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ESTRATTO
NOTE E DOCUMENTI

BETWEEN AVIGNON AND ROME: MINOR PENITENTIARIES AT THE PAPAL CURIA IN THE THIRTEENTH AND FOURTEENTH CENTURIES

One of the major departments of the papal Curia that emerged in the later middle ages was the Penitentiary. It was the central office of the medieval Western Church concerned with matters of conscience. The pope charged it with issuing absolution on his behalf to certain sinners. Its origins partly lay in the reservation of certain serious sins to papal absolution from the twelfth century onward. For example a papal ruling of 1139 decreed that anyone committing violence against a clerk could only obtain absolution from this sin and the automatic excommunication it entailed by visiting the papal Curia. The Penitentiary was granting papal absolution in this and other reserved cases by the early thirteenth century. But the practice of penitents coming to Rome for absolution was much older. Pilgrims had long visited Rome as an act of penance. Early medieval penitentials had often prescribed such long-distance pilgrimages for notorious sins, notably murder. By the thirteenth century papal confessors gave absolution to penitent pilgrims at the major basilicas of Rome. These confessors were attached to the Penitentiary and known as ‘minor penitentiaries’ (penitentiarii minores), so called in order to differentiate them from the major or cardinal penitentiary (penitentiarius major) in charge of the office.

The thirteenth-century papacy granted the minor penitentiaries powers to issue absolution and dispensation in certain reserved cases, powers separate from those granted to the cardinal. In other words the major penitentiary and minor penitentiaries had different competences within the office, so much so that popes later distinguished between these as the officium maius and officium minus of the Peniten-

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1 In memoria affettuosa di una grande nonna romana, Signora Anna Petrella. I am grateful to Dr Patrick Zutshi and Prof. Agostino Paravicini Bagliani for their comments on this article.
2 C. 17 q. 4 c. 29 (Si quis suaudente), i.e. canon 15 of the Second Lateran Council (1139).
5 The cardinal’s faculties are printed by Göller, Die päpstliche Pönitentiarie, I/II, 1-47; II/II, 1-30.
tary\(^6\). Recent scholarship has concentrated on the activity of the officium maius, the preserve of the cardinal penitentiary\(^7\). This is not wholly surprising. Much of this scholarship is based on the fifteenth and sixteenth-century registers of the Penitentiary; these record petitions for absolution, dispensation, and other favours approved by the cardinal or those acting on his authority\(^8\). The registers only refer to minor penitentiaries incidentally, normally when a petitioner was present in the papal Curia. Such cases were often 'committed' to a minor penitentiary, which meant that he had to verify the content of the petition before its request might be granted and, if necessary, impose an appropriate penance on the petitioner\(^9\). Usually petitioners were not present and such functions were delegated to their local ordinary or his vicar in spirituals however.

Another understandable reason for focusing on the cardinal penitentiary is that from the end of the thirteenth century the papacy steadily increased his authority but issued no new powers to the minor penitentiaries; Pope John XXII even withdrew a few of their faculties by 1325\(^10\). The officium minus thus declined in importance; Pope Alexander VI (1492-1503) confirmed that its competence was limited to the in-


\(^9\) Salonen, The Penitentiary as a Well of Grace, 56.

ternal forum, in other words hearing the confessions of visiting pilgrims and others at the Curia. The officium maius issued letters de universis that recorded the absolution conferred by minor penitentiaries on individuals, and several of these letters survive in local archives but they do not specify the sins absolved since these belonged to the internal forum and hence came under the seal of the confessional. The officium maius dealt with matters that belonged to the external forum, and conversely these were recorded in the Penitentiary registers. The faculties conceded to the minor penitentiaries in the thirteenth century also largely related to the external forum, but evidence of their actual usage is mainly confined to early formularies of letters, principally the mid fourteenth-century Formularium penitentiarium minorum.

Sparsely documented as the activity of the minor penitentiaries is in the late middle ages, they nevertheless assumed an important role in the Penitentiary and the papal Curia more generally during the thirteenth and fourteenth centuries. The documents edited in Appendices 2, 3 and 4 of this article illustrate this. These documents have been noted by other historians of the papal Penitentiary, notably Goller and Lang, but not printed hitherto. The main body of this article comments on the significance of these texts, but first it is necessary to explain their source.

The documents in the appendices are edited from Catholic University of America Library ms 185 in Washington D.C. The contents of this manuscript are listed in appendix 1. They form a collection of texts relating to the jurisdiction and functions of the Penitentiary. Haskins has described such a collection as a 'manual' of the Penitentiary, and he, Goller, and Lang noted several such manuals in other manuscripts, but the Washington example (hereinafter W) has not been previously identified. These other manuscripts contain many of the same texts as W, and for the editions of texts in Appendices 2, 3 and 4 W has been collated with three such manuscripts in the Vatican Library, namely Ottob. lat. 333 (hereinafter O), Vat. lat. 3994 (hereinafter V), and Vat. lat. 6290 (hereinafter V').

Texts found in all four of these manuscripts and most other Penitentiary manuals included the Summa of Pope Nicholas IV (1290) and Pope Benedict XII’s constitution.

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11 GÖLLER, Die päpstliche Pönitentiarie, I/I, 39-40. SALONEN, The Penitentiary as a Well of Grace, 56-57 (includes a photograph of one such letter dated 5 August 1449 in the Swedish National Archives).
12 GÖLLER, Die päpstliche Pönitentiarie, I/I, 49-55.
13 LANG, Beiträge, 33-36, 39-42 (German summaries of the documents edited in Appendices 2-4); GÖLLER, Die päpstliche Pönitentiarie, I/I, 25-28, 134-35, 137-38, 142-43, 145.
14 I discovered the manuscript while attending the Twelfth International Congress of Medieval Canon Law at the Catholic University of America in August 2004; I am grateful to Brian Cardell, assistant curator of CUA Library Special Collections, for supplying me with a CD-ROM reproduction of the manuscript.
15 C. H. HASKINS, The Sources for the History of the Papal Penitentiary, «The American Journal of Theology» 9 (1905), 421-50, especially p. 425-29. Lang’s article is based on the ‘manuals’ in Graz, Universitäts-Bibliothek ms II 583 (dated 1393), and Vienna, Nationalbibliothek ms 415. These and other manuscripts containing Penitentiary ‘manuals’ are described by GÖLLER, Die päpstliche Pönitentiarie, I/I, 65-74.
16 These manuscripts are described by GÖLLER, Die päpstliche Pönitentiarie, I/I, 65-66 (O), 71-72 (V), 73-74 (V').
In agro dominico and his tax-list for the Penitentiary (both dated 8 April 1338). The *Summa* listed the faculties granted by various popes, including Nicholas IV himself, to the major penitentiary and minor penitentiaries. Benedict XII’s constitution defined the internal organisation and office rules of the Penitentiary, specifying its various personnel, including the minor penitentiaries, and their duties. On assuming these duties each category of personnel had to swear their own particular oath, binding them to a professional code of conduct; the forms of these oaths were appended to the constitution. A list of ‘taxes’ followed in which Benedict XII fixed the fees the scribes of the Penitentiary might charge for drawing up the various letters sought by petitioners from the office. These letters recorded the office’s approval of their petition, such as authorising their absolution from a particular sin. Penitentiary scribes were obligated by their oath not to charge more than the taxes set in this list for such letters.

The recurrent combination of these official texts in Penitentiary manuals is not coincidental. Haskins saw the manuals as standard compilations made for the use of the office’s personnel. Indeed by the late fourteenth century the office’s own rules required every Penitentiary scribe to equip himself with a copy of Benedict XII’s constitution and tax-list within two months of taking his oath of office. After four more months he also had to have a record of the faculties of the major and minor penitentiaries, as they were specified in the *Liber Penitentiariae*, and no doubt they were essentially those listed in Nicholas IV’s *Summa*. In other words scribes of the Penitentiary had to possess the very texts collected in our manuals, and probably these were largely compiled for their use. But these scribes were also required to have the official formulary of the Penitentiary and the formulary of the minor penitentiaries within six months of assuming their duties. The official formulary, a collection of form letters serving scribes as models, was approved by Benedict XII about the same time as his constitution and tax-list. Occasionally it accompanies these other essential texts in manuscripts, for example in O, but more often these texts are transmitted separately, as in W, V₁, and V², albeit such collections of texts are misleadingly titled ‘formulary’ in some manuscripts, notably V₁ and V²; Haskins considered the term ‘manual’ more appropriate.

Haskins regarded the *Liber Penitentiariae* as the exemplar for the contents of these ‘manuals’, and not just for the faculties of the penitentiaries recorded in it. He inferred that it «resembled in some respects the *Liber provincialis* of the [papal] chancery» and identified three principal recensions of this *Liber Penitentiariae* belonging respectively to the fourteenth, fifteenth and sixteenth centuries. According to Haskins, Pope Benedict XII issued the first recension on 8 April 1338 in connec-

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17 Pope Benedict XII’s constitution and tax-list are edited by H. Denifle, *Die älteste Taxrolle der apostolischen Pönitentiarie*, «Archiv für Literatur- und Kirchengeschichte des Mittelalters» 4 (1888), 201-38.
19 Göller, *Die päpstliche Pönitentiarie*, I/II. 64.
22 *Ibidem*. 
tion with his reforms of the Penitentiary, as it included his constitution and tax-list of this date that introduced these. Haskins likewise held that the second and third recensions reflected subsequent reforms of the office instituted by Pope Eugenius IV in 1438 and his successors down to the mid-sixteenth century respectively. Haskins identified among other manuscripts O and V² as copies of the first recension and V¹ as representing the second.

W contains no texts relating to the fifteenth and sixteenth-century reforms of the Penitentiary, hence, according to Haskins’s scheme, it might also be classed as a copy of the first recension of the Liber Penitentiarum. But these manuscripts cannot be as easily schematised as Haskins argues. First W, O and V² certainly share texts associated by Haskins with the first recension, namely Nicholas IV’s Summa and Benedict XII’s constitution and tax-list, but their contents are not completely uniform. W contains additional texts not found in O and V², notably those printed in Appendices 5 and 6, and others that also appear in only one of these manuscripts. Conversely W lacks texts found in either O or V² or both, notably the formulary in O³⁴. Even texts shared by W, O, and V² are not in the same order in all three manuscripts. For example in W the opening text is Benedict XII’s constitution, but neither O nor V² begin with this; it even occurs near the end of O²⁵. Hence these three manuscripts bear family resemblances to one another, but they are not merely copies of a standard compilation. Admittedly they have at their core a standard corpus of texts that may well be derived from a common source, such as the Liber Penitentiarum, but all three manuscripts are different. Presumably each of them was custom-made for a specific user, assembling a specific miscellany of texts that he found useful. Probably this was also true of later manuals, such as V¹ which belonged to the major penitentiary Nicolaus Albergati, cardinal of Santa Croce (d. 1443)²⁶.

This naturally leads us to consider the dating and provenance of our principal manuscript W, especially since the evidence here further challenges Haskins’s recension theory. The external evidence suggests that its main contents were copied in the later fourteenth century. These are written on folios 1-125v of its 138 paper leaves in a French hand that was in use at the papal Curia in Avignon. This kind of hand was not used exclusively in the Curia, but the manuscript was presumably written there given its contents. This hand is most probably from the time of the Avignon popes Gregory XI (1370-1378) or Clement VII (1378-1394)²⁷. The internal evidence cer-

²³ For example the texts edited in Appendices 3 and 4 also appear in V² but not in O. Conversely Bonaguida da Arezzo’s Summa de dispensacionibus is found in W (f. 58v-66r) and O (f. 97v-100v) but not in V².

²⁴ Benedict XII’s formulary occurs in O, f. 7r-89r. Other texts not in W appear in O, f. 89r-97r, 109r-131r, 141v-142r, and V², f. 11r-16v, 23r-24r, 37r-132r (see Göller, Die päpstliche Pöniten-

²⁵ Benedict XII’s constitution and tax-list appear in O, f. 131v-141v, and V², f. 24r-37r.

²⁶ Göllen, Die päpstliche Pöniten-tiarie, I/I, 71. Haskins, Sources, 427 n. 19, wrongly assigns ownership of V¹ to a later major penitentiary and cardinal of S. Croce, Domenico Capranica (d. 1458).

²⁷ I am grateful to Dr Patrick Zutshi and to Dr Tessa Webber for their advice on these palaeo-
graphical features.
tainly supports this, because the latest texts which f. 1'-125r contain are from Urban V’s pontificate (1362-1370) and one of these is dated 1364, so W can be no earlier than this. Clearly W cannot be a mere copy of Haskins’s first recension of 1338 since it includes texts later than that. This suggests that either there was more than one recension of the Penitentiary manual in the fourteenth century or, as appears more likely, Penitentiary manuals were compiled ad hoc using the latest texts to hand.

A later user of W added a ‘tabula’ of its contents on its first five unnumbered folios as well as a series of mnemonic poems concerning the major canon law collections Gratian’s Decretum (c. 1140) and Decretales of Gregory IX (1234) on f. 126r-133v at the end of the manuscript. These additions were made in a mid fifteenth-century Italian hand. The same hand appears to have annotated the contents throughout, adding headings, numbering entries, and identifying canon law references in the text at f. 91r-97r. Presumably given the latter and the poems this user had some knowledge of canon law. This would have been useful in the Penitentiary, which was largely concerned with administering canon law; the office dispensed from many of its rules and absolved sentences laid by it. This canonistic user perhaps identifies himself on f. 125v, where three inscriptions were added, apparently in the same Italian hand, at the bottom of the page after the main fourteenth-century hand ends: «Finis pro nunc»; «† Yhesus, Maria, Franciscus»; «Ad usum magistri Honofrii de Dura[n][is]». This fifteenth-century user of W was no doubt magister Honofrius, who chose to customise this manual for his own use. His name like the hand is certainly Italian. His title implies that he was a university graduate, perhaps in canon law, and his invocation of St Francis may suggest that he was a Franciscan, but he is not designated fra(ter) or O.F.M., so this may simply express his personal devotion to that popular Italian saint.

Nevertheless it is possible that W was originally compiled for a friar, probably a Dominican. The text in Appendix 6, the last written in W by the main fourteenth-century hand, is a copy of a letter of two cardinals to the Dominican general chapter, dated 11 May 1364 at Avignon. The letter informs its addressees of Pope Urban V’s decision to grant Dominican members of the papal Curia, including penitentiaries, immunity from a statute of the general chapter; this had ruled that any Dominican brother exempt from the obedience and correction of his order might not elect or be elected to any of its offices. The ruling could touch Curiales of the order, and it sufficiently concerned two Dominican minor penitentiaries that, two days after the date of the letter, they had this copy of it written, as W records. This text is not found in O, V¹, or V², and it may suggest that W was made for a Dominican, possibly a minor Penitentiary. W certainly comprises many texts about the minor penitentiaries, and

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28 This text lists instances of automatic sentences of excommunication, interdict or suspension in Clement V’s constitutions (1317) and Pope John XXII’s extravagantes (1325): see Appendix 1.
29 Honofrius has not been identified in other sources. See n. 31 below on the predominance of Franciscans and other mendicants among the minor penitentiaries.
30 One of the two Dominicans named in the ‘colophon’ to this letter was Helias Raymundi, a minor Penitentiary under Urban V by 31 December 1362 (GOLLER, Die päpstliche Pönitentiarie,
many minor penitentiaries were Dominicans. Otherwise it was surely made for another member of the papal Penitentiary at the Avignon Curia, such as a scribe.

By the mid-fifteenth century it had clearly passed into the hands of Honofrius, doubtless also a Penitentiary official. If he were Franciscan, he was potentially also a minor penitentiary, for minor penitentiaries mostly came from the two main mendicant orders. That he was Italian is unsurprising, since the Curia was back in Italy by this time. Whether W had accompanied the papacy’s return from Avignon to Rome in 1377 is unclear, but it was probably there by 1429. The flyleaves of W are parts of two notarial instruments on vellum, one of which is dated 12 July in the twelfth year of Martin V’s pontificate, i.e. 1429, when the Curia was in Rome. W was doubtless bound then in its present wooden boards covered with quarter calf (once fitted with clasps and catches now lacking). The manuscript’s later history is unknown, except that the Catholic University of America Library purchased it on 28 July 1950.

Hence the title of this article, Between Avignon and Rome, partly refers to the travels of our manuscript between the late fourteenth and early fifteenth century, but it also reflects the fact that many texts in W describe the role of the minor penitentiaries in thirteenth-century Rome and fourteenth-century Avignon. One of these texts edited in Appendix 2 lists the faculties of the minor penitentiaries. It is the first half of Nicholas IV’s Summa; the second half regarding the faculties of the cardinal penitentiary has already been edited by Göller. The Summa was dated 1290, but in many manuscripts, including W, a later version of it appears where further faculties conceded to the cardinal Penitentiary by the popes Benedict XI (1303-1304), John XXII (1316-1334) and Benedict XII (1335-1342) are appended. Also in some manuscripts, but not W, the faculties withdrawn from the minor penitentiaries by Pope John XXII are indicated. In W and other copies the Summa records that the minor penitentiaries received their faculties from Popes Innocent V (1276), Martin IV (1281-1285), and Nicholas IV (1288-1292), but no later popes. But this does not mean that the manuscript transmission of these faculties is consistent. Some copies do not always name which pope granted which faculty, notably V and V. On several occasions a faculty is associated with one pope in W but another pope in certain other copies, and such variants are indicated in the footnotes to Appendix 2. Other textual

I/I, 134), later master general of his order (1367-1379); cf. T. Ripoll, Bullarium ordinis fratrum praedicatorum, II. 1281-1430, Romae 1730, 260-61.

31 See n. 19 above. On mendicants among the minor penitentiaries see Göller, Die päpstliche Pönitentiarie, I/I, 131, 141, 151-53; Majac, Die Apostolische Pönitentiarie, 146-49.

32 The Great Schism had of course intervened in 1378 resulting in the rival papal obediences of Rome, Avignon, and from 1411 Pisa; Martin V’s election in 1417 ended the Schism establishing the papacy in Rome definitively.

33 The catalogue of CUA Library manuscripts records its purchase from L. S. Olschki, a book dealer; a sale description is pasted inside the front of the manuscript, valuing it at $400.

34 Göller, Die päpstliche Pönitentiarie, I/I. 1-6.

35 These additions occur in O and V too but not V. Cf. also Lang, Beitragge, 23-24, 38-39; Göller, Die päpstliche Pönitentiarie, I/I, 26-28, 66-68, 70-73.
variants are also noted especially from V^2, which often diverges significantly from W, V^1, and O, interpolating rubrics and other major textual additions.

