shows that the objections concerning the alleged defect are devoid of truth, we exclude the objectors altogether from pursuing further the case in which they have made their objections, and we decree that they are to be punished exactly as if they had thoroughly failed to prove any of their objections.

11. {19} All those who presume to oppress clerics or any other ecclesiastical persons having the right of election in certain churches, monasteries or other pious places, because they have refused to elect the person for whom they were asked or urged to vote, or who presume to oppress their relatives or the said churches, monasteries or other places, robbing them of benefices or other property, either directly or through others, or taking revenge in other ways, are to know that they incur automatic excommunication.

12. 20 We decree by a general constitution that one and all, however high their rank, who try to usurp the royal privileges, the custody or guard, or the title of advocate or defender, in churches, monasteries and any other pious places, and presume to take possession of their property during a vacancy, lie under automatic sentence of excommunication. The clerics of the churches, the monks of the monasteries, and the other persons in the above places, who abet these offences, are automatically excommunicated in the same way. We indeed strictly forbid those clerics who do not oppose, as they ought, those who act in such a way, to receive any income from these churches or places during the time they have allowed the usurpation to happen without opposition. Those who claim these rights by the foundation of the churches or of the other places, or by reason of ancient custom, are prudently to avoid abusing their rights and take care that their agents do not abuse them, so that they appropriate nothing beyond what pertains to the fruits or revenues accruing during the vacancy, and do not allow the dilapidation of the other property of which they claim to be the guardians but preserve it in good condition.

13. The canon promulgated by Pope Alexander III, our predecessor of happy memory, decreed among other things that nobody is to be appointed parish priest until he is twenty-five and approved as to knowledge and morals; and that after his appointment, if he has not been ordained priest within the time fixed by the canons, despite being warned to this effect, he is to be removed from office and it is to be conferred on someone else. Since many neglect to observe this canon, we wish their dangerous negligence to be made good by observance of the law. We therefore decree that nobody is to be appointed parish priest unless he is suitable by knowledge, morals and age. Any appointments from now of those younger than twenty-five are to lack all validity. The person appointed is obliged to reside in the parish church of which he has become rector, in order that he may take more diligent care of the flock entrusted to him. Within a year of being appointed to his charge he is to have himself ordained to the priesthood. If within that time he has not been ordained, he is deprived of his church, even without previous warning, by authority of the present constitution. As to residence, as above described, the ordinary may grant a dispensation for a time and for a reasonable cause.

14. No one may henceforth presume to give a parish church “in commendam” to anyone under the lawful age and not ordained priest. Such a commendatory may have only one parish church and there must be an evident need or advantage for the church itself. We declare, however, that such a commendam, even when properly made, is not to last more than six months. We decree that any contrary procedure relating to commendams of parish churches is invalid by law.

15. On the circumstances of ordination and the quality of ordinands

15. {21} We decree that those who knowingly or with affected ignorance or on any other pretext presume to ordain clerics of another diocese without permission of the ordinands’ superior, are suspended for a year from conferring any orders. The penalties prescribed by law against those so ordained are to remain in full vigour. We also grant the faculty to clerics of the dioceses of bishops thus suspended, after their suspension

has become public, freely to receive orders meanwhile from neighbouring bishops, even without their own bishop's leave, but in other respects canonically.

16. On bigamists

16. {22} Putting an end to an old debate by the present declaration, we declare that bigamists are deprived of any clerical privilege and are to be handed over to the control of the secular law, any contrary custom notwithstanding. We also forbid bigamists under pain of anathema to wear the tonsure or clerical dress.