The faculties empowered the minor penitentiaries to grant absolutions, dispensations or other favours sought by penitents in over thirty-five instances. Many of these penitents had violated canon law in some way and had thereby incurred a general sentence of excommunication, for example those who laid violent hands on clergy contrary to the canon *Si quis suadente* (1139) and other rulings. In this and some similar instances absolution was reserved to the papacy, and the minor penitentiaries were therefore authorised to absolve such penitents on the pope's behalf in these cases. Other reserved cases of this kind concerned forgers of papal letters and seals, arsonists and other sacrilegious attackers of churches, and those who had illicit contact with Saraccens, all of which crimes can be identified in specific canon law rulings. Many of the general sentences on such offenders were proclaimed not only in canon law but also in a papal ritual held three times a year by the thirteenth century on Maundy Thursday, Ascension Day, and 18 November (feast of the dedication of the basilica of SS. Peter and Paul). By the mid-fifteenth century this ceremony occurred only once a year on Maundy Thursday and the sentences pronounced on this occasion were also issued in papal bulls with the incipit *In cena Domini*. However such sentences were recorded as early as 1229 and they regularly included, for example, the sentences on forgers and Christians associating with Muslims. The earliest known record of these sentences, a letter of Pope Gregory IX in 1229, combined general and particular sentences. A particular sentence related to specific named enemies of the Church, notably the emperor Frederick II. Correspondingly minor penitentiaries received faculties to absolve particular sentences as well as general ones. For example Pope Martin IV empowered them to absolve certain supporters of Frederick II and his Italian allies Ezzelino da Romano and Uberto da Pallavicino. Clearly such sentences were associated with specific historical circumstances. For example Martin IV also authorised minor penitentiaries to absolve certain persons excommunicated by «dominum Ottobonum pro facto regis Anglie». This refers to Cardinal Ottobuono Fieschi's legation to England, Scotland, Wales,

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37 C. 17 q. 4 c. 29; X 5.39.6, 36. See Appendix 2, nr. 7, 10.
38 X 5.20.7 (forgers); 5.39.19 (arsonists), 22 (effractores); 5.6. 6, 12, 17 (Saraccens).
and Ireland in 1265-1268. Henry III, king of England, had faced a serious revolt of his magnates; Ottobuono came to negotiate peace between Henry and these rebels and had received papal authorisation to excommunicate those who opposed his mission and remained disobedient to Henry. The papacy permitted minor penitentiaries to absolve such sentences not only since they were laid on papal authority but also since some of those affected had to visit the Curia in order to seek such absolution, for example Sicilian women excommunicated for associating with Arabs.

In addition to absolution the minor penitentiaries might grant dispensations to some penitents, mostly clergy. Dispensations normally freed clergy from irregularity, a canonical impediment that usually prevented them from receiving or ministering in clerical orders. They could incur irregularity in various ways, but in the cases concerned here they had either broken canonical rules, especially those governing ordination, or violated a sentence, notably participating in divine offices contrary to sentences of excommunication or interdict. In at least one case the violation of a particular sentence was in question, namely the excommunication of Frederick II's heirs Manfred (d. 1266) and Conradin (d. 1268) and their supporters. Strikingly fifteen of the minor penitentiaries' faculties, over a third of the total, concerned specifically clerical crimes, including simony, apostasy, and breaching celibacy requirements.

even expands on these, notably adding a faculty to absolve general sentences proclaimed on clergy bearing arms or drinking in taverns contrary to canon law.

Other favours that minor penitentiaries could bestow included moderating penances imposed by others, the commutation of certain pilgrimage and chastity vows, and remarkably crusader concessions. They might give the cross to those wishing to take it, provided that these were competent people, and grant crusade indulgences up to the departure of the expedition (usque ad passagium generale) but only to those who could meet their own expenses for the journey. The conditions on these grants reflected papal efforts to limit crusade participation to suitable fighting men with sufficient funds; so many crusades had foundered before the late thirteenth century because of inadequate finance and recruitment. Hence the minor penitentiaries could also release the «poor and powerless» (pauperes et impotentes) from crusader vows as well as absolve any crusaders excommunicated for delaying fulfilment of

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43 Appendix 2, nr. 18 (Sicilian women), nr. 28 (“apostatas presentes”, presumably at the Curia), nr. 31 (“Romipetas”).

44 Appendix 2, nr. 2, 21-25, 36; cf. also nr. 26 concerning violation of excommunication procedure in VI 5.11.1.

45 Appendix 2, nr. 6, 12, 20, 27.


48 Variant on ibi, nr. 19; the Fourth Lateran Council (1215) had prohibited such clerical misconduct, notably in canon 15 (X 3.1.14).

49 Penance: Appendix 2, nr. 17, 35. Vows: ibi, nr. 34. Crusading: ibi, nr. 16, 32, 33.
their vow. According to W Pope Martin IV granted all of these faculties, but O and a Vienna manuscript studied by Lang associated the latter faculty to absolve with Pope Nicholas IV\textsuperscript{50}. Likewise Lang noted a Graz manuscript which credited Nicholas IV with the other crusader-related faculties. Certainly W is erroneous in attributing another faculty to Martin IV: to grant *cruce signati* the indulgences contained in privileges of his successor Nicholas IV. This is clearly anachronistic, and indeed the Vienna and Graz manuscripts more logically name Nicholas as grantor of this faculty\textsuperscript{51}. It and perhaps other faculties above can be linked to his attempts to launch a crusade to save the Latin kingdom of Jerusalem. He proclaimed this crusade on 10 February 1290 authorising the patriarch of Jerusalem to preach it, grant indulgences to those who took the cross and absolve them from various general sentences. All of this was admittedly in vain for the key outpost of the kingdom, the port-city of Acre, fell in May 1291 and was never recovered.

Hence these faculties were perhaps seen as redundant by 1325 when, according to the Vienna manuscript, Pope John XXII withdrew them together with another crusader-related faculty, to absolve those engaged in forbidden trade with Muslims. But we have also seen this as part of the papacy’s efforts to reinforce the cardinal penitentiary’s power at the expense of the minor penitentiaries. Indeed already in 1290 Nicholas IV’s *Summa* shows that their jurisdiction was subject to and shared with that of the cardinal to a certain extent. For example it advised them to consult with him on the absolution of forgers of papal documents and seals, and murderers or mutilators of clergy. Their faculties to absolve particular sentences were also limited to the lesser supporters of the revolt against Henry III of England and of Frederick II and his Italian allies; they had to refer *magne persone*, including counts, dukes, barons, and castellans in the latter case, to the cardinal for absolution\textsuperscript{52}. Some of their other faculties were also qualified\textsuperscript{53}. For example minor penitentiaries could absolve and dispense the attackers of clergy provided that their victims were not prelates and left dead, mutilated or anyhow unfit to perform divine offices (*inhabilis*). But it is not made explicit whether the minor penitentiaries had to defer to the cardinal in these and similar cases.

Another restriction on their activity is indicated in Appendix 3. This is a list of the days when the minor penitentiaries did not usually sit in church to hear confessions. It included Sundays and the moveable feasts of Easter and Pentecost, together with the two days following these, and Ascension. Other feast days are listed month by month from January to December. Two kinds of feast stand out in particular: those observed only in Rome; and those observed only by the Franciscans or the

\textsuperscript{50} LANG, *Beiträge*, 40 nr. 14; 41 nr. 28b-31. See n. 15 on the Vienna and Graz manuscripts cited by Lang.

\textsuperscript{51} See *Les Registres de Nicolas IV*, ed. E. LANGLOIS, 2 vols., Paris 1887-1893, nr. 2270 (10 February 1290); cf. *ibid*, nr. 6850-51 (23 January 1292; privileges extended to those defending Armenia); also *RIPOLL, Bullarium... praedicatorum*, II, 33-34 (1 August 1291) authorising preaching of the cross in Lombardy.

\textsuperscript{52} Appendix 2, nr. 10, 13-15.

\textsuperscript{53} Cf. *ibid*, nr. 7, 12, 31.
Dominicans. The first kind comprised, for example, the dedication days of St John in Lateran and St Peter's (ecclesiarum salvatoris et sanctorum Petri et Pauli), on 9 and 18 November respectively. These were the Roman basilicas most closely associated with the papacy, and where minor penitentiaries heard confessions by the fourteenth century. Indeed some minor penitentiaries remained behind at St Peter's when others moved with the Curia to Avignon when others moved with the Curia to Avignon in the early fourteenth century. Possibly when the list qualifies such feasts tautum Rome, it is distinguishing between these two groups of penitentiaries, and presumably those at Avignon did not observe them. This would date the list to the period of the Avignon papacy (1305-1378), and the form of the list in V\(^1\) and V\(^2\) must be later than 18 July 1323 when Thomas Aquinas was canonised since it included his feast. The copy in W lacked this feast, which implies that it was an earlier version and the list was updated. In any case the feast of the Dominican Aquinas was one of those that only members of his order were to observe; the others were unremarkably also feasts of Dominican saints: Peter Martyr and Dominic himself (translation). The feasts only Franciscans had to keep were also those of their order's chief saints: Francis (translation); Antony of Padua; and Clare. The predominance of Franciscans and Dominicans among the minor penitentiaries explains why the list contained such holidays exclusive to them. But all minor penitentiaries were members of the Curia so they also usually ceased hearing confessions during solemn mass whenever the pope celebrated or attended it. Nevertheless they might provide other spiritual support on these days to penitents wanting to confess, the list concluded. But Pope Benedict XII wished them to be more obliging than this. His constitution of 1338 provided that, if the Curia was overwhelmed with pilgrims requesting confessions, absolutions, or dispensations, the minor penitentiaries were required to deal with them even on those Sundays and feasts when they did not usually hear confessions. This not only affirms that our list existed by 1338 but also implies that it was not imposed from above; the minor penitentiaries had most probably compiled it themselves for their own convenience and regulation.

They were certainly self-regulating by the fourteenth century for they had drawn up their own statutes, edited in Appendix 4. The preamble to these stated that these

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55 Incidentally the order of the list indicates that this feast was observed on the Roman date, namely 7 March; at Paris it was observed on 18 March. Likewise the feast of St Ambrose, listed under December (observed at Rome and Milan on 7 December, but on 4 April at Paris). A. Cappelli, Cronologia, cronografia e calendario perpetuo, 2nd edition, Milano 1930, 126, 151.

56 Unless it is merely an accidental omission; otherwise the version in W must at least postdate 1253 when Peter Martyr was canonised, since it includes his feast.

57 29 April (St Peter Martyr); 24 May (St Dominic, translation). According to W and V\(^1\) all minor penitentiaries had to observe the feast of St Dominic (4 August); but according to V\(^2\) only the Dominicans had to do so.

58 25 May (St Francis, translation); 13 June (St Anthony); 11 August (St Clare). But all minor penitentiaries had to observe the feast of St Francis (4 October).

59 Dentifl, Die älteste Taxrolle, 213.
reduced the customs of their predecessors to writing. This was a common justification of legislation by the thirteenth century, when many organised communities, ecclesiastical and secular, codified their laws. The statutes themselves give valuable insights into how minor penitentiaries carried out their functions. The first statute required them all to be on duty in church at the same time, namely between six and nine o’clock in the morning when the cardinals were in the consistory, since penitents mainly sought them at these times. Only infirmity or urgent business excused them from hearing confession and granting absolution or remission to penitents on these occasions. Benedict XII’s constitution of 1338 likewise obliged them to carry out these duties every day between the canonical hours of prime and terce (effectively the same times as in the statute) and in the main church of the place where the Curia resided (then Avignon). The statute did not specify the church to be used, but it described how they were to deal with penitents. The killer of a wife, father, brother, or cleric was to be stripped naked and, with their face hooded and arms bound, beaten publicly, unless the cardinal penitentiary required different treatment for a special person. This exception is not explained, but it was common for sinners of higher social status to be spared such humiliating penances by local church authorities. In any case other murderers, whether their crime was known or hidden, were to be stripped to the waist in church and beaten publicly by all the minor penitentiaries, but only hooded at their discretion; and added that clergy not in holy orders might be hooded to hide their tonsure «for the sake of honour». Finally, those excommunicated for doing violence to clerks might not be absolved until they had given satisfaction, i.e. compensation, but only if their victims were present; this qualified the minor penitentiaries’ faculties in such cases. Exceptions might be allowed in the former instances, regarding ordinary murderers, on the advice of several minor penitentiaries, but in these latter cases only on that of their two most senior members or their “prior”.

Evidently a hierarchy existed among the minor penitentiaries based on seniority and length of service, as the second statute indicates. The prior was clearly the most senior, and he assigned other penitentiaries their place in church to hear penitents. They might not officiate elsewhere except in the case of great prelates or excellent persons, whom they might hear in more secret places in the church. They might even absolve excommunicates anywhere provided that those requesting letters of absolution or dispensation could obtain these from a notary (i.e. scribe?) of the Peni-

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61 Denifle, Die älteste Taxrolle, 212.
63 The old were also afforded this dignity according to V².
Meetings of the minor penitentiaries also had to respect seniority; elder members took precedence unless the cardinal penitentiary arranged otherwise. The prior was to call business meetings at a venue of his choice on the first Sunday of the month, especially to treat more difficult cases, but any minor penitentiary might propose points for discussion. Likewise the prior ordered that when the penitentiaries attended mass celebrated by the pope, they position themselves to the right and left of the altar in order of seniority starting with the two oldest penitentiaries. Those of the same religious order were not to gather all on one side; this alluded to the strong mendicant presence among the minor penitentiaries and implied that Curial membership came before religious affiliation. Furthermore the second statute echoed verbatim the conclusion of the list, that minor penitentiaries must not hear confessions when the pope celebrated or attended mass but they might otherwise aid penitents then or on feasts.

According to the fourth statute the minor penitentiaries employed boys to guide penitents and do other necessary things. When taken into their service the boys had to swear an oath before the prior; if boys broke its terms, they might be punished accordingly and ultimately expelled from the Penitentiary. Boys were paid according to the severity of the penitent’s fault and the corresponding public penance. If a boy led the killer of a clerk round churches for three days, this penitent might pay him up to eight denari provisini. He might accept up to half this sum from the killer of a wife, father, brother or sister, but no more than two denari provisini from the killer of any other lay person, since such “simple” murderers performed a shorter penance. A minor penitentiary might permit a boy to receive higher sums when he absolved a penitent from a very grave sin, such as murdering bishops, great prelates or religious, and accordingly he instructed the boy to lead such a murderer on an extraordinary public penance round many churches and monasteries. The boys also had to read out letters of the penitentiary (doubtless to check for mistakes before they were issued) and seal them, but they had to do this gratis or at least for a small fee at the discretion of the minor penitentiaries, usually two denari provisini. This differs from the arrangement in Benedict XII’s constitution that two clerks appointed by the cardinal penitentiary were to keep the seal of the minor penitentiaries and seal the office’s letters. Meanwhile, the fifth statute assigned other duties to a senior boy, notably telling the penitentiaries when and where the pope would celebrate mass or cardinals.

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64 Benedict XII’s constitution of 1338 (DENIFLE, Die älteste Taxrolle, 213) also let them hear confession outside their designated places in the case of sick or high status penitents and required them to have letters of absolution or dispensation written by scribes of the Penitentiary. The second statute assigns the task to a notary; this implies that the office employed free-lances for this purpose before engaging its own scribes (the statutes are earlier than the constitution, so it will be argued below).

65 Stated in the third statute.

66 Stated in the second statute. See n. 31 above on this mendicant presence.

67 See Appendix 3.

68 Denari provisini were the standard currency of Rome in the later middle ages; see P. SPUPFORD, Handbook of Medieval Exchange, London 1986, 67, 164.

69 DENIFLE, Die älteste Taxrolle, 214.
and Curiales had to attend funerals, processions, or other solemnities; clearly they were expected to participate in such events. This boy was also to fetch for them candles and other "customary things" at the exequies for the dead and Candlemas (2 February); on this feast the pope usually blessed and distributed candles by the later thirteenth century. And this boy might be paid more than the others because of these extra responsibilities.

Other statutes regulated confession where the minor penitentiaries enjoyed broader powers of absolution than other priests, as Appendix 2 illustrates. The seventh statute indicates that they came from different nations and linguistic groups; this was useful for it meant that they could speak to many penitents in their own languages, and indeed the Curia was visited by pilgrims from all over the medieval West. By the fifteenth century Pope Eugenius IV even specified which nations the minor penitentiaries should represent for this reason: two of them had to be French; two, Spanish; and so on. In fact this ethnic diversity among the minor penitentiaries went back to the fourteenth century, if not earlier, and twelve nations were already identified among them under Pope Urban V. However, when pilgrims spoke languages they could not understand, the sixth statute provided that if there was no alternative, they could invite priests known to them all as worthy and discrete to act as interpreters. But normally priests might not hear such confessions since they were not competent to absolve pilgrims; minor penitentiaries had to report priests who did so to the cardinal penitentiary for punishment lest they misled or extorted money from naive pilgrims. Indeed Benedict XII's constitution of 1338 held that the minor penitentiaries themselves might not accept money from penitents, even alms, nor could they delegate their faculties to others, though they might ask the major penitentiary to appoint suitable confessors to assist them at busy times. In addition, the ninth statute forbade any of them to absolve a penitent whom another minor penitentiary had refused to absolve or relax a penance imposed by another minor penitentiary unless authorised to do so. Finally, the eighth statute advised that penitents belonging to a particular religious order ought to be referred to a minor penitentiary of that order where available; again this reflected the fact that many minor penitentiaries were mendicants or other religious.

The seventh and tenth statutes provide significant descriptions of funerary ceremonials in the papal Curia. Under the seventh statute the minor penitentiaries agreed that any of them might celebrate three masses and say the office of the dead. They had to cease hearing confession during papal masses; see the paragraph ending with n. 59 above. Cf. also the paragraph ending with n. 85 below. See n. 31 above.

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70 Indeed they had to cease hearing confession during papal masses; see the paragraph ending with n. 59 above. Cf. also the paragraph ending with n. 85 below.
71 M. Dykmans, Le cérémonial papal de la fin du Moyen Age à la Renaissance, I, Brussels-Rome 1977, 200 (ceremonial of Pope Gregory X, c. 1272-1274); see also n. 84 below on later ceremonials.
72 Göller, Die päpstliche Pönitentiarie, I/I, 140-41; Vincke, Volkstum, especially p. 423; Majic, Die Apostolische Pönitentiarie, 149-50, 160-75; Rehberg, Die Pönitentiarie in Urbe, 83-84.
74 See n. 31 above.
soul of a minor penitentiary who died in office; they might also do so for any of their “servants” (socii). Remarkably, the tenth statute describes the major role that minor penitentiaries played in the funeral preparations for a dead pope. When a pope died, all of them had to assemble at his corpse laid out on a table, and, aided by the papal almoner and cubiculii, they had to wash the pope's body with warm water and afterwards sweet-smelling wine. In order to preserve the body further from decay they also had to “fit” it (aptare) with silk and cloths of “mustard”; the funeral rituals in Pierre Ameil’s papal ceremonial (1385-1390) called for cloth to block the body’s orifices. Indeed the tenth statute required the papal almoner to “close” and prepare the body’s lower parts between the knees and navel. The minor penitentiaries might help him, if required, and prepare the rest of the body. It was then covered either in fresh muslin, a hair-shirt, or a habit (if the pope had been a religious on his election). Next his body was fully clothed in holy vestments including his pontifical ring, mitre, pallium, sandals, and gloves; in other words he was dressed like a bishop about to celebrate mass. His body was then moved onto a mattress covered in silk, and all the minor penitentiaries had to arrange themselves around it and bear the mattress with the body into the middle of the papal palace. There they placed it on a bed prepared by the papal chamberlain, and then kissing the pope’s feet they could join the papal chaplains in vigils and prayer by the body. Subsequently when the cardinals came for the pope’s burial, all the minor penitentiaries had to appear before them and request through the cardinal penitentiary that the cardinals confirm them in office and instruct the chamberlain to pay them their usual salaries during the papal vacancy. Normally offices in the Curia expired on the pope’s death, but this statute implies that the minor penitentiaries regarded theirs as virtually permanent. Indeed by 1312 Pope Clement V ruled that the chamberlain, the cardinal and minor penitentiaries might continue in post during papal vacancies. At such times letters of the Penitentiary might even be issued, the tenth statute concluded, but these had to state that the penitentiaries were acting «by the authority of the Holy Roman Church» (in other words

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75 Also described by LANG, Beiträge, 34-35; GÖLLE, Die päpstliche Pönitentiarie, I/I, 144-45. On the pope’s death generally, see A. PARAVICINI BAGLIANI, The Pope’s Body, trans. D. S. PETERSON, London 2000, especially chs. 4-6. I am grateful to Prof. Richard Sharpe for his help in translating the tenth statute.

76 Pierre Ameil’s papal ceremonial (1385-1390) similarly instructed the minor penitentiaries, together with frares of the bulla or la Pignotte, to wash the pope’s body first with warm water infused with herbs and later with good white wine warmed with sweet-smelling herbs and good Vernaccia (DYKMANS, Le cérémonial papal, IV, 218-19; PARAVICINI BAGLIANI, Body, 115). A mid-fourteenth-century ceremonial of the Avignon papacy simply instructed papal cubicularii to clean, wash, and prepare the pope’s body; DYKMANS, Le cérémonial papal, III, 264.

77 Ibi, IV, 219; PARAVICINI BAGLIANI, Body, 134.

78 A mid-fourteenth-century ceremonial of the Avignon papacy likewise required the pope’s body to be laid on a litter for the vigil and funeral dressed in red pontifical vestments (DYKMANS, Le cérémonial papal, III, 266); cf. similar arrangements described by Pierre Ameil, c. 1385-1390 (ibid, IV, 219; PARAVICINI BAGLIANI, Body, 115).

79 See also ibid, 148-49; GÖLLE, Die päpstliche Pönitentiarie, I/I, 146-49 (payments to minor penitentiaries in the papal chamber records under Boniface VIII in 1299 and subsequent popes).

80 Costitutions Clementinae, I.3.2.
the cardinals), and not the usual formula «by the authority of the lord pope». Even nowadays the cardinal penitentiary remains in office during vacancies.

This sequence of ten numbered statutes is undated, but in W, V¹, V² and other copies they are followed by two other unnumbered statutes that shed light on their dating. Both are rulings of Pope Nicholas IV issued in Orvieto at Easter in the fourth year of his pontificate, which must mean 22 April 1291.¹ The fact that these rulings are appended to the ten statutes implies that they post-date the statutes. The content of the rulings also suggests this. The first ruling states that cardinal penitentiary Matthew of Acquasparta called the minor penitentiaries to his house in Orvieto that Easter Sunday and walked with them to the papal palace; there he asked that the pope make good (supplere) or ratify anything that the penitentiaries did negligently while absolving sinners. The pope agreed to do so out of his plenitude potestatis. But in the second ruling he went on to scold the minor penitentiaries before the cardinal since, even though they were members of the Curia, they had not come to his palace before mass on Easter morning in order to receive the peace with the cardinals and other Curiales; papal ceremonials record this ritual by the early fourteenth century.² The pope required the minor penitentiaries to observe this ritual in future, and for neglecting it this time he imposed a penance on them to recite the seven penitential psalms. He went on to require their presence in the papal palace before mass at Candlemas. They were then to queue in pairs behind the papal chaplains in order to receive candles from the pope’s hand, and after doing so they were to kiss his feet. They were also to do the same on Ash Wednesday, Palm Sunday, and Easter Saturday when they were to accept respectively ashes, palms, and blessed lambs from the pope’s hands.³ This contrasts with the arrangement in the fifth statute above, where the minor penitentiaries sought candles from the pope at Candlemas through an intermediary. This was presumably an earlier arrangement, for papal ceremonials from the early fourteenth century onwards required them to obtain candles, palms, and ashes in person, exactly as our second ruling instructed.⁴ This would confirm that our ten statutes pre-date Easter 1291. It also suggests that the minor penitentiaries were rather detached from the Curia before Nicholas IV bound them more closely

¹ The fourth year of his pontificate was 1291-1292, but he died on 4 April 1292, two days before Easter, hence this must mean Easter 1291; the Curia was certainly at Orvieto then, for his enregistered letters are dated there on 22 April 1291 (Les Registres de Nicolas IV, nr. 4811, 4860, 4890, 4900, 4907, 4909-10, 6699-6701).

² Clearly the cardinal and minor penitentiaries usually moved with the pope when he resided outside of Rome. On Matthew of Acquasparta as cardinal Penitentiary see Göller, Die päpstliche Pönitentiaria, I, 90.

³ E.g. the ceremonial of Cardinal Giacomo Stefaneschi (d. 1341) in Dymmans, Le cérémonial papal, II, 398.

⁴ Among our four manuscripts, however, only V¹ is explicit that the pope distributed ashes on Ash Wednesday. On the paschal lambs see Paravicini Bagliani, Body, 75-81.

⁵ Dymmans, Le cérémonial papal, II, 355 (candles); III, 184 (candles), 190 (ashes), 202 (palms); IV, 86 (candles), 94 (ashes), 119 (palms). Allusions in the fourth statute to Roman currency also support a thirteenth-century date for the statutes, i.e. pre-Avignon papacy (1305-1378). Göller, Die päpstliche Pönitentiaria, II, 137, likewise seems to date them to the thirteenth century.
into its life and rituals. Clearly the model for the papal Curia, as for royal courts of the time, was the household, and the minor penitentiaries had to be reminded of their place within it.

If the statutes were really so early, then Benedict XII’s constitution of 1338 merely confirmed them when it repeated their provisions and changed them when it differed from these, notably on the sealing of letters. This would also make the tenth statute the earliest known description of papal funeral rituals. Strikingly subsequent fourteenth-century ceremonials differed from it on some points. Notably the funeral ceremonial of Pierre Ameil (1385-1390) added that minor penitentiaries had to read the office of the dead and seven penitential psalms from their book before the pope as he lay dying. Ameil admitted affirmed their role in washing the pope’s body, but not in embalming it; he assigned this to papal bullatores and an apothecary instead. Paravicini Bagliani has remarked on this professionalization of the task, passed to a medical specialist. Ameil also supplied more detail than our statute on the embalming and clothing of the body; once this had been done, the penitentiaries were to carry the funeral bed not into the middle of the palace, as our statute required, but first into the pope’s personal chamber to be visited by the cardinals one by one, and then into his chapel where the vigil was held. The minor penitentiaries retained their role in this, but Ameil added that half of them had to keep it till midnight and the other half till dawn, and they were to be rewarded for their efforts with a fine meal in the pope’s dining-room (tinellum). However another Avignonese ceremonial gave them no specific role in any of these rites, and neither it nor Ameil advised them to seek confirmation of their offices during the vacancy, as the statute did, doubtless since these were understood to be permanent by this period.

The remaining texts in W that regard the minor penitentiaries are edited in Appendix 5. These include their formulae of absolution (in confession and otherwise) and dispensation [5(a)] and the freedoms that Pope Urban V (1362-70) granted to them [5(c)]. He ordered these freedoms to be written in “their formularies”, presumably manuals such as W; this further suggests that W belonged to a minor penitentiary. Firstly Urban permitted the minor penitentiaries to have a portable altar in their lodgings where mass might be celebrated for them and their “servants” (socii). The socii could also grant them absolution and dispensations using the same faculties they could exercise in regard to other penitents including the socii themselves. Moreover

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[^86]: Dykmans, Le cérémonial papal, III, 264-69 (mid fourteenth-century ceremonial of Avignon papacy); IV, 218-21 (ceremonial of Pierre Ameil). Göller, Die päpstliche Pönitentiärte, I/I, 144-45, also notes such differences, but he gives the misleading impression that this statute is fifteenth-century; cf. Paravicini Bagliani, Body, 306 n. 53.

[^7]: Dykmans, Le cérémonial papal, IV, 218; cf. Göller, Die päpstliche Pönitentiärte, I/I, 144; Paravicini Bagliani, Body, 115. The italics above are mine; this is the only known evidence of a liturgical book of the penitentiaries.

[^8]: Dykmans, Le cérémonial papal, IV, 219; Paravicini Bagliani, Body, 135-36.


[^10]: Ibi, III, 264-69; it only mentions the penitentiaries at p. 268, where it requires them and other holders of permanent Curial posts (officia perpetua in Curia) not to wear dark clothes at papal funerals.
they and the socii might receive the sacraments in their lodgings during illnesses, notably extreme unction (ritual anointing at death) and the eucharist, without the local parish priest's consent. Furthermore minor penitentiaries might grant absolution if one of them had laid violent hands on (secular) clerks or religious in the Curia and drawn blood, provided that their colleague had not caused serious injury, mutilated a limb or come to the Curia with the intention of killing or doing injury. Such a colleague would have violated the canon *Si quis suadente,* and the minor penitentiaries already enjoyed the power to absolve from the excommunication it imposed, but this was subject here to certain legal qualifications, partly derived from the mid thirteenth-century decretal *Perlectis* in Appendix 7. Finally minor penitentiaries might share in the indulgence the pope granted to people in Easter week, and they received it for the time they spent hearing the confessions of penitents; they could also obtain a plenary indulgence on the point of death (*in mortis articulo*).

The text edited in Appendix 5(b) is not directly related to the minor penitentiaries, but it is of considerable interest. It normally appears among Pope Urban V's concessions of faculties to the cardinal penitentiary Guillermus Bragose (d. 1367), but in W it is transmitted separately. It concerns the penances enjoined on members of mercenary companies in France during the 1360s. Mercenaries had caused severe social and economic problems in much of France and many parts of Italy since the 1350s. The papacy had condemned their destructive behaviour since at least 1356, when Pope Innocent VI's bull *Ad reprimendas* excommunicated them. Matters became worse in 1357-1359 during a truce in the Hundred Years War between England and France and especially after the peace of Brétigny (1360) when mercenaries released from this conflict rampaged and looted widely in France to compensate themselves for their lack of employment. The worst period was 1363-65 when they even threatened Avignon. Therefore Urban V devoted much energy to solving this problem. He adopted two basic strategies. One was to promote crusades against the mercenaries as internal enemies of Christendom offering indulgences to those who resisted them. The other was to recruit them for crusades against Christendom's external foes, notably the Turks; indeed the papacy had been seeking to create peace...

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91 See n. 2 above on *Si quis suadente* and the paragraph ending with n. 114 below on *Perlectis.* Similar privileges allegedly granted by Benedict XII to the minor penitentiaries are described and edited by Göller, *Die päpstliche Pönitentiarie,* I/I, 141-42; I/II, 177-78.

92 These concessiones were edited by Göller, *Die päpstliche Pönitentiarie,* I/II, 12-18; the text in Appendix 5(b) appears at p. 15-17.


95 First issued on 24 February 1356. The text is edited by Denifle, *La guerre de cent ans,* II. 182 n. 1.


in western Christendom by exporting the violence of its warriors since at least the First Crusade. Both strategies ultimately failed but not for want of trying. On 25 May 1363 Urban called on the captains and mercenaries of companies in France to stop fighting Christians and go on crusade to the east in order to recover the Holy Land and purge themselves of their sins against Christians and churches; he appointed the minor penitentiary Nicolaus Brohm OSA to absolve those who took the cross\(^98\). This plea was associated with the crusade jointly planned by King Peter of Cyprus and John II of France and approved by Urban on 31 March 1363\(^99\). Participation of mercenaries was crucial, partly because French nobles were reluctant to leave on crusade while their lands were still vulnerable to mercenary attack. Indeed French support for this crusade largely ceased after the French king John died in 1364 and mercenaries could not be persuaded to join it. Urban V condemned the continued rampaging of the mercenaries in France proclaiming sanctions on them and their supporters in the bulls \textit{Miserabilis} (1364) and \textit{Clamat ad nos} (1365); his bull \textit{Cogit nos} (1364) even declared a crusade against them\(^100\). Nevertheless Urban continued to hope that mercenaries would seek to make amends and join a crusade. His bull \textit{Miserabilis} ordered them to disband their companies in France, abandon the places they occupied and make good the damage they had done within a month on pain of excommunication. He issued faculties to the cardinal penitentiary and various French bishops to absolve mercenaries and their associates from such papal sentences if they repented\(^101\). He also welcomed Arnaud de Cervole’s offer to lead mercenaries on a crusade to the east in 1365 though this came to nought\(^102\). Even as he prepared to return to Rome in 1366, a move largely prompted by the mercenary threat to Avignon, Urban still tried to free France of this problem. On 16 November 1366 he issued a bull enjoining penances on repentant mercenaries\(^103\). This is the source of the text edited in Appendix 5(b), which makes it the latest datable text copied by the main hand in W\(^104\). Clearly it must be no earlier than November 1366 and no later than August 1367 when cardinal penitentiary Bragose died.

\(^{98}\) \textit{Pope Urban V, Lettres secrètes et curiales se rapportant à la France}, ed. P. \textsc{Lecacheux} - G. \textsc{Mollat}, Paris 1902-1955, nr. 487; cf. similar pleas to English mercenary companies in Italy in 1364 (\textit{ibid}., nr. 891-92, 898). See also \textsc{Denifle}, \textit{La guerre de cent ans}, II, 377-78; \textsc{Housley}, \textit{The mercenary companies}, 269-80, especially p. 271-72; \textit{Id. The Avignon papacy}, 42, 116, 226-27.

\(^{99}\) Letters of Urban V bearing this date instructed the archbishop of Reims and other prelates in France to preach the crusade; see \textit{Lettres d‘Urbain V}, ed. A. \textsc{Fierens} - C. \textsc{Tohon}, Rome 1928-1932, nr. 720-22. See also \textsc{Housley}, \textit{The mercenary companies}, 271-73; \textit{Id. The Avignon papacy}, 41-45, 153.

\(^{100}\) \textit{Denifle}, \textit{La guerre de cent ans}, II, 445-51; \textsc{Housley}, \textit{The mercenary companies}, 258, 263-66. See also \textit{Urban V, Lettres secrètes}, nr. 1747 (1 May 1365).


\(^{102}\) \textit{Denifle}, \textit{La guerre de cent ans}, II, 480-84; \textsc{Housley}, \textit{The mercenary companies}, 274-75.

\(^{103}\) The text is edited by \textit{Denifle}, \textit{La guerre de cent ans}, II, 508 n. 1; \textit{Housley}, \textit{The mercenary companies}, 270.

\(^{104}\) The latest dated text in this hand in W is edited in Appendix 6 (13 May 1364); see n. 30 above.
The text stated that the penance imposed on members of the «wicked and damned» mercenary companies went beyond that prescribed for similar crimes in the formulary of the Penitentiary (clearly Benedict XII’s formulary of 1338). Firstly repentant mercenaries had to swear on the gospels to leave and never return to their companies, not to found new ones, nor support such companies, and never fight in or support a war against Christians, unless it was a licit war of their lords and they were bound by feudal obligations or other just reasons to serve in it. This exception was clearly a just war, and theologians and canonists had long developed a doctrine in favour of it, including the idea that it could only be conducted by a proper authority, in this case the mercenaries’ feudal lords. Secondly, in accordance with Miserabilis, they had to give satisfaction for the losses and injuries they inflicted, and if their victims were not found, they had to do this in the areas where they committed these wrongs, as the local bishop or his vicar required. If they had killed any clerk or priest, they had to do public penances that were twice the length usually imposed for such crimes. Those with the means to do so had to go on pilgrimage within a year to Jerusalem and other holy places overseas, and remain there for as long as they had belonged to the mercenary companies. If a crusade was sent there during this time, they had to join the fight against the infidels provided that they were suited to it.

Poor mercenaries, however, had to go to Rome within six months, stay there for a year, and visit St Peter’s and other holy places to do penance every week, and then go to the shrine of St James at Compostella. All mercenaries also had to fast on Fridays, except when they were travelling or infirm. Finally they needed their confessor’s permission for any delay in carrying out these penances, and those entirely without means to perform them had to seek alternative penances from their confessor.

Such measures were not entirely ineffective, for some mercenaries in France sought papal absolution during the 1360s, and Urban V had warned in May 1366 that any absolved mercenaries would fall back under papal sentences if they repeated their crimes. Nevertheless Pope Gregory XI still found it necessary in 1372 to renew the penances of 1366 on mercenaries even when renewed war in France occupied them, and he was still concerned about mercenaries in 1376.

Clearly Urban V had charged Cardinal Bragose with imposing the original penances in 1366, but it is possible that the minor penitentiaries assisted the cardinal in this; probably those at St Peter’s had to deal with poor mercenaries who came to do penance in Rome. Urban had even empowered one minor penitentiary to ab-

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106 This qualification reflects long-standing papal concerns regarding crusade recruitment; see the paragraph beginning with n. 49 above.
107 Urban V's letter of 16 November 1366 had originally delegated this commuting of penances to its addresses, the archbishop of Bordeaux and bishop of Sarlat; Denifle, La guerre de cent ans, II, 508.
108 Pope Gregory XI, Lettres secrètes et curiales relatives à la France, ed. L. Mirot et al., Paris 1935-1957, no. 687 (8 March 1372); another version of this letter dated 22 April 1372 was edited by Denifle, La guerre de cent ans, II, 843-45. See also Housley, The mercenary companies, 270, 278-79; id. The Avignon papacy, 116-17, 227.
solve mercenaries in 1363. But he and his successors Gregory XI (1370-1378) and Urban VI (1378-1389) generally authorised the cardinal penitentiary to absolve and dispense mercenaries and their associates from sentences imposed by the bulls Ad reprimendas, Miserabilis, and Clamat ad nos.109

Many of the remaining texts in W concern canon law.110 These would have been useful to an official of the Penitentiary since it largely dealt with violators of canon law.111 The mnemonic poems added to W in the mid-fifteenth century would have acted as card-indexes to the chief canonical collections.112 The text edited in Appendix 7 also regards one of the main reserved cases the office handled, violence against clergy. It is the decretal of Pope Innocent IV (1243-1254) Perlectis, which explained the distinction between moderate and serious injury to clerks; in effect it glossed a decretal of Pope Clement III (1187-1191), Pervenit ad nos, that had drawn this distinction and allowed bishops to grant absolution in cases of moderate injury. This had qualified the canon Si quis suadente that required attackers of clergy to seek papal absolution. Indeed many violators of this canon sought absolution from local bishops' courts by the later middle ages, notably for less serious assaults, hence this theoretical limitation of the law was observed in practice.113 Albeit Perlectis did not find a lasting place in medieval canon law. It was occasionally appended to the definitive collection of Innocent IV's decretals or Novelle, but it did not pass with them into Pope Boniface VIII's Liber Sextus (1298), although it was sometimes transmitted alone in W and other manuscripts.114

Another text in W also clarified which violations of canon law were referred to the Curia and which might be handled by local church authorities. This was the thirteenth-century canonist Bonaguida da Arezzo's Summa on dispensations,115 which distinguished between cases where bishops, abbots, and the pope alone might grant dispensations. This treatise was clearly useful in an office that issued papal dispensations and it appears in some other Penitentiary manuals. This is also true of another canonistic work in W, Bérenger Frédol's treatise on interdicts and excommunication,

110 Those in the main fourteenth-century hand appear at f. 32v-46r, 47r-97v, 115r-124v (see Appendix 1).
111 A fifteenth-century user of W was learned in and perhaps even a graduate of canon law; see the paragraph ending with n. 29 above.
112 At f. 126r-33r. Likewise the notabilia on the Decretum in the main hand at f. 115r-124v.
and its supplements. Bérenger had composed this treatise while bishop of Béziers and shortly after assisting Boniface VIII to compile the canon law collection, the Liber Sextus. During his absence at the Curia the town council of Béziers had taxed clergy of his diocese contrary to Boniface’s bull Clericis laicos (1296), thus the town had incurred an interdict under that bull. Hence on his return in 1298 Bérenger wrote this treatise to instruct his flock on how to avoid such sentences in future, since it listed instances where they were incurred automatically in canon law, most notably in the Liber Sextus where Clericis laicos appeared. Anonymous continuators of his treatise added further instances from subsequent canon law collections, principally the Clementine (1317) and the Extravagantes of John XXII (1325). These also appeared in W. W even included a mnemonic poem (with a commentary on it) summarising which violators of canon law fell under these sentences. Absolution in such cases was increasingly reserved to the pope, as in Clericis laicos, and the Penitentiary often granted this on his behalf, notably under the minor penitentiaries’ faculties in Appendix 2 discussed above.