17. On the office of ordinary judge

17. {23} If canons wish to suspend the celebration of divine worship, as is their claim from custom or otherwise in certain churches, they are obliged, before taking any steps to suspend the celebration, to express their reasons for this in a confirmation of authenticity. They are to consign this document or letter to the person against whom the suspension is directed. They are to know that if they suspend services without this formality or the reason expressed is not canonical, they shall restore all the income they have received, during the time of the suspension, from the church in which the suspension has taken place. They shall in no way receive anything owing to them for that period but make it over to the church in question. They will, moreover, be obliged to make restitution for the loss or injustice done to the person whom they intended to punish. If however their cause is judged to be canonical, the one who occasioned the suspension is to be sentenced to compensate the said canons and the church from which divine service has been withdrawn through his fault. The superior is to adjudicate the compensation and it is to be used for the benefit of divine worship. Nevertheless, we utterly rebuke the detestable abuse and horrible impiety of those who treating with irreverent boldness crucifixes and images or statues of the blessed Virgin and other saints, throw them to the ground in order to emphasise the suspension of divine worship, and leave them under nettles and thorns. We forbid severely any sacrilege of this kind. We decree that those who disobey are to receive a

hard retributive sentence which will so chastise the offenders as to suppress the like arrogance in others.

ENDNOTES

{5} const. 29 in BN

{6} To all who by God's mercy (by God's mercy omitted in V 8) will see this present letter ... (the names follow, for which see Actenstuecke zur Geschichte des deutschen Reiches ..., ed. F. Kaltenbrunner (Mitteilungen aus dem Vaticanischen Archive, I), Vienna 1869, no. 52; Kuttner, Conciliar Law ... , 62. The scrolls are signed by the bishops of the individual nations, namely Italy, France, Germany, Ireland and Britain, Spain and Portugal, Provence, and the East, and by the abbots and priors of religious orders.) greetings in the author of salvation (the same words in a different order in V 3, 5). By this writing we bear witness that we have seen and carefully examined the constitution of the most holy father (the most holy father omitted in V 1, 7-8), our lord the lord Gregory X by divine providence pope, of the following tenor V

{7} const. 14 in BN

{8} With the approval ... council omitted in V W

{9} Furthermore ... fasting i.e. to the end of the constitution is omitted in V W, which have instead: On each and all of these points we reserve for us and our successors full freedom to declare (to change added in V 3, 5, 7-8), to add or to subtract, as will seem expedient for the common good. We therefore note the holy and pious intention of the same supreme pontiff, since in the said constitution he is concerned only with pleasing God and providing for the universal church. In it (In it omitted in V 1, 4, 6, 8) the supreme pontiff is not pursuing any private interest of his own, especially since the effect of the constitution extends to the time when he will no longer be among mortals. We also note how many dangers arose from the recent prolonged vacancy of the Roman church. For these reasons we accept, approve and expressly consent to the same constitution

which obviates so many dangers. In testimony of which we set our seal to the present document. Continued in V 1-7: Given at Lyons on Friday

{10} const. 2 in BN

{11} const 3. in BN

{12} const 4. in BN

{13} on account ... see omitted in W

{14} const 5. in BN

{15} const. 6 in BN

{16} const. 7 in BN

{17} const. 8 in BN

{18} const. 15 in BN

{19} const. 18 in BN 20 const. 21 in B

{21} const. 10 in BN

{22} const. 22 in BN

{23} const. 16 in BN

18. Local Ordinaries on dispensations

18. Local ordinaries must strictly compel their subjects to produce the dispensations by which they hold canonically, as they assert, several dignities or churches to which is annexed the cure of souls, or a parsonage or dignity together with another benefice to which a similar cure is annexed. These dispensations are to be shown within a time proportionate to the situation as judged by the ordinaries themselves. If without just reason no dispensation has been shown within that time, the churches,

benefices, parsonages or dignities which it is now obvious are held unlawfully without dispensation, are to be conferred freely on suitable persons by those who have the right. If on the other hand the dispensation shown seems clearly sufficient, the holder is not to be troubled in any way in the possession of these benefices canonically obtained. The ordinary is however to make provision that neither the care of souls in those churches, parsonages or dignities is neglected nor the benefices themselves are defrauded of the services owing to them. If there is doubt whether the dispensation is sufficient, recourse should be had to the apostolic see, to which judgment belongs concerning its benefices. Ordinaries, moreover, in bestowing parsonages, dignities and other benefices involving the cure of souls, are to take care not to confer one on someone already holding several similar benefices, unless an obviously sufficient dispensation is shown for those already held. Even then, we wish the ordinary to confer the benefice only if it appears from the dispensation that the beneficiary may lawfully retain this parsonage, dignity or benefice together with those he already holds, or if he is prepared freely to resign those he already holds. If not, the bestowing of such parsonages, dignities and benefices is to be of no consequence whatever. ‘

19. On pleading

19 {24} It seems that we must counteract promptly the crafty dragging-out of lawsuits. We hope to do this effectively by giving suitable remedial directives to those who offer their services in legal matters. Since the things that have been beneficially provided by legal sanction concerning advocates seem to have fallen into disuse, we renew the same sanction by the present constitution, with some addition and modification. We decree that each and every advocate in the ecclesiastical forum, whether before the apostolic see or elsewhere, is to swear on the holy gospels that in all ecclesiastical causes and others in the same forum, of which they have assumed or will assume the defence, they will do their utmost for their clients in what they judge to be true and just. They are also to swear that

at whatever part of the process they find out that the cause which they had accepted in good faith is unjust, they will cease to defend it; they will rather abandon it altogether, having nothing further to do with it, and will inviolably observe the rest of the above sanction. Proctors also are to be bound by a similar oath. Both advocates and proctors are obliged to renew this oath every year in the forum in which they have assumed office. Those who come before the apostolic see or to the court of some ecclesiastical judge, in which they have not yet taken such an oath, in order to act as advocate or proctor in some individual case, are to take a like oath, in each case, at the beginning of the litigation. Advocates and proctors who refuse to swear in the above way are forbidden to practise while their refusal persists. If they deliberately violate their oath, counsellors who have knowingly encouraged an unjust cause incur, in addition to the guilt of perjury, the divine and our malediction, from which they cannot be absolved unless they restore double the amount they accepted for such evil work as advocate, proctor or counsel. They are moreover obliged to make restitution for the loss caused to the parties wronged by their unjust ministry. Furthermore, lest insatiate greed drive some into contempt for these sound decrees, we strictly forbid an advocate to accept more than twenty tournois pounds for any case, a proctor more than twelve, as salary or even on the pretext of a reward for winning. Those who accept more are not in any way to acquire ownership of the excess, but are obliged to restitution; none of this penalty of restitution can be remitted in evasion of the present constitution. In addition, advocates who thus violate the present constitution are to be suspended from their office for three years. Proctors, on the other hand, shall be denied permission to exercise their office in a court of law.

20. On what is done by force or because of fear

20. {25} We annul by authority of this constitution any absolution from sentence of excommunication or any recall of it, or of suspension or even of interdict, which has been extorted by force or fear. Lest boldness

increase when violence goes unpunished, we decree that those who have extorted such an absolution or withdrawal by force or fear lie under sentence of excommunication.

21. On prebends and dignities

21. {26} We have decreed that the statute of Pope Clement IV, our predecessor of happy memory, that dignities and benefices which become vacant in the Roman curia are to be conferred by nobody other than the Roman pontiff, is to be modified as follows. Those who have the conferring of these benefices and dignities may confer them validly, notwithstanding the said statute, but not till a month after the day on which the dignities and benefices have become vacant, and then only by themselves personally or, if they are at a distance, through their vicar-generals in their dioceses, to whom this charge has been canonically entrusted . 5

22. On not alienating the property of the church

22. {27} By this well-considered decree we forbid each and every prelate to submit, subject or subordinate the churches entrusted to him, their immovable property or rights, to lay people without the consent of his chapter and the special leave of the apostolic see. It is not a question of granting the property or rights in emphyteusis or otherwise alienating them in the form and in the cases permitted by the law. What is forbidden is the establishment or recognition of these laity as superiors from whom the property and rights are held, or making them the protectors, an arrangement which is called in the vernacular of certain places “to avow”, that is, the laity are appointed patrons or advocates of the churches or their property, either perpetually or for a long period. We decree that all such contracts of alienation, even when fortified by oath, penalty or any other confirmation, which are made without the above leave and consent, and any consequences of these contracts, are entirely null; no right is conferred, no cause for prescription is provided. We decree moreover that prelates who disobey are automatically suspended for three years from