In conclusion, our Washington manuscript is a type of practical compendium that an official of the Penitentiary, arguably a minor penitentiary, would need to have consulted while doing his duties. Its small size (218 x 150mm) indicates that it was designed to be carried around on such business; and our other manuals (O, V, V') are of similarly portable dimensions. These represent not only important working tools for those charged with administering canon law in the later medieval papal Curia, but they also constitute significant evidence of the role that the minor penitentiaries played there. From the late thirteenth century they enjoyed wide powers in dealing with penitents, notably enforcing public penances on notorious sinners. They had a collegiate sense of identity and self-governing responsibility expressed through their statutes. And they participated prominently in Curial ceremonial, not least in papal funerals. However they were increasingly subordinated within the Curia, such as in papal rites at Candlemas and Easter, and above all to the cardinal penitentiary, whose faculties continued to grow as theirs remained static at best or at worst diminished. Even though Benedict XII confirmed many of their customs in 1338, he also reduced their autonomy, notably requiring them to officiate on their traditional ‘holidays’. They were no longer self-regulating. Our Washington manuscript, therefore, reflects both the highpoint of the minor penitentiaries’ position in the papal Curia at thirteenth-century Rome and gradual decline of their status at fourteenth-century Avignon.

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117 At f. 54r-58r, Clericis laicos was reissued in the Liber sextus (1298) at VI 3.23.3.

118 Cf. however Majic, Die Apostolische Pöniten-tierie, 175-77, on their important role in diplomatic missions between the Avignon Curia and secular rulers.
APPENDIX

1. Contents of Washington D.C., Catholic University of America Library ms 185

Flyleaves: Parts of notarial instruments, one forming the front flyleaf with a notary’s *signum*, the other forming the rear flyleaf mentioning the judges Franciscus de Cassacahis, DCL, and Anthonius Amilhota, LicCL, and dated 12 July in the twelfth year of Martin V’s pontificate (1429).

f. I'-V*: *Tabula* to the manuscript’s contents.


f. 13*-26*: Tax-list of Pope Benedict XII for the papal Penitentiary, 8 April 1338: edited by DENIFLE, *Die älteste Taxrolle*, 220-36. The last part of the list edited by Denifle ends at the top of f. 25r, but the entries edited by Denifle, p. 233-34, are transposed here after the “closing” dating clause and then this text is added on f. 25v-26r: «Nota quod episcopus committens alicui in generali vices suas non sequitur de specialibus. Nota quod secundum R. et secundum Ebr. episcopo committente alicui vices suas scilicet ad penitentias iniungendas in generali non sequitur potestas in specialibus et exceptis nisi quantum specificavit vel intellexit episcopus, sed non debet committere nisi discreto in pondere peccatorum et circumstanciis personarum secundum quod moderande sunt dispen[sationes] et absolucionis [recte, absolusiones], nec habet officialis aliquam potestatem in occultis sed contenciosis tantum nisi [f. 26r]» in quantum ei committitur. Episcopus vero et vicarius ab archiepiscopo relictus vel substitutus in omnibus utitur auctoritate episcopi».

f. 26r-32*: *De observanciis et statutis penitentiariorum* (inc. «Cum iusto non sit lex positas») followed by texts headed *Notabile memorandum* (f. 31r-32r) and «Quo-modo penitentiarii ire debent ad missam pape» (f. 32v-32r): edited in Appendix 4.

f. 32v*-41*: *Casus qui continentur in constitucionibus Clementis pape quinti ut caveatur in quibus excommunicaconis sententia, suspensionis et interdum [recte, interdici vel] pena alia incurritur ipso facto et ideo nonnullorum ex eis absolvere sedi apostolice reservatur*: printed in *Le Liber de Excommunicacione*, ed. VERNAY, 67-75 (*Casus Clementinarum*).

f. 41v*-45r: Another untitled sequence of *casus of ipso facto* sentences (inc. «De fide catholica») in Clem. 1.1.un., 1.3.5, 1.6.2, 1.6.3, 3.1.1-2, 3.4.1, 3.5.un., 3.6.un., 3.7.1-2, 3.9.1, 3.11.1, 3.15.un., 3.16.un., 4.1.un., 5.1.1-2, 5.3.1, 5.3.3, 5.4.un., 5.5.un., 5.7.1-2, 5.8.1, 5.8.3, 5.9.1-2, 5.10.1-4, Extrav. Ioan. 3.un.(?) and Extrav. comm. 1.3.4.

f. 45v-46r: *Notandum sunt due regule circa inieccionem manuum in clericos vel in religiosos que regule incipientur ex illo canone Si quis suadente [C. 17 q. 4 c. 29]: almost identical to the second part of *Regulae de casibus canonis* Si quis suadente, printed in *Le Liber de Excommunicacione*, ed. VERNAY, 112-13; both texts list seventeen exceptions to the rule in this canon that absolution is reserved to the apostolic see.

f. 46v-47*: *Quibus diebus penitentiarii non sedent ad audiendum confessiones*: edited in Appendix 3.
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f. 47'-50': Casus qui inducunt irregularitatem et impediunt promotionem et ministerii altaris executionem (39 casus numbered in margin).

f. 50'-51': Sunt et alii casus in quibus tenetur quis ex reatu sanguinis licet non occiditur.

f. 51'-53': Casus quibus suspenditur ipso iure si celebrat [sed(?)] non est irregularis ipso iure.

f. 53'-54': Explanacio domini Innocencii pape quarti de levi iniuria (inc. «Per litteras vestras circa absolucionem»): edited in Appendix 7.

f. 54'-55': Isti [corrected from Istis] casus pertinent ad episcopum.

f. 55'-58': Sequitur declaracio versuum prescriptorum: a commentary glossing words and phrases in the preceding mnemonic poem.

f. 58'-66': [BONAGUIDA DA AREZZO], Summa de dispensacionibus (titled thus in the explicit), inc. «Dispensant episcopis in adulteriis»: printed in Tractatus universi iuris... (Venice 1584-1586), xiv, f. 173vb-174vb. W lacks the preface («Attendens ego Bonaguida de Arezzo... ff. de his qui sunt sui vel alie. iur. l. i. et Insti. eo. ti. §i.») and last sentence («Casus autem in quibus papa non dispensat quia dispensare non potest, vide glossa in capitulo Litteras. de restitutione spoliatorum. Deo gratias. Amen») of the printed text and includes the following subheadings: De diversis dispensacionibus episcoporum (f. 58'), 31 instances numbered in margin; De dispensacionibus abbatum (f. 60'), 6 instances numbered in margin; De privilegiis episcoporum (f. 61'), 30 instances numbered in margin; De casibus in quibus solus papa dispensat (f. 63'), 52 instances numbered in margin.

f. 66'-87': Incipiunt casus de toto corpore iuris canonici recollecti per dominum Berengarium episcopum: part of Bérenger Frédol (bishop of Béziers), De excommunicatione et interdici, printed in Le Liber de Excommunicacione, ed. VERNAY, 24-53. W lacks the last part of this tract, titled Denunciacio (edited by Varnay, 53-58), and includes the following subheadings: Casus igitur tocius iuris in quibus quis est ipso facto excommunicatus sunt isti (f. 67'); Nota [quod] predicti xx casus principaliter respiciunt fidem catholicam et deum, eius vero vicarium et ecclesiam Romanam respiciunt isti qui secuntur (f. 68'); Casus qui tangunt vel [sic] ecclesiasticam libertinatem quantum ad ipsarum [sic] personas et bona sunt isti (f. 70'); De interdictis (f. 80'); Casus in quibus ingressus ecclesie est alicui ipso iure interdictus (f. 82').

f. 87'-91': Untitled treatise inc. «Super illo canone xviii [recte, xvii] q. iiiii. Si quis suadente [C. 17 q. 4 c. 29] consueverint et due regule tradi»: printed in Le Liber de Excommunicacione, ed. VERNAY, 113-18 (De exceptionibus duarum regulam).

f. 91'-97': Incipiunt casus novarum constitucionum editarum in consilio Vienensis sub domino Clemente V ac quedam edite a domino Johanne XXII in quibus furtur excommunicacions, interdicti, suspensionis, inabilitatis et privacionis beneficiorum sententia ipso [iure] et huiusmodi in numero sexagenario secundum dictarum constitucionum [corrected from constitucionem] ordinem (60 casus numbered in margin): printed in Le Liber de Excommunicacione, ed. VERNAY, 60-67 (Casus Novarum Constitutionum).

f. 91'-101': [Summa of Nicholas IV], inc. «Anno domini m.cc.xc pontificatus
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Domini Nicholas pape iii anno iii°: the first part concerning the faculties of the minor penitentiaries edited in Appendix 2.

F. 101°, 103°-107° (f. 102 non-existent through misfoliation): [Summa of Nicholas IV, continued], inc. «Potest dominus cardinalis»: the second part concerning the faculties of the cardinal penitentiary edited by GÖLLER, Die päpstliche Pönitentiarie, I/II. 1-6.


F. 109°-111°: Ad reconciliandum apostatam a fide examinacione dicat exorcismum in hunc modum (f. 110'), Tunc signet eum in fronte signo crucis dicens (f. 110'), Tunc faciat eum confiteri dicens (f. 110'), Tunc imposita manu super caput eius dicat hanc orationem (f. 111').

F. 111°-112°: Formulæ pronouncing general sentences of excommunication (of the kind stated in the bull In cena domini and noted in Denunciatio, the last part of Bérenger Frédol’s treatise De excommunicacione et interdicti, printed in Le Liber de Excommunicacione, ed. VERNAY, 53-58).

F. 112°-113°: Ritual formulæ of absolution headed Forma abscucionis omnium peccatorum quando datur plena indulgencia per dominum papam in morte primo dicat infirmus (f. 112°), Item alia forma facta confessione ut supra et absolutione dicat (f. 113°), and Absolucio generalis penitentiariorum (f. 113°): the latter is edited in Appendix 5(a).

F. 113°-114°: Penitentia illis imponenda de maledicta societate in regno Francie: edited in Appendix 5(b).


F. 115°-124°: Notabiliæ on the Decretum (summarising each distinctio and quaestio), inc. «Liber decretorum distinctus est in tres partes»: other copies on the In Principio database are often attributed to Spanish canonist Johannes de Deo, but not identified among his works by M. C. DÍAZ Y DÍAZ, Index scriptorum Latinorum medii aevi Hispánorum, Salamanca 1958.

F. 124°-125°: Witnessed copy of a letter of Guido [de Bolonia], cardinal bishop of Porto, and Petrus [Iterii], cardinal bishop of Albano, to the master and diffinitores of the Dominican General Chapter; the original letter is dated 11 May 1364 at Avignon, and this copy 13 May 1364: edited in Appendix 6.

F. 126°-131°: Versified summary of the Decretum, inc. «Si quis in hoc facto per metra studere».

F. 131°: Alii versus de causis et questionibus Decreti, inc. «Discere causarum quacumlibet ordine membra».


F. 132°-133°: Versified summary of the Liber extra (Gregory IX’s Decretales),
inc. «Primo summe fides statuit scribat quoque sus[clit]»: other copies noted by P. GERBENSON, Some medieval canonists from the diocese of Utrecht, «Studia Gratiana» 12 (1967), at p. 259 n. 31(B).

2.
The faculties of the minor penitentiaries, 1290

Washington D.C., CUA ms 185 (= W), f. 97v-101v, collated with BAV, Ottob. lat. 333 (= O), f. 101r-2v; BAV, Vat. lat. 3994 (= V), f. 25r-8r, where spaces are left for adding papal names; BAV, Vat. lat. 6290 (= V'), f. 16v-21r. The numbering of the entries in square brackets is mine.

Added by the fifteenth-century Italian hand in upper margin of W: + Casus quibus utuntur penitentiarii d. pape absolutionibus et dispensationibus eisdem concessis etc.\(^{119}\)

Anno domini m.cc.xc.'® pontificatus domini Nicholai\(^{120}\) pape .lIII. anno tercio\(^{121}\) penitentiario domini pape tam absolutionibus quam dispensationibus\(^{122}\) a summis sibi concessis pontificibus utuntur ut in subscriptis paragrafas\(^{124}\) continetur. Et quia super animarum salute\(^{125}\) recurrentibus ad sanctam matrem Romanam\(^{126}\) ecclesiam et\(^{127}\) ipsam requirentibus certum ac salubre ab eisdem penitentiariis est\(^{128}\) consilium impendendum, subscribuntur speciales casus in quibus absolvere et dispensare\(^{129}\) habeant penitentiarii et in quibus dominus cardinalis qui penitentiarii\(^{130}\) curam gerit.

[1]\(^{131}\) In symonia in simplici beneficio\(^{132}\) ignorante beneficiato, commissa penitentiarii possunt absolvere et cum eo dispensare ut si evidens utilitas vel neces-

\(^{119}\) V', f. 25r, has a different (rubricated) heading: ‘Sequitur potestas penitentiariorum’. In the right margin also rubricated: ‘Nicolaus III’. V, f. 16v, has another heading: ‘Quibus et quibus pec-ccatis penitentiarii possunt absolvere et dispensare’.


\(^{122}\) W: ‘iii° [pontificatus, subpuncted]’. O, f. 101r; V', f. 25r: ‘tercio’.

\(^{123}\) V', f. 17r: ‘tam de dispensationibus quam de absolucionibus’.


\(^{125}\) V', f. 17r: ‘salutem’.

\(^{126}\) V', f. 17r, lacks ‘Romanam’.

\(^{127}\) W adds ‘per’ here, absent in O, f. 101r; V', f. 25r.

\(^{128}\) W and O, f. 101r, lack ‘est’. V', f. 17r: ‘salubre ac certum ab ipsis penitentiariis est’.

\(^{129}\) V', f. 17r: ‘dispensare possunt preter reliquos casus cum ipsi soli cardinali penitentiaria curam gerenti a summio pontifice conceduntur ut ad summum pontificem vicarium domini nostri Ihesu Cristi qui ligandi atque solvendi plena[m] etiam habet potestatem in certis casibus arduis penitentes consilia remittuntur’.

\(^{130}\) O, f. 101r: ‘penitentiarie officii curam’.

\(^{131}\) O, f. 101r, adds rubric: ‘De symonia’. V', f. 25r, adds rubric ‘De absolutionibus et dispensationibus per penitentiarios’.

\(^{132}\) V', f. 17r: ‘beneficio cum ipso penitentiarii absolvere et dispensare cum eo ut si audiens [sic] utilitas... liberam reassignationem [sic]...’.
sitas exigerit\textsuperscript{133}, post liberam resignationem possit idem beneficium recipere si sibi postmodum canonice\textsuperscript{134} conferatur, de fructibus tamen medio tempore percepts\textsuperscript{135} satisfaciat. Martinus iii\textsuperscript{136}.

[2] Item dispensare possunt\textsuperscript{137} cum eis qui cum ordinandi\textsuperscript{138} essent, miserunt episcopo esculenta vel pocioulenta, vel\textsuperscript{139} aliqui familiarii ipsius dederunt aliquod modicum vel vile propter hoc. Martinus iii\textsuperscript{139,140}.

[3] Item absolvunt\textsuperscript{141} penitentiarii omnes et singulos qui participaverunt sed non in crimine Patzis\textsuperscript{142} de Valle Ami qui quondam ausu\textsuperscript{143} sacrilego quosdam prelatos et clericos occidentur. Innocencius [V]\textsuperscript{144}.

[4] Item absolvunt\textsuperscript{145} eos qui antiquam decimam vel centesimam in statuto termino vel integre non solverunt postquam integre satisfecerint et dispensant cum eis.\textsuperscript{146} Martinus iii\textsuperscript{147}.

[5] Item excommunicatos\textsuperscript{148} per iudices delegatos vel alios\textsuperscript{149} quorum iurisdictione expiravit possunt absolvere et cum eis dispensare dummodo debita satisfacione vel compositio subsequita fuerit, inter partes\textsuperscript{150} tamen remittunt eos absolutos\textsuperscript{151} post satisfacionem et committunt dispensationem in debita forma. Martinus iii\textsuperscript{152}.

\textsuperscript{133} O, f. 101r; V, f. 25r: ‘exegerit’.
\textsuperscript{134} O, f. 101r: ‘cononice [sic]’.
\textsuperscript{135} O, f. 101r; V, f. 25r: ‘percepts’.
\textsuperscript{136} O, f. 101r: ‘Martinus quartus [rubricated]’. V, f. 25r, and V, f. 17r, lack the pope’s name.\textsuperscript{137} V, f. 25r: ‘possint’. V, f. 17r: ‘cum eis possint quicumque ordinandi’.
\textsuperscript{139} O, f. 101r, lacks ‘vel’. V, f. 17r: ‘seu aliter familiaribus eiusdem episcopi... vile vel modicum propter hoc’.
\textsuperscript{140} O, f. 101r, and V, f. 25r, lack the pope’s name. V, f. 17r, has rubric instead: ‘Innocencius expiravit’. O adds rubric: ‘De excommunicis’.
\textsuperscript{141} O, f. 101r: ‘absolventur’. V, f. 17r: ‘Item excommunicatos per iudices delegatos absolvunt penitentiarii singulos et omnes qui... sed in crimine Pacis de Vale Arni qui quondam iussu sacrilego quosdam sacerdotes [f. 17v] et prelatos occidentur’.
\textsuperscript{142} O, f. 101r: ‘paczis’. V, f. 25r: ‘paczis’. These are members of the Pazzi clan of the valley of the Arno (val d’Arno), i.e. Florence, who already played an active role in Tuscan politics by the 1270s; R. DAVIDSOHN, \textit{Storia di Firenze}, III, Firenze 1960, 126, 189, 218.
\textsuperscript{143} V, f. 25r: ‘ausu temerario sacrilego’.
\textsuperscript{144} Rubricated in O, f. 101r; V, f. 25r, and V, f. 17r, lack the pope’s name.\textsuperscript{145} V, f. 17r: ‘absolvunt’.
\textsuperscript{146} V, f. 17v: ‘centesimam in statuto sibi termino... non persolverunt... satisfacerint penitentiarii in forma debita possunt dispensare cum eis’.
\textsuperscript{147} O, f. 101r: ‘Martinus quartus [rubricated]’. V, f. 25v, and V, f. 17v, lack the pope’s name.
\textsuperscript{148} O, f. 101r: ‘excommunicatis’.
\textsuperscript{149} W: ‘eorum’. O, f. 101r; V, f. 25v: ‘aliorum’.
\textsuperscript{151} O, f. 101r: ‘absolvendos’.
\textsuperscript{152} O, f. 101r: ‘Martinus quartus [rubricated]’. V, f. 25v, and V, f. 17v, lack the pope’s name.
[6] Item eos qui\textsuperscript{153} factum nullo modo recolentes pro quo excommunicati erant vel factum quidem\textsuperscript{154} recolentes iuris ignari non credentes exinde teneri\textsuperscript{155} sacros ordinis receperunt et ministraverunt in ipsis\textsuperscript{156} absolvere et cum eis in forma debita dispensare dummodo eorum ignorantia crassa non fuerit vel supina. [Martinus iii\textsuperscript{157}].