office and administration, and clerics who know that the prohibition has been violated but fail to give notice of it to the superior, are automatically suspended for three years from receiving the fruits of benefices they hold in the church so oppressed. The laity indeed, who have hitherto forced prelates, chapters of churches or other ecclesiastical persons to make these submissions, are to be bound by sentence of excommunication, unless after suitable admonition, having given up the submission they exacted through force or fear, they set free the churches and return the property thus surrendered to them. Those also who in future shall compel prelates or other ecclesiastical persons to make such submissions are also to be excommunicated, whatever be their condition or status. Even when contracts have been or will be made with the due leave and consent, or on the occasion of such contracts, the laity are not to transgress the limits set by the nature of the contract itself or the law on which the contract is based. Those indeed who act otherwise, unless after lawful admonition they desist from such usurpation restoring also what they have usurped, incur automatic excommunication, and henceforward the way is open, if need be, to lay their land under ecclesiastical interdict.

23. On religious houses, that they are to be subject to the bishop

23 {28} A general council by a considered prohibition averted the excessive diversity of religious orders, lest it might lead to confusion. Afterwards, however, not only has the troublesome desire of petitioners extorted their multiplication, but also the presumptuous rashness of some has produced an almost unlimited crowd of diverse orders, especially mendicant, which have not yet merited the beginnings of approval. We therefore renew the constitution, and severely prohibit that anyone found henceforth a new order or form of religious life, or assume its habit. We perpetually forbid absolutely all the forms of religious life and the mendicant orders founded after the said council which have not merited confirmation of the apostolic see, and we suppress them in so far as they have spread. As to those orders, however, confirmed by the apostolic see

and instituted after the council, whose profession, rule or constitutions forbid them to have revenues or possessions for their fitting support but whose insecure mendicancy usually provides a living through public begging, we decree that they may survive on the following terms. The professed members of these orders may continue in them if they are willing not to admit henceforth anyone to profession, nor to acquire a new house or land, nor to have power to alienate the houses or land they have, without special leave of the apostolic see. We reserve these possessions for the disposal of the apostolic see, to be used for aid to the holy Land or for the poor or to be turned to other pious uses through local ordinaries or others commissioned by the apostolic see. If the above conditions are violated, neither the reception of persons nor the acquisition of houses or land nor the alienation of these or other property is valid, and in addition excommunication is incurred. We also forbid absolutely to members of these orders, in regard to externs, the office of preaching and hearing confessions and the right of burial. Of course, we do not allow the present constitution to apply to the orders of Preachers and Minors; their approval bears witness to their evident advantage to the universal church. Furthermore, we grant that the order of Carmelites and that of the Hermits of Saint Augustine, the institution of which preceded the said general council {29} , may remain as they are, until other regulations are made for them. We intend in fact to provide both for them and for the other orders, even the non-mendicants, as we shall see to be for the good of souls and for the good state of the orders. We grant also a general permission to members of orders to which this present constitution applies, to pass to the other approved orders on this condition: no order is to transfer itself wholly to another, no community is to transfer itself and its possessions wholly to another, without special permission from the apostolic see. ‘

24. On taxes and procurations

24. {30} The boldness of wicked people demands that we should not be satisfied with merely forbidding offences, but should inflict punishment on the offenders. The constitution of Pope Innocent IV, our predecessor of happy memory, forbade procurations to be received in the form of money, or the acceptance of gifts by pastoral visitors and their attendants. It is said that many rashly transgress this constitution. We wish it to be inviolably observed and have decreed that it should be strengthened by adding a penalty. We decree that one and all who presume, because of the procuration owing to them by reason of a visitation, to exact money or even to accept money from someone willing; or to violate the constitution in another way by accepting gifts or, without making the visitation, accepting procurations in food or anything else; are obliged to give back double of what they have received to the church from which they received it, and this within a month. If they do not, from that time patriarchs, archbishops and bishops who put off restoration of the double payment beyond the said period, are to know that entry into the church is forbidden them; and lower clergy are to know that they are suspended from office and benefice until they have made full satisfaction of this double to the burdened churches; the remission, liberality or kindness of the givers is to avail nothing.