[7] Item absolvent eos et dispensant cum eis qui manus violentas iniciunt\textsuperscript{158} in clericos seculares vel alias religiosas personas, dummodo\textsuperscript{159} percussi non fuerint episcopi vel maior\textsuperscript{160} abbates aut alii prelati\textsuperscript{161} et non sint mortui vel mutilati\textsuperscript{162} aliquo modo effecti\textsuperscript{163} inutiles seu inhabiles ad divina\textsuperscript{164}. Martinus iii\textsuperscript{165}.

[8] Item absolvent clericos concubinarios et dispensant cum eis. Martinus iii\textsuperscript{166}.

[9] Item absolvent incendiarios, fractores et violatores ecclesiarum et aliorum locorum\textsuperscript{167} et sacrilegos et cum eis in forma debita dispensant, ita tamen quod si\textsuperscript{168} satisfacere contemperent per eorum\textsuperscript{169} prelati quos ad quos absolti remittuntur, in excommunicationis sententiam reducantur. Martinus iii\textsuperscript{170}.

[10] Item absolvent interfectores clericorum\textsuperscript{171} et aliarum personarum ecclesiast...
ticarum\textsuperscript{172} et mutilatores\textsuperscript{173} eorum tamen de consilio\textsuperscript{174} domini cardinalis et quod non sit prelatus ut supra nec personatus. Martinus iii\textsuperscript{175}

[11] Item absolvunt eos qui res vetitas Sarracenis\textsuperscript{176} miserunt vel portaverunt seu vendiderunt dummodo quicquid\textsuperscript{177} lucrati sunt et tantum\textsuperscript{178} de suo restiant in terre sancte subsidium convertendum vel domini pape camere assignandum et hoc post satisfactionem impensam plene\textsuperscript{180} et assignationem\textsuperscript{181} ipsius satisfactionis factam illis\textsuperscript{182} personis que ad hec fuerint deputate\textsuperscript{183} vel camere domini pape, ut dictum est, nisi forte circumstantia\textsuperscript{184} peccatum huiusmodi\textsuperscript{185} plus gravaret,\textsuperscript{186} puta si communitas\textsuperscript{187} alicuius civitatis multum contra hoc peccasset vel aliqua persona notabilis\textsuperscript{188} frequenter et multum deliquisset\textsuperscript{189} vel alicuius huiusmodi\textsuperscript{190} intervenisset, alias in forma debita scribatur ordinario eorum ut recepta ab eis prius\textsuperscript{191} cautione ydonea quod infra tempus eis ab ipso ordinario prefigendum\textsuperscript{192} predicta impleant ipsos absolvat\textsuperscript{193}. Martinus iii\textsuperscript{195}

[12] Item absolvunt clericos et dispensant cum eis qui ex simplicitate vel coactione Manfredo, Coradino\textsuperscript{194} et aliis eorum fautoribus divina officia ministrarunt\textsuperscript{195}

\textsuperscript{172} W: ‘ecclesiaria’. O, f. 101r: ‘ecclesiasticaria’.
\textsuperscript{173} W: ‘multlatores [sic]’. O, f. 101r: ‘mutilatores’.
\textsuperscript{174} O, f. 101r: ‘concilio’.
\textsuperscript{175} O, f. 101r: ‘Martinus quartus [rubricated]’. V, f. 26r, lacks pope’s name.
\textsuperscript{176} W, f. 18r: ‘Saracenis’.
\textsuperscript{179} W: ‘ut’. O, f. 101v; V, f. 26r: ‘vel’. V, f. 18r, lacks ‘vel... assignandum’ and continues ‘et pec post’.
\textsuperscript{180} V, f. 18r: absent.
\textsuperscript{181} V, f. 26r: absent.
\textsuperscript{182} V, f. 18r: absent.
\textsuperscript{183} W, f. 18r: ‘que ad hoc fuerint constitute vel deputate’. V lacks ‘vel... dictum est’ after this.
\textsuperscript{184} O, f. 101v: ‘circumstancia [sic]’.
\textsuperscript{186} O, f. 101v: ‘gravarent’.
\textsuperscript{187} V, f. 18r: ‘communitas vel universitas alicuius civitatis vel loci multum... vel alius persona’.
\textsuperscript{188} W, f. 18r: absent.
\textsuperscript{189} W: ‘delinquisset’. O, f. 101v; V, f. 26r: ‘deliquisset’.
\textsuperscript{190} W: ‘huius’. O, f. 101v; V, f. 26r: ‘huiusmodi’. V, f. 18r, has ‘ad hoc’ instead of ‘vel alicip us huiusmodi’.
\textsuperscript{191} W, f. 18r: absent.
\textsuperscript{192} W: ‘frigendum’. O, f. 101v; V, f. 26r: ‘prefigendum’.
\textsuperscript{194} W: ‘Manfredo, Cordadino’. O, f. 101v: ‘coacti Manfredo, Coradino’. V, f. 26r: ‘Manfredo, Cordadino’. V, f. 18r: ‘coacti Manfredo, Coradino’. Manfred (d. 1266) was the illegitimate son of the emperor Frederick II (d. 1250), and Conradin (d. 1268) was Frederick II’s grandson and last male heir; they continued Frederick’s struggle against the papacy in order to control the kingdom of Sicily and northern Italian communes.
\textsuperscript{195} V, f. 18r: ‘celebrarunt’.
vel qui iuraverant eis fidelitatem per vim et metum qui cadere poterant\textsuperscript{196} in constantem virum nisi essent episcopi, abbates vel alii prelati. Martinus iii\textsuperscript{197}.

[13] Item possunt falsarios instrumentorum et sigillorum absolvere et cum eis dispensare, maxime si sit occultum ita tamen quod de dampnis occasione huiusmodi\textsuperscript{198} subsecutus [recte?, subsecuitis] satisfaciant competenter, nisi forte ex\textsuperscript{199} alia circumstantia videatur dominus cardinalis vel summus pontifex requirendus litteris apostolicis dumtaxat exceptus. Martinus iii\textsuperscript{200}.

[14] Item absolvunt excommunicatos per dominum Ottobonum\textsuperscript{201} pro facto regis Anglie et dispensant cum eis, magne tamen persone expedientur per cardinalem\textsuperscript{202}. Martinus iii\textsuperscript{203}.

[15] Item absolvunt eos\textsuperscript{204} qui adhérerunt quondam Frederico imperatori et Acelino et Palenesino\textsuperscript{205} et post satisfactionem impensam\textsuperscript{206} et peractam penitentiam dispensant\textsuperscript{207} cum eis, dum\textsuperscript{208} tamen non sint comites,\textsuperscript{209} duces, barones vel castrorum domini seu magne persone que expedientur per cardinalem. Martinus iii\textsuperscript{210}.

[16] Item absolvunt eos\textsuperscript{211} qui cruce signati fuerunt et\textsuperscript{212} ex mora transfretandi excommunicationis sententiam incurrerunt\textsuperscript{213} in forma debita. Martinus iii\textsuperscript{214}.

\textsuperscript{196} W: ‘qui credere poterat’. O, f. 101v: ‘qui cadere poterant in constantem nisi’. V\textsuperscript{1}, f. 26r: ‘per vim vel metum qui cadere poterat’. V\textsuperscript{2}, f. 18r: ‘vim vel metum qui cadere poterat’.

\textsuperscript{197} O, f. 101v: ‘Martinus quartus [rubricated]’. V\textsuperscript{1}, f. 26r: ‘episcopi vel abbares vel alii prelati.’ V\textsuperscript{2}, f. 18r: ‘episcopi vel prelati.’ V\textsuperscript{1}, f. 26r, and V\textsuperscript{2}, f. 18r, lack the pope’s name. V\textsuperscript{2} also lacks the next entry ‘Item possunt... dumtaxat exceptus’.

\textsuperscript{198} W: ‘huius’. O, f. 101v; V\textsuperscript{1}, f. 26r: ‘huiusmodi’.

\textsuperscript{199} V\textsuperscript{1}, f. 26r, adds ‘aliaqua’.

\textsuperscript{200} O, f. 101v: ‘Martinus quartus [rubricated]’. V\textsuperscript{1}, f. 26r, lacks the pope’s name.

\textsuperscript{201} V\textsuperscript{1}, f. 26r: ‘Octobonum’. Ottobuono Fieschi, cardinal deacon of S. Adriano, came to England as a papal legate on 29 October 1265 and left in July 1268. His constitutions issued there in 1268 are printed in \textit{Councils and Synods, II. A.D. 1205-1313}, ed. POWICKE - CHENEY, 747-92.

\textsuperscript{202} W: ‘magne persone que expedientur ...’ O, f. 101v; V\textsuperscript{1}, f. 26v: ‘magne tamen persone expediuntur per cardinalem.’ V\textsuperscript{2}, f. 18r: ‘cum eis, magnates tamen... per dominum cardinalem’.

\textsuperscript{203} O, f. 101v: ‘Martinus quartus [rubricated]’. V\textsuperscript{1}, f. 26v, and V\textsuperscript{2}, f. 18r, lack the pope’s name.

\textsuperscript{204} V\textsuperscript{1}, f. 26r: ‘impenssam’. O, f. 101v; V\textsuperscript{1}, f. 26v: ‘impensam’.

\textsuperscript{205} W: ‘impenssam’. O, f. 101v; V\textsuperscript{1}, f. 26v: ‘impensam’.

\textsuperscript{206} O, f. 101v, lacks ‘dum’.

\textsuperscript{207} W: ‘dispensent’.

\textsuperscript{208} O, f. 101v, lacks ‘dum’.

\textsuperscript{209} W: ‘comites’. O, f. 101v; V\textsuperscript{1}, f. 26v: ‘comites’.

\textsuperscript{210} O, f. 101v: ‘Martinus quartus [rubricated]’. V\textsuperscript{2}, f. 18v: ‘persone que mittuntur ad dominum cardinalem.’ V\textsuperscript{1}, f. 26v, and V\textsuperscript{2}, f. 18v, lack the pope’s name.

\textsuperscript{211} V\textsuperscript{1}, f. 18v: ‘Item possunt absolvere eos’.

\textsuperscript{212} V\textsuperscript{2}, f. 18v, lacks ‘fuerunt et’.

\textsuperscript{213} W: ‘incurrunt et hoc in forma’. V\textsuperscript{2}, f. 18v: ‘incurrerunt in accedendo ad sepulcrum...’; the opening of the next entry, ‘Item absolvunt peregrinos... incururrunt’, is omitted through homeoteleuton on ‘incurrerunt’.

\textsuperscript{214} O, f. 101v: ‘Nicolaus quartus [rubricated]’. V\textsuperscript{1}, f. 26v, lacks pope’s name.
[17] Item absolvent peregrinos qui excommunicationis sententiam incurrerunt in accendentes ad sepulcrum domini generaliter promulgatam et possunt mitigare penam quae huiusmodi peregrinis consuevit imponi, considerata paupertate, conditione et qualitate ipsorum, talibus tamen bona penitentia iniungatur. Nicolaus iii

[18] Item possunt absolvere mulieres Siculas ad Romanam Curiam venientes que Almoganatis prestiterunt consilium vel favorem seu alio quocumque modo excommunicationis sententiam latam contra alias Siculas mulieres incurrerunt. Nicolaus iii

[19] Item absolvent omnes illos qui excommunicationis sententias intransgressores statutorum provincialium et sinodalium et aliorum quorumcumque terris et locis, monasteriis seu alis conventibus religiosorum et secularium generaliter promulgatas et in locis in quibus generalia studia exercentur, ita tamen provinciales mandetis(!) eis sub debito prestiti iuramenti ut satisfaciant alioquin in excommunicationis sententia reducantur, et etiam excommunicatos
propter parva furta et alias offensas\textsuperscript{235} parvi valoris usque ad summam xx.\textsuperscript{236} turonen-sium grossorum (ab inde supra remittantur absolvendi\textsuperscript{237} postquam satisfecerint)\textsuperscript{238} et committunt quod dispensetur cum eis et, ut\textsuperscript{239} breviter dicam, absolvunt\textsuperscript{240} presentes tantum super quibuscumque canonibus et generalibus sententiiis et super omnibus dispensationibus faciendis remittunt eos ad prelatos propios vel ad alios si eos ex certa et\textsuperscript{241} legittima causa devicient. Nicolaus iii\textsuperscript{242}.

[20] Item cum presbiteris\textsuperscript{243} per superiores suos a particularibus seu generalibus sententiiis absolutis possunt dispensare si forte\textsuperscript{244} sic ligati celebraverunt vel divinis se inmiscuerunt. Nicolaus iii\textsuperscript{245}.

[21] Item possunt dispensare cum illis qui celebraverunt vel ministraverunt in ordine non suscepto ut in susceptis ministrent tantum et per ingressum religionis\textsuperscript{246} promoteantur. Martinus iii\textsuperscript{247}.

[22] Item\textsuperscript{248} cum illis qui furtive a propriis episcopis ordines receperunt dummodo in tales non fuerit lata sententia alias non nisi per ingressum religionis. Martinus iii\textsuperscript{249}.

[23] Item\textsuperscript{250} cum illis qui sunt promoti per saltum vel in quorum promovitione fuit aliquid pretermissum. Martinus iii\textsuperscript{251}.

\textsuperscript{235} W: ‘offessas’. O, f. 101v; V, f. 26v: ‘offensas’. V, f. 19r: ‘vel propter parvas offensiones vel res parvi valoris ita tamen quod cum se tempus oportunitatis et necessitatis ac possibilitatis obtulerit, satisfaciat de commissis. Sed, ut breviter dicam, absolvunt penitencierii et dispensant cum presentibus tantum, et absolucionem et dispensacionem pro his quos presentes habent interdictum ex causa committunt super quibus canonum sentenciiis vel aliis generalibus suis [recte, sentenciis] non tamen preudicialibus et commisissi aliis pro quorum absolvucione non est necessarie sedes apostolica consulenda ita tamen quod in casibus spectantibus ad diocesanum semper scribitur ipsi diocesano in forma debita’; this replaces the rest of the entry ending ‘legittima causa devient. Nicolaus iii\textsuperscript{252} above.

\textsuperscript{236} W: ‘sumam xx.’ O, f. 101v: ‘sumamxx. [i, subpuncted]’. V, f. 26v: ‘sumam xx\textsuperscript{253}.

\textsuperscript{237} W: ‘absolui’. O, f. 102r; V, f. 26v: ‘absolvendi’.

\textsuperscript{238} O, f. 102r: ‘satisfecerint [sic]’.

\textsuperscript{239} O, f. 102r; V, f. 26v: ‘cum’.

\textsuperscript{240} O, f. 102r: ‘absolverunt’.

\textsuperscript{241} O, f. 102r: ‘vel’. V, f. 26v: ‘et legittima’.

\textsuperscript{242} O, f. 102r: ‘devinentur. Nicolaus iii\textsuperscript{[rubricated]’}. V, f. 27r, lacks the pope’s name.


\textsuperscript{244} V, f. 19r: ‘forte ligati celebrant vel aliter divinis se inmiscuerint contra canonica instituta.’ V\textsuperscript{2} then adds rubric before the next entry: ‘De dispensationibus’.

\textsuperscript{245} O, f. 102r: ‘Martinus quartus [rubricated]’. V, f. 27r, and V\textsuperscript{2}, f. 19r, lack the pope’s name.

\textsuperscript{246} O, f. 102r: ‘ingressum ad alios promoteantur. Idem [i.e. Martinus quartus; [rubricated]’.

\textsuperscript{247} V, f. 27r, lacks this entry. V\textsuperscript{2}, f. 19r-v, has a different version: ‘Possunt penitencierii dispensare cum illo qui ministravit in ordine non suscepto ut ministret [f. 19v] tantum modo in susceptis.’

\textsuperscript{248} V\textsuperscript{2}, f. 27r, adds ‘dispensant’. V\textsuperscript{2}, f. 19r, has a different version of this entry: ‘Possunt dispensare cum illis qui sine interterminatione anathematis furtive ordinis tamen a proprio episcopo receperunt aliter non nisi per religionis ingressum. Et idem est de illo qui ab alio episcopo ordinatur.’ Then V\textsuperscript{2} adds rubric before the next entry: ‘Nota de illo qui ministravit in ordine suscepto’.

\textsuperscript{249} O, f. 102r: ‘Martinus quartus [rubricated]’. V\textsuperscript{1}, f. 27r, and V\textsuperscript{2}, f. 19v, begins: ‘Item possunt dispensare cum illis iuxta formam decretales qui promoti sunt per saltum’.

\textsuperscript{250} O, f. 102r: ‘Martinus quartus [rubricated]’. V\textsuperscript{1}, f. 27r, and V\textsuperscript{2}, f. 19v, lack the pope’s name.
[24] Item cum illis qui prohibiti per episcopum sub pena excommunicatio-

nisi uno die due sacros ordines receperunt, ata quod previa absolutione debita et

inucta eis penitentia competenti et peracta in habitu religionis assumpto et non

aliter possint in sic suscepitis ordinibus ministre. Martinus iii.

[25] Item cum illis qui ab excommunicato vel suspenso episco
do loco et dignitati igno
tantere ordinant receperunt, dum tamen ignorantia iuris crassa non fuerit vel suppina. Martinus iii.

[26] Item cum illis qui sententiam excommunicationis protulerunt in aliquos sine scriptis, causa legittima non expressa vel monitione canonica non premissa, nec abstinerunt postmodum a divinis. Martinus iii.

[27] Item cum illis qui igno
tanter in loco interdicit celeb
terunt. Martinus iii.

[28] Item possunt absolvere apostatas presentes cuiuscumque condi
tionis et remittere eos cum precibus ut receptur, salva ordinis disciplina, et committere ut dispensetur cum eis etiam si in secolo ordines peciperunt. Nicolaus iii.

[29] Item possunt absolvere perioius propter dona recepta dum staret in obe
dquis domini, ita tamen quod sic recepta assignentur camere domini pape in

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252 V', f. 27r, adds 'dispensant'. V', f. 19v, begins: 'Item possunt dispensare cum hiis qui prohibiti'.

253 V', f. 19v: 'duos ordines receiperunt sacros ina quod absolucione previa debita et'.

254 V', f. 19v: 'pena [sic]'.

255 V', f. 27r: 'alias possunt'. V', f. 19v: 'possint scilicet in suscepitis...'.

256 O, f. 102r: 'Martinus quartus [rubricated]'. V', f. 27r, and V', f. 19v, lack pope's name.

257 V', f. 27r, adds 'dispensant'. V', f. 19v, has a different version of this entry: 'Item possunt dispensare cum iliis qui ignoranter ordinis susceperunt ab excommunicato episco
do vel suspenso vel qui resignavit loco ordinato dum tamen eorum ignorantia crassa non fuerit vel suppina'.

258 O, f. 102r: 'resignavit'.

259 W: 'suppina...'. O, f. 102r: 'suppina. Martinus quartus [rubricated]'. V', f. 27r: 'suppina'.

V' and V', f. 19v, lack the pope's name.

260 V', f. 27r, adds 'dispensant'. V', f. 19v, begins: 'Item possunt dispensare cum eis qui'.

261 V', f. 19v: 'in aliquos tulerunt'.

262 V', f. 27r; V', f. 19v: 'legitima'.

263 O, f. 102r: 'astinuerunt'.


265 V', f. 27r, adds 'dispensant'. V', f. 19v, begins: 'Item possunt in forma debita dispensare cum hiis per simplicitatem et errorem in loco...'.

266 V', f. 19v: 'locis interdictis'.

267 O, f. 102r: 'celebrarunt. Martinus quartus [rubricated]'. V', f. 27r, and V', f. 19v, lack the pope's name.

268 V', f. 20r: 'apostatas cuiuscumque ordinis vel religionis presentes et remittere eos ut recipiatur, salva...'.

269 V', f. 27r: absent.

270 O, f. 102r: 'Nicolaus quartus [rubricated]'. V', f. 27r, and V', f. 20r, lack the pope's name.

In V', f. 20r, this entry follows the next entry beginning 'Item possunt absolvere perioius' and is headed by the rubric: 'Nota bene de apostatis qui in secolo sacros receperunt ordinis'.

271 V', f. 20r: 'camerario.'
terre sancte subsidium convertendum, et hoc ita fiat quod forma iuramenti iuxta quod erit possibile omnino servetur, satisfactione dumtaxat legittima precedente, cum impositione condigne penitentie delinquenti. Martinus iiiUS.

[30] Item absolvunt et dispensant cum eis qui per suas litteras vel sigilla obligaverunt indebite ecclesias suas vel gravaverunt, vel ipsas litteras vel sigilla dederunt aut alii obligaverunt pro debitis aliius pro debitis aliis longum esset per singulorum genera ennarrare. Martinus iiiUS.

[31] Item absolvunt interfectores clericorum vel laycorum, incestuosos, pe-riuros, spoliatores romipetas et alios in publica strata, dummodo clerici vel ecclesiastice persone ibi non fuerint occisse vel prelati vel etiam spoliati, et absolvunt adulteros et plures alios quos longum asset per singulorum genera ennarrare. Martinus iiiUS.
[32] Item possunt potentibus286 dare crucem, dummodo sint competentes personae, et non potentibus expensas ad transfretandum287 indulgentias dare usque ad passagium generale et ommino pauperes et impotentes ad hoc a voto crucis absolvere.288 Martinus iiius.289

[33] Item possunt eos quos cruce signaverunt inducias289 concedere que in domini Nicolai pape III privilegiis continentur290. Martinus iiiii [sic]291.

[34] Item possunt in votis peregrinationis292 et abstinentie293 et aliis votis dispensabilibus294 dispensare et ipsa vota, pensata qualitate295 personarum et necessitate, in aliis [sic] pietatis opera commutare, exceptis votis religionis et continente296 sollemninis et votis terre sancte et visitandi limina apostolorum Petri et Pauli et beati Iacobi in Compostella297. Martinus iiiii298

[35] Item possunt penitentias aliquidus per superiores vel confessores suos299 impositas moderare. Martinus iiiiius.300

[36] Item possunt absolvere ab excessu ilium qui fecit se tonsuraii postquam contraxerat cum unica et virgine, ipsa vivente, tacito de coniugio, et episcopus potest habere ratam huiusmodi ordinationem et remanebit clericus.302 Nicolaus iiiii.303

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286 W: ‘penitentibus’. O, f. 102v; V, f. 27v: ‘petentibus’. V, f. 20v, continues after ‘requierendus’ in n. 282 with the rubric ‘De cruce danda per penitenciarios’ and then a different version of this entry: ‘Possunt penitenciarii si prius sint competentes crucem dare. Item omnino pauperes et impotentes ab hoc voto crucis absolvere. Item habentibus et non habentibus expensas ad transfretandum inducias dare usque ad passagium’.


291 O, f. 102v, also has ‘Martinus quartus [rubricated]’. V, f. 27v, and V, f. 20v, lack the pope’s name.

292 W: ‘peregrinationis’. O, f. 102v; V, f. 27v: ‘peregrinationis’. In V, f. 20v, this entry is headed by the rubric: ‘Nota differenciam votorum in quibus potes et super quibus non’.

293 V, f. 20v: ‘abstinentie’.

294 V, f. 27v, and V, f. 20r: ‘dispensabilibus’.

295 V, f. 20v: ‘qualitate et necessitate personarum in alia opera pietatis commutare’.


298 O, f. 102v: ‘Martinus quartus [rubricated].’ V, f. 27v, and V, f. 21r, lack the pope’s name.


300 O, f. 102v: ‘idem [i.e. Martinus quartus; rubricated]’. V, f. 27v, lacks the pope’s name. V lacks this entry.

301 V, f. 28r: ‘qui se fecit’.

302 W: ‘ratam ordinationem et manebit clericus’. O, f. 102v; V, f. 28r: ‘ratam huiusmodi ordinationem et remanebit clericus’.

303 O, f. 102v: Nicolaus quartus [rubricated].’ V, f. 28r, lacks the pope’s name. V lacks this entry. The text then continues as GöLLER, Die päpstliche Pönitentiarie, I/II. 1-6, beginning ‘Potest
Days when minor penitentiaries do not hear confessions

Washington CUA ms 185 (= W), f. 46r-47r, collated with BAV, Vat. lat. 3994 (V'), f. 23v-25r, and BAV, Vat. lat. 6290 (V'), f. 4r-5r; in V' each feast is listed on a separate line under a rubric for the relevant month. The dates of feasts given in square brackets are from A. Cappelli, Cronologia, cronografia e calendario perpetuo, Milano 1930 and A Handbook of Dates for students of British History, ed. by C. R. Cheney, rev. by M. Jones, Cambridge 2000.

Quibus diebus penitentiarii non sedent ad audiendum confessiones

Licet omni tempore audiendi sint confiteri volentes, tamen penitentiarii non consueverunt in ecclesia sedere ad audiendas aliqua die dominica, nec in pascha resurrectionis et duobus diebus sequentibus, nec in Pentecoste et duobus diebus sequentibus, nec in die ascensionis domini, nec in festivitatibus que infra in singulis mensibus continentur:

In Ianuario
In circumcisione domini [1 January]
In epiphania domini [6 January]
In festo sancte Agnetis Rome tantum [21 January]
In conversione sancti Pauli [25 January]

In Februario
In purificatione sancte Marie [2 February]
In cathedra sancti Petri [22 February]
In festo sancti Mathie [24 February; 25 February in leap years]

In Martio
In festo sancti Thome de Aquino predicatores tantum [7 March at Rome]
In festo sancti Gregorii\textsuperscript{318} [12 March]

In festo annunciationis beate Marie virginis\textsuperscript{319} [25 March]

\textit{In Aprili} \textsuperscript{320}

In festo beati Marci evangeliste\textsuperscript{321} [25 April]

In festo sancti\textsuperscript{322} Petri martiris predicatorum tantum [29 April]

\textit{In Mayo} \textsuperscript{323}

In festo apostolorum Philippi\textsuperscript{324} et Iacobi [1 May]

In inventione\textsuperscript{325} sancte crucis [3 May]

In festo sancti Iohannis ante portam Latinam [6 May]

In apparitione\textsuperscript{326} sancti Michaelis [8 May]

In translatione sancti Dominici predicatorum tantum\textsuperscript{327} [24 May]

In translatione sancti Francisci minores tantum [25 May]

\textit{In Iunio} \textsuperscript{328}

In festo sancti Barnabe apostoli\textsuperscript{329} [11 June]

In festo sancti Antonii ordinis minorum\textsuperscript{330} minores tantum [13 June]

In nativitate sancti\textsuperscript{331} Iohannis baptiste [24 June]

In festo apostolorum Petri et Pauli\textsuperscript{332} [29 June]

\textit{In Iulio} \textsuperscript{333}

In festo beate\textsuperscript{334} Marie Magdalenae [22 July]

In festo beate Marthae\textsuperscript{335} [27 July; 29 July]\textsuperscript{336}

In festo sancti Iacobi apostoli\textsuperscript{337} [25 July]

\textit{In Augusto} \textsuperscript{338}

\begin{footnotesize}
\textsuperscript{318} V\textsuperscript{2}, f. 4r, adds ‘pape’.
\textsuperscript{319} W has ‘annunciationem [sic] beate Marie’. V\textsuperscript{2}, f. 4r, has: ‘annunciationem [sic] beate Marie virginis’.
\textsuperscript{320} V\textsuperscript{2}, f. 4r: in right margin as rubric. V\textsuperscript{1}, f. 24r, has rubric ‘Mensis Aprilis’.
\textsuperscript{321} W: ‘In festo beati Marchi’. V\textsuperscript{2}, f. 4r: ‘In festo sancti Marcii evangeliste’.
\textsuperscript{322} W: ‘beati’.
\textsuperscript{323} V\textsuperscript{2}, f. 4r, has ‘in Maio’ in right margin as rubric. V\textsuperscript{1}, f. 24r, has rubric ‘Mensis Madius’.
\textsuperscript{324} W: ‘Philipi’.
\textsuperscript{325} V\textsuperscript{2} has this. W lacks ‘In’. V\textsuperscript{1}, f. 24r, has ‘in festo inventionis’.
\textsuperscript{326} V\textsuperscript{1}, f. 24r; V\textsuperscript{2}, f. 4r: ‘in festo apparitionis’.
\textsuperscript{327} W has ‘In translatione Dominicae predicatorum tantum’ and lacks the next line.
\textsuperscript{328} V\textsuperscript{2}, f. 4r: in right margin as rubric. V\textsuperscript{1}, f. 24r, has rubric ‘Mensis Iunius’.
\textsuperscript{329} V\textsuperscript{1}, f. 24r: ‘In festo Barnabe’.
\textsuperscript{330} V\textsuperscript{1}, f. 24r, has ‘Anthonii’. V\textsuperscript{2}, f. 4r, lacks ‘ordinis minorum’.
\textsuperscript{331} V\textsuperscript{2}, f. 4r: ‘beate’.
\textsuperscript{332} V\textsuperscript{2}, f. 4v, adds ‘In commemoratione sancti Pauli’.
\textsuperscript{333} V\textsuperscript{2}, f. 4v: in left margin as rubric. V\textsuperscript{1}, f. 24r, has rubric ‘Mensis Iulius’.
\textsuperscript{334} V\textsuperscript{1}, f. 24r, lacks ‘beate’. V\textsuperscript{2}, f. 4v, has ‘sancte’.
\textsuperscript{335} V\textsuperscript{1}, f. 24r, adds ‘sororis eius’.
\textsuperscript{336} Cheney gives the first date; Cappelli, the second. Whichever date is accepted, this entry and the next have been erroneously put in reverse chronological order.
\textsuperscript{337} W has ‘in festo beati Iacobi’ and adds ‘in festo apostolorum Petri et Pauli’, probably an erroneous repetition of the last entry for the previous month.
\textsuperscript{338} V\textsuperscript{2}, f. 4v: in left margin as rubric. V\textsuperscript{1}, f. 24r, has rubric ‘Sequitur mensis Augustus’; on f. 24v text continues with rubric ‘Augustus’.
\end{footnotesize}
In festo sancti Petri ad vincula [1 August]
In festo sancti Dominici confessoris [4 August]
In festo sancti Laurentii [10 August]
In festo sancte Clare minores tantum [11 August]
In festo assumptionis beate Marie [15 August]
In festo sancti Bartholomei apostoli [24 August; 25 August at Rome]
In festo sancti Augustini [28 August]
In decollatione sancti Iohannis baptiste [29 August]

In Septembr

In nativitate beate Marie virginis [8 September]
In exaltatione sancte crucis [14 September]
In festo sancti Mathei apostoli [21 September]
In festo sancti Michaelis archangeli [29 September]
In festo sancti Ieronimi [30 September]

In Octobri

In festo sancti Francisci confessoris eximii [4 October]
In festo sancti Luce evangeliste [18 October]
In festo apostolorum Symonis et Iude [28 October]

In Novembr

In festo omnium sanctorum [1 November]
In die animarum [2 November]
In festo sancti Martinii [11 November]
In dedicationibus ecclesiarum salvatoris [i.e. St John in Lateran, Rome; 9 November] et sanctorum Petri et Pauli Rome tantum [18 November]

In festo Cecilie Rome tantum [22 November]

339 W: 'beati'.
340 V, f. 4v: 'predicatoribus'.
341 V, f. 4v: 'In festo sancte Clare minoribus / In festo sancti Laurencii martiris'.
342 W: 'assumptionis [sic]'. V, f. 4v: 'In assumptionie [sic] virginis Marie'.
343 W: 'beati'.
344 V, f. 24v, adds 'episcopi'. V, f. 4v, adds 'doctoris ecclesie'.
345 V, f. 24v: 'festo'.
346 V, f. 4r, has 'In septembre' in left margin as rubric. V, f. 24v, has rubric 'September'.
347 W lacks 'virginis'.
348 V, f. 24v, lacks this entry. V, f. 4v, lacks 'archangeli'.
349 V, f. 24v: 'Hieronomi'.
350 V, f. 24v, has rubric 'October' in right margin. V, f. 4r, has rubric 'In Octobre' in left margin.
352 W; V, f. 4v: 'ewangeliste'.
353 W: 'In apostolorum Symonis et Iude'.
354 V, f. 24v, has rubric 'November'. V, f. 4r, has rubric 'In novembe' in left margin.
355 W adds 'salvatoris et sanctorum Petri et Pauli Rome tantum', subpuncted as mistakenly copied from next but one entry. V, f. 4v, has 'In commemoratione animarum'.
356 V, f. 4v, adds 'episcopi'.
357 V, f. 4v: 'In dedicationibus salvatoris, Petri et Pauli ecclesiarum'.
358 W lacks 'Rome'. V, f. 4v, has 'In festo sancte Cecilie Roman' tantum'.
In festo sancte Katerine virginis [25 November]
In festo sancti Andree apostoli [30 November]

In Decembri
In festo sancti Nicholai [6 December]
In festo sancti Ambrosii [7 December, at Rome and Milan]
In festo conceptionis beate Marie virginis [8 December]
In festo sancti Thome apostoli [21 December]
In nativitate domini [25 December]
In festo sancti Stephani [26 December]
In festo sancti Iohannis [27 December]
In festo sanctorum innocentium [28 December]

Item quandocumque dominus papa celebrat sollempniter vel interest misse dum ab alio sollempniter celebratur quamdiu ibi moratur. Verumptamen pium est in supradictis diebus satisfacere penitentibus et confiteri volentibus et talibus misericorditer subvenire.

4.

Statutes of the minor penitentiaries

Washington D.C., CUA ms 185 (= W), f. 26r-32v, collated with BAV, Vat. lat. 3994 (= V), f. 19r-23v; Vat. lat. 6290 (= V'), f. 5r-11r.

De observantiis et statutis penitentiariorum etc.

Cum iusto non sit lex posita, nos penitentiarii novam legem statuentes aut statuunt a predecessoribus nostris observatae audivimus que eciam temporibus diebus satisfacere et confiteri volentibus et talibus misericorditer subvenire.

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359 W adds this and next entry in right margin indicating their insertion here by a signe de renvoi. V', f. 24v, has ‘In festo sanctissime virginis Katherine’. V', f. 4v: ‘Catherine’.
360 W adds this in right margin indicating its insertion here by a signe de renvoi. V', f. 24v, has rubric ‘December’. V', f. 4v, has rubric ‘In decembre’ in left margin.
361 V', f. 4v: ‘Nicolai’.
362 V', f. 24v adds ‘episcopi’.
363 W lacks ‘virginis’. V', f. 4v, lacks this entry.
364 V', f. 4v, adds ‘nostri Ihesu Cristi’.
365 V', f. 24v, lacks ‘sancti’. V', f. 4v, lacks this entry.
366 V', f. 4v, adds ‘evangeliste’.
367 V', f. 4v: ‘innocentum’. On f. 5r rubric follows: ‘Conclusio de predictis diebus quomodo possint si voluerint audire penitentes cum hoc sit pietatis causa. [text continues:] Item …’.
368 W lacks ‘sollemniter’.
369 W: ‘ibi’.
370 W has ‘est pium’ and lacks ‘in’.
371 V', f. 19r has a different (rubricated) heading: ‘Capitulum. Hie sequuntur ordinationes facte per penitentiarios ad bonum regimen eorumdem’. V', f. 5r: heading absent.
372 V', f. 5r: ‘non’.
374 Absent in W. V', f. 5r, lacks ‘nostris’.
poribus nostris fieri vidimus, quedam in suer que teneantur honesta et utilia cernimus et commendanda scripture iudicavimus ut posteris nostris ex paucis seu paucorum conscriptione detur occasio plura commodiora in processu temporis ordinandi.

_quomodo penitentiarii ad ecclesiam venire debent_

P. D. CLARKE

Primum est ut in factis nostris uniformis regularitas observetur, scilicet in veniendo ad ecclesiam et officium, videlicet quod nec multum mane properando alios penitentiarios quadam singularitate preveniatur nec longam post dictas missas moram contrahamus, sed eo tempore possimus venire ad consistorium veniunt cardinales inter sextam et nonam quando recedunt a consistorio communiter cardinales quia usque ad illam horam magis veniunt ad loquendum nobiscum in ecclesia penitentes. Predictos casus servare poterimus nisi cum aliquis penitentiarius fuerit infirmus, debilis vel minutus, vel cum negotia emergunt specialia propter que contingit interdum aliquos signanter impedire in audiendo penitentes, eciam expediendo et absolvendo iuxta formam potestatis nobis tradite nobiscum in ecclesia, publice verberentur, nisi forte dominus cardinalis ordinaret aliter in

375 V, f. 5r: 'videmus'. W: 'vidimus quedam [ipre, subpuncted] in suer ...'.
376 W and V, f. 19r add 'si'.
377 W: 'et [vel, subpuncted] utilia'.
378 W adds 'commendavimus et'.
379 V, f. 5r: 'posteris peritorum conscriptione detur'.
380 V, f. 5r: absent.
381 V, f. 19v has a different (rubricated) heading: 'Primum capitulum'. V, f. 5r: heading absent.
382 V, f. 5r: absent.
383 V, f. 5r: absent.
384 V, f. 5r: 'ad ecclesiam et' absent; then continues 'ad officium sic videlicet ...'.
385 W: 'missam'. V, f. 5r: 'post dictam missam moram'.
386 W: 'possimus'. V, f. 19v: 'ex tempore possimus'. V, f. 5r, adds the rubric: 'Hic notatur quando et quantum debent stare in ecclesia et ad audiendum'; then continues: 'Sed eo tempore possimus ...'.
387 V, f. 5r: 'cuncti'.
388 W: 'ecclesiis'.
389 V, f. 5r: absent.
390 W: 'veniunt nobiscum [corrected from nobiscum]'; i.e. 'ad loquendum' absent.
391 V, f. 5v: 'infirmus sit, debilis aut minutus'.
392 V, f. 5v: 'spiritualia'.
393 V, f. 19v: 'signanter aliquos impediri'. V, f. 5v: 'aliquos impediri'.
394 V, f. 5v: 'audiendo confessiones et in expediendo'.
395 W: 'formam [nobis, crossed out] potestatis non tradite'. V, f. 5v: 'formam auctoritatis nobis traditam'.
396 W: 'com[m]itendo'. V, f. 5v: 'penitentes et etiam remittentes. [rubric:] Hic notantur illi qui nudandi sunt in eorum confessione. [text continues:] Nam ...'.
397 V, f. 19v, adds 'et'. V, f. 5v, has 'patricide, fratricide, uxoricide ...'.
398 V, f. 19v; V, f. 5v: absent.
399 V, f. 19v: 'braccis'. V, f. 5v: 'denudatis brachiis retinentis et'.