25. On the immunity of churches

25. {31} Holiness befits the house of the Lord; it is fitting that he whose abode has been established in peace should be worshipped in peace and with due reverence. Churches, then, should be entered humbly and devoutly; behaviour inside should be calm, pleasing to God, bringing peace to the beholders, a source not only of instruction but of mental refreshment. Those who assemble in church should extol with an act of special reverence that name which is above every name, than which no other under heaven has been given to people, in which believers must be saved, the name, that is, of Jesus Christ, who will save his people from

their sins. Each should fulfil in himself that which is written for all that at the name of Jesus every knee should bow; whenever that glorious name is recalled, especially during the sacred mysteries of the mass, everyone should bow the knees of his heart, which he can do even by a bow of his head. In churches the sacred solemnities should possess the whole heart and mind; the whole attention should be given to prayer. Here where it is proper to offer heavenly desires with peace and calm, let nobody arouse rebellion, provoke clamour or be guilty of violence. The consultations of universities and of any associations whatever must cease to be held in churches, so also must public speeches and parliaments. Idle and, even more, foul and profane talk must stop; chatter in all its forms must cease. Everything, in short, that may disturb divine worship or offend the eyes of the divine majesty should be absolutely foreign to churches, lest where pardon should be asked for our sins, occasion is given for sin, or sin is found to be committed. No more business is to be conducted in churches or their cemeteries, especially they are not to have the bustle of markets and public squares. All noise of secular courts must be stilled. The laity are not to hold their trials in churches, more especially criminal cases. The church is not to be a place for lay judicial inquiries. Local ordinaries should see that all this is observed, persuade where persuasion is needed, suppress by their authority what is forbidden by this canon. They should also depute for this purpose persons in the churches who are most assiduous and suitable for the above aims. Moreover, the proceedings of secular judges, and in particular the sentences passed in these sacred places, are to lack all validity. Those indeed who impudently defy the above prohibitions, in addition to the sanctions imposed by ordinaries and their deputies, will have to fear the sternness of the divine retribution and our own until, having confessed their guilt, they have firmly resolved to avoid such conduct for the future.

26. On usury

26. {32} Wishing to close up the abyss of usury, which devours souls and swallows up property, we order under threat of the divine malediction that the constitution of the Lateran council against usurers be inviolably observed. Since the less convenient it is for usurers to lend, the more their freedom to practise usury is curtailed, we ordain by this general constitution as follows. Neither a college, nor other community, nor an individual person, of whatever dignity, condition or status, may permit those foreigners and others not originating from their territories {33} , who practise usury or wish to do so, to rent houses for that purpose or to occupy rented houses or to live elsewhere. Rather, they must expel all such notorious usurers from their territories within three months, never to admit any such for the future. Nobody is to let houses to them for usury, nor grant them houses under any other title {34} . Those indeed who act otherwise, if they are ecclesiastical persons, patriarchs, archbishops or bishops, are to know that they incur automatic suspension; lesser individual persons, excommunication, colleges or other communities, interdict. If they remain obdurate throughout a month, their territories shall lie henceforth under ecclesiastical interdict as long as the usurers remain there. Furthermore, if they are layfolk, they are to be restrained from such transgression through their ordinaries by ecclesiastical censure, all privileges ceasing {35}