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personae speciali.\(^{400}\) Preterea nullus absolvat excommunicatos propter injectionem\(^{401}\) manuum violentam in clericos nisi satisfactione premissa\(^{402}\), si passi injuriam sint\(^{403}\) presentes. Si vero in aliquo casu fuerit aliter\(^{404}\) faciendum, fiat de consilio prioris vel duorum antiquorum penitentiariorum\(^{405}\). Item circa absolutionem eorum qui commiserunt\(^{406}\) homicidium forma taliter observetur, videlicet quod pro homicidio manente notorio, etsi a duobus vel tribus\(^{407}\) ciatur, et in occulto homicidio a fure, latrone, predone vel pecunia corrupto comissum semper spoliatur in camisia\(^{408}\) in ecclesia et ab omnibus penitentiariis publice\(^{409}\) verbetur, in portando tamen caputium\(^{410}\) arbitrio penitentiarii relinquatur. Si vero aliquando\(^{411}\) esset propter alium eventum aliter faciendum, super hoc\(^{412}\) aliqorum penitentiariorum consilium requiratur.

De prioritate officii\(^{413}\)

Secundum est ut iuxta gradum et ordinem prioritatis et\(^{414}\) receptionis officii penitentiarie honordebitus et reverencia cuilibet\(^{415}\) exhibeat\(^{416}\), ut scilicet in ecclesia in qua sunt audiende confessiones\(^{417}\) quilibet penitentiarius in eodem loco sedeat qui siibi per penitentiarii priorem\(^{418}\) seu qui prior est inter penitentiarios fuerit assignatus et ibidem penitentes audiat. Interdum tamen\(^{419}\) propter magnos prelatos vel personas excellentes ad secretiora\(^{420}\) loca se cum eis in eadem ecclesia poterunt\(^{421}\) transire.
Quomodo penitentiarii non debent audire confessiones dum papa celebrat

Item quandocumque dominus noster papa celebrat in ecclesia vel interest misse dum celebratur ab aliquo, quamdiu ibi moratur, non audiant penitentiarii a sententia excommunications in omni loco et in omni tempore dummodo ubi littere absolutionis et dispensacionis requiritur, possint haberi per notarium penitentiarii iuxta formam sibi traditam et etiam consuetam. Caveant diligenter penitentiarii quod solum in ecclesia deputata penitentiariis ad officium exequendum et non in aliis ecclesiis seu locis aliis, confessionum audientie se exponant. In respondendo scilicet quando sumus congregati et interrogamur de his qui pertinent ad aliquas utiles questiones, ita quod quilibet nostrum loco suo in loco suo et tempore ordinatique quibus proponendum proponat et similibus ad interrogata respondeat ne per multiplices et responsiones audientes titubaret et que proponuntur vel respondentur minus bene addiscantur et minus bene memorie commendantur in incedendo, itaque quando ad.
aliquem locum imus\(^{444}\) priores in officio absque invitationis\(^{445}\) detencione precedant et se ipsos in mensa et in sessionibus\(^{446}\) alii, cum ad aliquem locum divertimus\(^{447}\) vel ab aliquibus dominis invitamur, nisi dominus\(^{448}\) aliter ordinaverit, similiter\(^{449}\) se collocent, ne nimia quorundam\(^{450}\) humilitas locum priorem sibi debitum\(^{451}\) in eorum presumptionem qui locum suum occupant indicetur\(^{452}\). Inter hec\(^{453}\) ordinandum est per penitenciarium priorem in officio quod sic penitenciarii cum papa celebrat disponuntur\(^{454}\), ut qui sunt in tam sancto officio et consorcio congregati non videantur\(^{455}\) dividi de una religione ad unam partem altaris et de alia religione ad aliam partem\(^{456}\) sed secundum prioritates in officio a dextro et a sinistro\(^{457}\) cornu altaris incipendo a duobus penitentiariis\(^{458}\) antiquioribus penitentiarii misceantur, et hec ordinatio\(^{459}\) scribatur ut sciat unusquisque quem locum et quam partem\(^{460}\) debeat occupare.

**Quomodo penitentiarii simul congregari debent ad consulendum**\(^{461}\)

Tercium\(^{462}\) est ut\(^{463}\) conveniamus interdum ad conferendum de hiis que tangunt officium, et quilibet\(^{464}\) poterit ibidem viva\(^{465}\) voce vel in memoriali ponere [recte?, proponere], si qua [recte?, que] dubitabilia fuerint, ut\(^{466}\) super hiis\(^{467}\) super consulius conferatur. Poterunt etiam ibidem\(^{468}\) proponi casus accidentes vel defectus\(^{469}\) si qui

\(^{444}\) W: 'unius'. V\(^1\), f. 20v: 'imus'. V\(^2\), f. 6v: 'ita quod quando ad aliquem locum imus priores...'.
\(^{445}\) V\(^2\), f. 6v: 'absque mutatorio faciant et se ipsos ...'.
\(^{446}\) W: 'incessionibus'.
\(^{447}\) V\(^1\), f. 6v: 'locum diutumus(?) vel cum ab aliquibus ...'.
\(^{448}\) V\(^4\), f. 20v adds 'ille'. V\(^3\), f. 6v: 'domini'.
\(^{449}\) V\(^1\), f. 20v: 'simul'. V\(^3\), f. 6v: 'aliter ordinarent similiter collocentur ne ...'.
\(^{450}\) Present in V\(^1\) and V\(^2\); W has 'eornundam'.
\(^{451}\) V\(^1\), f. 20v adds 'tenentium'.
\(^{452}\) W: 'presumptionem in locum ...' V\(^1\), f. 20v: 'presumptionem qui [locorum, crossed out] locum ipsorum occupant. Inter hec ...' V\(^2\), f. 6v: 'qui locum ipsum occupant tenendum iudicentur. [rubric:] Hie notatur quomodo non debent apparare(?) differmes. [text continues:] Inter hec ordinandum est ...'.
\(^{453}\) W: 'Inter hoc'.
\(^{454}\) V\(^1\), f. 20v: 'disponuntur'. V\(^2\), f. 6v: 'disponant'.
\(^{455}\) W: 'videatur'. V\(^2\), f. 7r: 'dividi' absent.
\(^{456}\) V\(^2\), f. 7r adds 'altarris'.
\(^{457}\) W: 'ad dextro et ad sinistro'. V\(^1\), f. 20v: 'a dextero et a sinistro'. V\(^2\), f. 7r: 'a dextro et a sinistro'.
\(^{458}\) V\(^2\), f. 7r adds 'de'.
\(^{459}\) V\(^1\), f. 20v: 'Et ordinatio hec'. V\(^2\), f. 7r: 'et ordinate sociantur ut ...'.
\(^{460}\) V\(^1\), f. 20v: 'disponat'. V\(^2\), f. 7r: 'quam partem et locum quem'.
\(^{461}\) V\(^1\), f. 20v, has a different (rubricated) heading: 'Capitulum 4m'. Likewise V\(^2\), f. 7r: 'Quomodo debent convenire ad conferendum pro utilitate officii'.
\(^{462}\) V\(^1\), f. 20v: 'Quartum est'.
\(^{463}\) V\(^2\), f. 7r: 'quod'.
\(^{464}\) V\(^1\), f. 20v: 'quibus'.
\(^{465}\) V\(^1\), f. 20v: 'una'. V\(^2\), f. 7r: 'ibidem vel in una voce proponere vel in memoriali si qua ...'.
\(^{466}\) V\(^1\), f. 20v: 'vel'.
\(^{467}\) V\(^2\), f. 7r: 'eis'.
\(^{468}\) V\(^2\), f. 7r: 'ibi'.
\(^{469}\) W: 'defectus'.
contra statum nostrum ad promotionem, ad correctionem, ad informationem et ad cavillationem fuerint proponendi. Et ut ex frequenti collatione tam ea que premituntur quam ea que subsequuntur ordinentur latius et corrigantur consultius et cuiuslibet memorie recentius et tenacius infingantur, assignata fuit dudum prima dominica mensis in qua super hoc ad eum locum quem penitentiarius prior decentem viderit et predixerit velit predici fecerit omnes penitentiarii hora certa simul valeant convenire.

De pueris penitentiariis

Quartum est quod certi pueri assignentur de communi penitentiariorum asensi pro penitentibus conducendis et aliis necessariis faciendis, qui pueri certum et taxatum salarium per penitenciarios secundum duritiam culparum et penitentium recipiant. Et pueri qui recipiendi fuerint ad hoc servandum per iuramentum, quod in manibus penitentiarii prioris facient, teneantur. Si qui vero pueri excidendo contra talia delinquerint iuxta culpe exigenciam puniantur, et si bene se non corrrexerint, ab officio expellantur. Voluerunt autem penitentiarii iuxta quod iam alias dignoscitur ordinatum fuisse ut pueri qui clericidam per ecclesias conducerint per tres dies ad valorem octo denariorum provisinorum parvorum recipiant.

Denari provisini were the standard currency of medieval Rome from the 1170s.
ab eodem. Item pro illo conducendo qui 496 commiserit simplex homicidium laycale ad valorem duorum provisionorum 497. Item pro conducendo patricida, fratricida, sororicida et uxoricida 498 ad valorem iii. provisionorum 499 quia tales debent per ecclesiias circunducere longius quam pro solo 500 simplici homicidio laicali. Cum autem pro gravissimo excessu, sicut pro interfectione episcoporum, magnorum prelatorum et 501 religiosorum, homicida per multas ecclesiias et monasteria de speciali 502 mando to penitentiarii ducendus 503 fuerit, poterit puer aliquando plus accipere 504 de speciali dumtaxat mandato illius penitentiarii qui absolverit penitentem 505. Pro litteris autem legendis seu sigillandis nichil omnino recipiunt nisi penitentiarii interdum aliqua medicum 507 super hoc duxerint indulgendum. Communiter tamen recipiunt duos denarios provisionos 508.

**De principaliore puero 509**

Quintum 510 est ut inter istos penitentiarie pueros unus assignetur qui sit 511 principalior et communis 512, et hic teneatur nunciare penitentiariis 513 quando et in quo loco dominus 514 papa debeat celebrare et quando et ubi cardinales vel curiales ad funus vel processiones et huiusmodi sollemnitates seu negotia que communiter fiunt 517 in curia debeat convenire. Et hic etiam famulus debet esse sollicitus 518 petere pro
penitentiariis tam in festo purificationis quam\textsuperscript{519} defunctorum exequiis candelas\textsuperscript{520} et alia que fuerunt consueta. Et quia plus mercedes recipere deber\textsuperscript{521} eo quod pro communitate plus aliis laborabit, conveniens est ut cum casus in quibus poterit et occurrerit eidem specialiter\textsuperscript{522} plus quam aliis pueris committatur.

\textit{Ad interpretationes confessionum non nisi sacerdotes admittant}\textsuperscript{523}

Sextum\textsuperscript{524} est quod ad\textsuperscript{525} interpretationes eorum quorum linguam\textsuperscript{526} per nos intelligere non possimus, si aliter non potest fieri\textsuperscript{527}, non admittamus nisi sacerdotes notos et qui iudicati fuerint ydonei et securi per penitentiarios in communi\textsuperscript{528}. Si quis penitentiarius aliquos sciverit sacerdotes qui peregrinorum confessiones audiant\textsuperscript{529} quibus non possint absolutionis beneficium\textsuperscript{530} impartiri, debet hoc penitentiarius dicere ut de mandato cardinalis penitentiarie curam gerentis\textsuperscript{531} tales puniantur ne\textsuperscript{532} contingat per pecuniarias extorsiones talium nostrum infirmari ministerium et animas peregrinorum simplicium defraudari\textsuperscript{533}, quia in hiis casibus et consimilibus est magnum\textsuperscript{534} periculum animarum.

\textit{Quomodo penitentiarii celebrare debent pro uno penitentiario defuncto}\textsuperscript{535}

Septimum\textsuperscript{536} est quia\textsuperscript{537} cum penitentiarios ex diversitate linguarum multarum et nationum apostolice sedis obedientia in conformis ministerii congregaverit\textsuperscript{538} unitatem, ipsi de communi voluerunt\textsuperscript{539} consensu ut quilibet ipsorum, qui ad procuran-
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De penitentibus cognoscendis

Octavum est quod cum quilibet vultum pectoris sui diligenter cognoscere teneatur et unusquisque magis quam alius scire privilegia suæ religionis, debeat et penas seu penitentias que suis apostatis imponuntur et ea que statum seu decent ordinis vel eidem forsan adversantur. Idcirco casus et personas contingentes aliquam religionem, de hiis quarum penitentiarii sunt professionibus allegati, remittant semper ad penitentiam illius ordinis quem contingit.

Quomodo non absolvatur aliquis ab aliis penitentiariis non absolutis

Nonum est quod cum nos debeamus ad hominum deceptiones, qui cul-

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540 W: ‘procurandum’.
541 V1, f. 22r: ‘spiritualiter’. V2, f. 8v: ‘specialiter’.
542 V1 has this. W: ‘pro videndis’. V3, f. 8v: ‘statuerunt pro providendis’.
543 V2, f. 8v: ‘et’.
544 W: ‘inter alios raritas’.
545 V2, f. 8v: ‘exibit’.
546 V2, f. 8v: ‘quem’.
547 V1, f. 22r; V2, f. 8v: absent.
548 V2 has this. W: ‘contigererit [sic]’. V1, f. 22r: ‘contigerit’.
549 W: ‘celebrent [sic]’.
550 V1, f. 22r; V2, f. 8v: ‘cum novem lectionibus’.
551 V1, f. 22r: ‘qui tam sancto servit officio’. V2, f. 8v: ‘qui tam digno servitio serviuunt quod ex …’.
552 V2, f. 8v: ‘meritis adiuentur voluerunt quod similiter pro …’.
553 V1, f. 22r: ‘obligaverint’.
554 V1, f. 22r, has a different (rubricated) heading ‘Capitulum nonum’. Rubricated note beside this in right margin: ‘c. 9.’ V2, f. 8v: heading absent.
555 V2 has this. W: ‘Ooctavum [sic]’. V1, f. 22r: ‘Nonum’.
556 V1 has this. W: ‘quibus [sic]’. V2, f. 8v: ‘quilibet vultum sui pectoris agnoscere teneatur’.
557 W: ‘alis’.
558 V1 has this. W: ‘privilegia sua debeat …’ V2, f. 9r: ‘privilegium sue religionis scire teneatur et …’.
559 V1 has this. W: ‘stitum [sic]’. V2, f. 9r: ‘apostatis imponuntur et ea que statutum sui ordinis decent vel eidem fortiter adversantur. [rubric:] Hic notatur quomodo religiosus consitiens remittendus est ad penitentiarium sui ordinis. [text continues:] Idcirco casus et pene contingentes …’.
560 V1 has this. W: ‘obligati’. V2, f. 9r: ‘allegati remittantur …’.
561 V1, f. 22r, adds: ‘et cui alligatus est’. V2, f. 9r: ‘ad illum penitenciarium sui ordinis …’.
562 V2, f. 9r, has different (rubricated) heading: ‘in isto capitulo notatur quomodo penitentie imposita per alium non debeat mutari’. Likewise V1, f. 22r: ‘Capitulum 10⁴°’. Rubricated note beside this in right margin: ‘c. 10.’.
563 V1, f. 22r: ‘Decimum’.
564 W: ‘debeamus ad hominem …’ V1, f. 22r: ‘debemus ad hominem …’ V3, f. 9r: ‘cum debeamus ad hominem …’.
pas non timent et impositas penitentias recusant ferre\(^{565}\), attendere diligenter, nullus illam\(^{566}\) absolvat personam quam alius penitentiarius absolvere noluit\(^{567}\), nec alicui penitentiarii relaxet\(^{568}\) cui per alium penitentiarium\(^{569}\) fuerit imposita nisi prius\(^{570}\) collationem habeat si potest fieri\(^{571}\) cum eodem.

\textit{Quomodo penitentiarii debent convenire in morte pape}\(^{572}\)

Decimum\(^{573}\) est quod quando moritur papa\(^{574}\), tunc statim debent omnes penitentiarii ubi ipsius corpus\(^{575}\) fuerit convenire ac reverenter ac\(^{576}\) devote cum cubicularii et elemosinario corpus pape super tabulam positum\(^{577}\) primo cum bona aqua calida et postmodum cum bono vino odorifero\(^{578}\), ut fetor humani cadaveris removeatur et humores restringantur et corpus non denigretur nec deturpetur, lavare et cum pannis sinapis vel bombice\(^{579}\) et alii que necessaria fuerint sic aptare ut nec fetor nec alia indecentia possint aliis tedium generare\(^{580}\). Notandum est quod a genibus usque ad umbilicum\(^{581}\), ubi sunt infirmiora corporis, debet\(^{582}\) tractari et claudi et aptari\(^{583}\) per elemosinarium coadiuquantibus\(^{584}\), si necesse est, penitentiariis. Reliquas autem partes corporis penitentiarii coaptabunt. Postmodum involuto corpore in munda sindone vel cilicio\(^{585}\) vel habitu suo, si religiosus quando in papam assumptus est\(^{586}\), indueat omnibus sacris indumentis et calcietur sandaliis\(^{587}\) et pallietur pallio et mitretur mitra et apponatur ei sirotece\(^{588}\) et annulus pontificalis in manibus et pareetur totaliter ac si

\(^{565}\) V\(^1\) has this. W: ‘impositas recusant ferre penitentias’. V\(^2\), f. 9r: ‘culpas non tenent committere et impositas penas recusant facere, ...’.

\(^{566}\) V\(^2\) has this. W: ‘illa’. V\(^1\), f. 22r: ‘... diligenter quod nullus illam absolvat’.

\(^{567}\) W: ‘noluerit’.

\(^{568}\) V\(^3\) has this. W: ‘penitentias relaxet’. V\(^1\), f. 22r: ‘penitentiam relaxat’.

\(^{569}\) V\(^2\), f. 9r adds ‘nostrum’.

\(^{570}\) W: ‘imposita quod aliis non prius’.

\(^{571}\) V\(^3\), f. 9r: ‘fieri potest’.

\(^{572}\) V\(^2\), f. 9r, has different (rubricated) heading: ‘Hic notatur quomodo in morte pape debent omnes penitentiarii convenire et attendere quid agere debeant’. Likewise V\(^1\), f. 22v: ‘Capitulum undecimum’. Rubricated note beside this in left margin: ‘c. xi.’.

\(^{573}\) V\(^1\), f. 22v: ‘Undecimum’.

\(^{574}\) V\(^2\), f. 9r: ‘papa moritur’.

\(^{575}\) V\(^2\), f. 9r: ‘corpus ipsius pape’.

\(^{576}\) V\(^2\), f. 9r: ‘et’.

\(^{577}\) W: ‘tabulum positam’. V\(^1\), f. 22v: ‘tabulum decenter positum’. V\(^2\), f. 9v: ‘tabulum descendentem positum’.

\(^{578}\) W: ‘odiffero’.

\(^{579}\) W: ‘pannis sinapis vel bumbace’. V\(^1\), f. 22v: ‘pannis suppis, pannis [sic] vel bombace’. V\(^2\), f. 9v: ‘et corpus cum pannis scuppis vel bombice et alii que sunt necessaria sic aptare ...’.

\(^{580}\) W: ‘possit aliis ...’ V\(^2\), f. 9v: ‘tenedum generare’.

\(^{581}\) W: ‘umbilicum’. V\(^2\), f. 9v, adds ‘tamen’ before ‘est quod ... umbilicum’.

\(^{582}\) V\(^1\), f. 22v: ‘debent’.

\(^{583}\) W: ‘abtari’.

\(^{584}\) V\(^1\) has this. W: ‘quo aduvantibus’. V\(^2\), f. 9v: ‘quo aduvantibus, si necesse fuerit, penitentiariis’.

\(^{585}\) W: ‘silicio’.

\(^{586}\) V\(^2\), f. 9v: ‘si religiosus esset quando in papam assumptus fuerit’.

\(^{587}\) W: ‘sandalis’. V\(^2\), f. 9v: ‘omnibus suis indumentis et calcietur sandalis et palietur ...’.