27. {36} Although notorious usurers give orders in their wills that restitution be made for their usurious gains, either in express terms or in general, ecclesiastical burial is nevertheless to be refused until full restitution has been made as far as the usurer's means allow, or until a pledge has been given of fitting restitution. This pledge is to be given to those to whom restitution is due, if they themselves or others who can receive for them are present. If they are absent, the pledge is to be given to the local ordinary or his vicar or the rector of the parish where the testator lives, in the presence of trustworthy persons from the parish (the

ordinary, vicar and rector, as just mentioned, shall have permission to receive such pledge in their name by authority of the present constitution, so that these ecclesiastics have the right to action). The pledge may also be given to a public servant commissioned by the ordinary. If the sum owing from usury is openly known, we wish this sum always to be expressed in the pledge, if the amount is not clearly known, the sum is to be determined by the receiver of the pledge {37} . The receiver must make his estimate at not less than the probable amount; if he does otherwise, he is obliged to restitution for anything still owing. We decree that all religious and others who presume to grant ecclesiastical {38} burial to notorious usurers, contrary to this decree, are subject to the penalty promulgated against usurers at the Lateran council . Nobody is to assist at the wills of notorious usurers or hear their confessions or absolve them, unless they have made restitution for their usury or have given a fitting guarantee, as far as they can, as described above. The wills made in any other way by notorious usurers have no validity, but are by law null and void. {39}

28. On wrongs and the loss caused

28. {40} The distrains which in the vernacular are called “reprisals”, by which some people are burdened in place of others, have been forbidden by the civil constitution as oppressive and contrary to the laws and natural equity. In order, however, that offenders may have greater fear of breaking the law where ecclesiastical persons are concerned, in accordance with the more particular prohibition of reprisals against them, we severely forbid the granting of reprisals against ecclesiastical persons or their goods. By this present decree we also forbid the extension of such reprisals, perhaps granted universally on pretext of some custom which we would prefer to call an abuse, to these persons. Those who act otherwise, by granting distrains or reprisals against such persons or extending the grant to include them, unless they revoke such presumption within a month, incur sentence of excommunication, if they are

individuals; they are to be laid under ecclesiastical interdict, if they are a community.

29. On the sentence of excommunication

29. {41} The constitution of Pope Innocent IV, our predecessor of happy memory, forbids that those who communicate with excommunicated persons in matters carrying only a minor excommunication should be bound, without first receiving canonical admonition, by a major excommunication; the sentence of excommunication thus promulgated does not bind. In order to remove any scruple of ambiguity, we declare that the admonition is canonical only if, after all other formalities have been duly observed, it names the persons admonished. We decree also that in the course of the admonitions required for the sentence to be promulgated canonically, the judges, whether they give three admonitions or one for all three, should observe fitting intervals of some days, unless the urgency of the situation counsels otherwise.

30. {42} By the present general decree we declare that the benefit of provisional absolution does not in any way apply to cities, villages or any other places against which a general interdict has been promulgated.

31. {43} Whoever, from the fact that a sentence of excommunication, suspension or interdict has been promulgated against kings, princes, barons, nobles, bailiffs or their agents or anyone else, gives leave to someone to kill, capture or molest, in their persons or goods or in those of their relatives, those who have published such sentences, or on whose account the sentences were published, or who observe such sentences or refuse to communicate with those so excommunicated, unless they revoke in time such permission, automatically fall under sentence of excommunication. If property has been seized on the occasion of such permission, the same sentence is incurred unless the goods are returned within eight days or satisfaction is made for the loss. All who have dared to make use of the permission, or commit on their own initiative any of the above crimes for which we have forbidden permission to be given, are

bound by the same sentence. Those who remain under this sentence of excommunication for two months cannot henceforth obtain absolution except through the apostolic see.

ENDNOTES

{24} const. 9 in BN

{25} const. 17 in BN

{26} const. 27 in BN

{27} const. 26 in BN

{28} const. 28 in BN

{29} the institution ... council] which claim to have been founded before the said council W

{30} const. 11 in BN

{31} const. 23 in BN

{32} const. 24 in BN

{33} foreigners ... territories omitted in W

{34} Nobody ... title omitted in W

{35} In addition, sentence of excommunication is incurred by all who let houses to notorious usurers for usury or who allow houses to be granted under any other title W

{36} const. 25 in BN

{37} receiver ... pledge] ordinary himself W

{38} confession or absolution or communion or added in W

{39} Nobody ... void omitted in W

{40} const. 19 in BN

{41} const. 12 in BN

{42} const. 13 in BN

{43} const. 20 in BN

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