\(^{588}\) V\(^1\), f. 22v: ‘cyrothece’. V\(^2\), f. 9v: ‘cyrothece et annuli seu pontificale in manibus ...’.
deberet in pontificalisce celebrare. Postea corpus iam taliter paratum deponatur super unum matalasium (?) prius bono panno serico coopertum. Et tunc omnes penitentiarii in circuitu corporis ordinati accipiant matalasium manibus suis et reverenter portent eum ad medium magni palacij sine zelo et ibidem super lectum ordinatum et preparatum a camerario reponant, et tunc osculantes sibi reverenter pedes ex tunc in orationibus et vigiliis iuvare poterunt capellanos. Postquam autem corpus pape traditum fuerit sepulture cum cardinales veniunt ibidem, statim omnes penitentiarii debent se ibidem presentare et per cardinalem qui curam gerit penitentiarie petere ut ipsi cardinales penitentiariis committant officium exequendum et etiam quod eis mandent bene de prebendis consuetis per camerarium dum vacaverit Romana ecclesia provideri. Quamdiu vero vacaverit scribatur in litteris penitentiarie ‘auctoritate sancte Romane ecclesie’ qua fungimur et non ‘auctoritate domini’ pape.

Notabile memorandum

Non debet a nostris excidere memoriis quod anno pontificatus domini Nicolai pape quarti quadro apud Urbem veterem reverendus dominus Matheus de Aquasparta cardinalis tunc penitentiarie curam gerens in festo paschatis resurrectio- nis domini post dormitionem, convocatis ad domum suam omnibus penitentiariis qui tunc in dicta civitate presentes erant, peditando de hospitio suo usque ad palatium
Pape ivit multum humiliter cum omnibus penitentiariis⁶⁰⁷ et vice omnium penitentiariorum⁶⁰⁸ inter alia coram papa proposuit quod ipse dominus papa dignaretur supplevere⁶⁰⁹ ac ratificare quicquid⁶¹⁰ a penitentiariis propter occupationem multorum penitentium vel propter distractionem variorum occurritentium casuum aut aliquam fortassum negligentiam ex consimilibus accidente in absolutione⁶¹¹ peccatorum agendum fuerat vel in penitentiis imponendum. Et ipse dominus papa multum clémenter si quod⁶¹² minus digne vel minus perfecte seu negligenter aut remisse⁶¹³ ab ipsis penitentiariis⁶¹⁴ actum fuerat in premissis totum supplevit⁶¹⁵ et ratificavit de plenitudine potestatis.

Quomodo penitentiarii ire debent ad missam pape⁶¹⁶

Et etiam memorandum est quod idem dominus papa⁶¹⁷ tunc coram cardinali prefato⁶¹⁸ penitentiarii reprehendit quod ipsi penitentiarii, cum essent de familia sua, non venerunt mane in festo resurrectionis domini⁶²⁰ ante missam ad palatium⁶²¹ suum ad presentandum ibidem resurrectionem⁶²² dominicam et recipiendum⁶²³ pacem cum cardinalibus et cum omnibus aliis officialibus qui sunt de familia sua⁶²⁴. Et propter illam negligiament imposuit cuilibet penitentiario penitentiam⁶²⁵ ut diceret⁶²⁶ vii. psalmos penitentiales, et hic datur forma penitentiariis ut semper in pascha resurrectionis⁶²⁷ domini mane ante missam conveniant ad pa-

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⁶⁰⁷ V¹, f. 23r, has this passage 'qui tunc... pallatium [sic] penitentiariis' but W omits it, probably through homeoteleuton on 'penitentiariis'. V², f. 10r: 'penitentiariis omnibus qui tunc in dicta civitate presentes erant, meditando de hospitio suo usque presentiam domini pape ivit multum humiliter cum omnibus penitentiariis ac viso omnium ...'.
⁶⁰⁸ V², f. 10r adds 'et'.
⁶⁰⁹ W: 'supplicare'.
⁶¹⁰ V¹, f. 23r; V², f. 10r: 'si quid'.
⁶¹¹ V¹ has this. W: 'accidentem absulutionem [sic]'. V², f. 10v: 'occurrentium causam vel fortassum aliquam negligentiam ex consimilibus accidentibus in absolutione predictorum agendum fuerit vel in penitenciariis imponendum'.
⁶¹² V², f. 10v: 'quis'.
⁶¹³ V², f. 10v: 'aut remisse' absent.
⁶¹⁴ V², f. 10v adds 'etiam'.
⁶¹⁵ W: 'suplevit'. V², f. 10v: 'supplevit ac ratificavit'.
⁶¹⁶ V², f. 10v, has different (rubricated) heading: 'Hic papa reprehendit penitentiarios quia in die pasche non fuerunt in palatio'. Likewise V¹, f. 23r: 'Capitulum. xiii.' Rubricated note beside this in right margin: 'c. 13'.
⁶¹⁷ V¹ has this. W: 'Et memorandum est dominus papa'. V², f. 10v: 'Et memorandum quod idem dominus papa'.
⁶¹⁸ V², f. 10v: 'prefatos'.
⁶¹⁹ W: 'ad', V², f. 10v: 'reprehendit ut cum ipsi penitentiarii essent de familia sua'.
⁶²⁰ V¹, f. 23r; V², f. 10v: absent.
⁶²¹ V¹, f. 23r: 'pallatium'.
⁶²² W: 'resurrectionis'. V², f. 10v: 'presentandum se ibidem resurrectionem'.
⁶²³ V¹, f. 23v: 'recipientam', V², f. 10v: 'dominicam recipiendum'.
⁶²⁴ W lacks 'sua'. V², f. 10v: 'et omnibus aliis familiaribus qui sunt de familia sua'.
⁶²⁵ W: 'illam imposuit negligentiam negligentiam [sic] cuilibet penitentiario penitentiam'. V², f. 10v: 'illam negligentiam imposuit cuilibet penitentiam'.
⁶²⁶ W: 'dicerent'. V², f. 10v: 'diceret in penitentiis septem psalmos penitentiales. [rubric:] Quando debent penitentiarii ad palatium accedere. [text continues:] Et ex hec datu forma ...'.
⁶²⁷ V², f. 10v: 'pascate resurrectionis'.

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5.

This comprises texts in Washington D.C., CUA ms 185 (= W), that are not in BAV, Ottob. lat. 333; Vat. lat. 3994; and Vat. lat. 6290.

(a) Formula of absolution

W, f. 113r]

Absolutio generalis penitentiariorum

Auctoritate domini nostri Ihesu Cristi et apostolorum Petri et Pauli et domini nostri pape michi commissa ego te absolvo ab omni vinculo excommunicationis maioris et minoris, suspensionis, interdicti, a participatione excommunicatorum et interdictorum, a transgressione sacramentorum, votorum et dei mandatorum et ab omni periuorio iuramenti et mendacii si indiges.

Item eadem auctoritate ego te absolvo ab omnibus peccatis tuis michi confessis

629 W: ‘et quilibet penitentiarius’.
630 W, f. 23v: ‘cum aliis et cum aliis ibidem existentibus’.
632 W lacks ‘simul’. V, f. 23v: ‘in pallatium domini pape simul convenire ad recipiendas candelas benedictas de manu ...’.
633 W lacks ‘quilibet’.
635 W: ‘attendere’.
637 W, f. 11r, lacks ‘apts’.
638 V, f. 23v: ‘potuerint’.
639 W: ‘servatur... cynerum et in festo de ramis palmarum recipiendo cyneres et ramos de manu...’ V, f. 11r: ‘servatur in festo de ramis palmarum etiam recipiendo ramos de manu...’
640 V, f. 23v: ‘sabbato in oct. resurrectionis in capiendo...’ V, f. 11r: ‘octavas resurrectionis in recipiendis agnos Dei benefictus de manibus pape. Et hoc similiter in die cinerum in recipiendo cineres benefictos de manu domini pape’.
obliter(?), contrite et negligenter confess’(?). In nomine patris et filii et spiritus sancti amen.

Item predicta auctoritate ego dispexo tecum super irregularitatibus et inhabilitatibus quas existis de causis [recte?, ex istis causis] incurristi et restituo te ad gradum pristinum et habi-[f. 113v]lito te ad ommem dignitatem ecclesiasticam obtinendum et ad offerendam deo dignam hostiam quantum michi permittitur. In nomine patris et filii et spiritus sancti amen.

(b) Penance placed on members of mercenary companies in the Kingdom of France

W, f. 113v]

Penitentia illis imponenda de maledicta societate in regno Francie

Penitentia illis de societatisbus perversis et damnatis ultra penitentia secundum qualitatem delictorum et excessuum in formulariu [recte, formulariu] penitentiarie per Romanum pontificem ordinat[a] videtur taliter iniungendo: Primo quod ipsorum quilibet ad penitentiam veniens iuret sancta dei evangelia dictas societas [recte, societates] dimittere nec ad eas numquam redire neque congregationem novam facere nec pro societatisbus ipsius aut eas facientibus dare auxilium, consilium et favorem. Item quod numquam se armabunt nec dabunt auxilium, consilium vel favorem contra fideles cristianos nisi in guerra licita dominorum suorum ad quorum servitium [Romane, subpuncted] ratione feudi vel alias iuste essent necessario obligati.

Item quod de damnis et iniuriis per eos illatis pro posse satisfacient, et si non reperiantur hii quibus erit satisfactio impendenda, satisfacient in partibus in quibus predicta commiserunt iuxta arbitrium ordinarii vel eius vicarii.

Item quod penitentie publice ratione clericidiorum et presbiteridiorum per patres sancte [recte, sanctos] ordinate clericidis [et] presbiterididis duplicentur.


Et nichilominus, nisi fuerint infirmitate detentii vel in itinere constituti, feria vi. ieiunent. Si autem predictorum sed alium [sic] alii fuerint pauperes et impotentes corpore totaliter et641 ad premissa eis imponatur penitentia prout discretioni confes-
soris videbitur eorundem. Et nichilominus preter predicta secundum quod maior et minor fuerit fraus, dolus sive culpa maior vel minor inponatur\(^{642}\).

(c) Freedoms granted by Pope Urban V to minor penitentiaries

W, f. 114r

*Heading added by the fifteenth-century Italian hand:* Casus d. Urbani 5. penitentiariis\(^{643}\)

*Text in the main fourteenth-century hand:*

Infrascripta concessit dominus Urbanus papa \(v\). penitentiariis et formulariis suis scribi iussit. Primo quod penitentiarii et socii eorum possunt in suis hospitiis cum altari portatili missas celebrari [recte?, celebrare]. Secundo quod socius penitentiarii potest [f. 114v] ipsum penitentiarium absolvere eadem auctoritate qua ipse penitentiarius socium sibi confitentem absolvere potest, et in eisdem casibus dispensare. Tertio quod penitentiarii et eorum socii possunt tempore infirmitatis sue in suis hospitiis recipere ecclesiastica sacramenta, puta eucharistiam et extremam unctionem, sine requisitione parrochialis curati. Quarto quod penitentiarii incipientes manus violentas in clericos vel religiosas personas in Romana curia existentes possunt absolvere al\(i\)eni(?) iniectione sanguinis effusione, dummodo non sit enormis lesio nec mutilatio membro nec venerit ad curiam proposito interficiendi vel ledendi. Quinto quod penitentiarii habeant eandem indulgentiam quam papa dat populo in ebdomoda sancta pro tempore quod actu sunt in audience confessionum pro penitentibus occupati, ac plenam indulgentiam in articulo mortis dumtaxat.

6.

*Latest dated text in Washington D.C., CUA ms 185 (= W)*

W, f. 124v

*Rubric added in the fifteenth-century Italian hand:* Privilegium fratrum predicatortum

*Text in the main fourteenth-century hand:*

Miseratione divina Guido Portuensis\(^{644}\) et Petrus Albanensis\(^{645}\) episcopi sancte Romane ecclesie cardinales religiosis viris magistro et difficoribus [recte? diffinitoribus] capituli generalis ordinis fratrum predicatortum salutem in domino. Noveritis quod intellecto per sanctissimum dominum nostrum Urbanum divina providencia papam quintum quod in quodam vestro capitulo generali quandam ordinationem seu statutum que vel quod iam per duo capitula vestra transierat feceratis tenoris seu

\(^{642}\) This final sentence is not in the version edited by Göller, *Die päpstliche Pönitentiarie*, I/II. 16.

\(^{643}\) The same hand added in the upper margin: ‘Casus quos concessit d. Urbanus papa .5. penitentiariis’.

\(^{644}\) Guido de Bolonia, translated as cardinal bishop of Porto in 1350; died 25 November 1373.

\(^{645}\) Petrus Iterii, translated as cardinal bishop of Albano on 4 February 1364; died on 20 May 1367.
continentie subsequentis: 'Approbamus hanc in capitulo de capitolo provinciali ubi dicitur circa finem tractatibus capituli nullatenus admittatur addatur sic nullus etiam frater cuiuscumque conditionis aut status existat si ex quacumque causa ab obediencia et correctione exemptus est ipsius [f. 125r] ordinis talibus tractatibus admittatur nec in aliqua electione aut actu ordinis huiusmodi frater vocem habeat nec ad praetensionem aut officium quodcumque ordinis possit assumi et statim sequatur ut ibi prior autem provincialis' etc.; prefatus dominus noster papa, attentus quod dicta ordinatio seu statutum que seu quod tangere videtur magistrum sacri palatii, capellanos commensales, penitentiariae [recte, penitentiarios] et alios dicti domini pape et successorum suorum familiares qui sunt et erunt de ordine vestro possit eis esse preijudicialis et nociva, dixit et declaravit sue intentionis existere quod per ipsum ordinationem vel statutum predictis magistro sacri palatii, capellani, commensalibus, penitentiariis et alios tam ipsius domini pape quam successorum suorum familiaribus qui sunt et erunt de ordine vestro nullius [recte?, nullum] preijudicia generetur nec ipsi vel eorum aliquis in vel sub causa comprehendantur vel quomodolibet includantur, quin ymno dictam ordinationem seu statutum quo ad eos nullius voluit esse roboris vel momenti. Et hec premissa vobis omnibus et singulis ac alius quorum interesse quomodolibet in futurum de [f. 125v] speciali mandato dicti domini pape vobis facto super hoc oraculo vive vocis intimamus et ad vestrarn notitiam deducimus per presentes quas in premissorum testimonia fieri fecimus et sigillorum nostrorum appensione muniri. Datum et actum Avinione die xi. mensis Maii anno domini m°cc°lx°iiii° indictione secunda pontificatus /dicti/ domini pape anno secundo. Scripturn per copiam die xiii. Maii de mandato reverendi magistri sacri palatii presentibus reverendis patribus et magistris magistro Helia R[aimun]ndi^®^ et magistro Iohanne de Quoet tredrem(?) ordinis predicti penitentiariis domini nostri pape testibus ad hec vocatis. [underlined:] Ita est Iohannes de Villa Advani.

Added in the fifteenth-century Italian hand:

Finis pro nunc
+. Yhesus, Maria, Franciscus

[underlined:] Ad usum magistri Honofrii de Durantis

7.

Decretal Perlectis of Pope Innocent IV (1243-1254)

Washington D.C., CUA ms 185 (= W), f. 53r-v, collated with BAV, Ottob. lat. 333 (= O), f. 107r; BAV, Vat. lat. 3994 (= V¹), f. 34r-v; BAV, Vat. lat. 6290 (= V²), f. 2v-3v.

Explanatio domini Innocentii pape III° de levi iniuria

646 Helias Raymundi, OP, was a minor penitentiary under Pope Urban V by 31 December 1362 (GÖLLER, Die päpstliche Pönitentiarie I/I, 134).

647 This heading is rubricated in O, f. 107r. V¹, f. 34r, has a different (rubricated) heading: 'Sequitur quid est percussio levis vel gravis'.
Between Avignon and Rome: Minor Penitentiaries at the Papal Curia

Perlectis litteris vestris\(^648\) circa absolutionem excommunicaturorum vos\(^649\) dubitare perspeximus que esset modica vel levis\(^650\) iniuria, circa quam decretalis sic loquitur 'Absolvendi\(^651\) vobis contulimus potestatem', ad quod, cum\(^652\) sit potius iuris quam factio prout possimus\(^653\) respondemus illam esse\(^654\) modicam vel levi iniuriam reputantes que modica percussione pugni vel impulsione palme manus\(^655\), pedis aut baculi vel lapidis est contenta. Ad gravem vero membro mutilationem, dentis fractio, capillorum non modicam depilationem vel sanguinis effusionem\(^656\) procedit, nec tamen levissima si acus\(^657\), virge vel unguis percussione sanguis exierit, transire in atrociem iniuriam proptemur ut per hoc\(^659\) talium absolutione sit abstinentium, et tamen non solum ipsum factum sed etiam facta qualitas percutiendi et iniurandi\(^660\) modus. Circa hoc diligentem\(^661\) attendantur ut\(^662\) ex ipsis circumstanciis loci et persone que sit levis vel modica, gravis vel enormis\(^663\) iniuria cognoscatur: loci quidem ut si in foro vel coram\(^664\) iudice vel prelato vel in ecclesia vel coram multis vel in aliquo

\(^648\) W: 'Per litteras vestras'. O, f. 107r: 'nostras'. V\(^1\), f. 34r: 'Perlectis litteris nostris'. V\(^2\), f. 2v: 'Perlectis vestris litteris'.

\(^649\) W: 'excommunicatorum [sic] vos dubitare perspeximus'. O, f. 107r: 'excommunicatorum nos dubitare perspeximus'. V\(^1\), f. 34r: 'excommunicatorum vos dubitare perspeximus'. V\(^2\), f. 2v: 'excommunicatorum vos in hiis dubitare perspeximus'.

\(^650\) V\(^2\), f. 2v: 'levis vel modica'.

\(^651\) W: 'Ad absolvendum ...'. O, f. 107r: 'loquitur "Absolvendi ...' V\(^1\), f. 34r: 'circa qua decetralis sic loquitur "Absolvendi ...' V\(^2\), f. 2v: 'sicut decetralis loquitur "Vobis absolvendi commissimus potestatem"'.

\(^652\) V\(^2\), f. 2v: 'cum scientia facti potius quam iuris'.

\(^653\) O, f. 107r; V\(^1\), f. 34r: 'questio vobis prout'.

\(^654\) V\(^1\), f. 34r; V\(^2\), f. 2v: 'possimus'.

\(^655\) O, f. 107r: 'illam scilicet modicum vel levi iniuriam'. V\(^1\), f. 34r: 'modicum vel levi iniuriam reputantes'. V\(^2\), f. 2v: 'respondemus. [rubric:] Hic de levi injectione manu[u]m et gravi per totum. [text continues:] Iam videlicet modicum et levi iniuriam intelligentes que modica'.

\(^656\) O, f. 107r: 'que modica persequitio [sic] vel impulsione pugni palme manus'. V\(^1\), f. 34r: 'que modica percussio pugni vel impulsione palme manus'. V\(^2\), f. 2v: 'percussione aut impulsione pugni, palme manus, digit et etiam baculi vel lapidis contracta ...'.

\(^657\) V\(^2\), f. 2v-3v: 'ad livorem aut mutilationem membri, fractio, capillorum non modicam velociam effusio non precedit [sic]'. W: 'Ad gravem vero membro mutilatio, dentis fractio, capillorum non modica depilation vel sanguinis effusione procedit'. O, f. 107r: as W except it has 'effusio'. V\(^1\), f. 34r: as W except it has 'depilatio' and 'effusio'.

\(^658\) O, f. 107r: 'si levis ictus virge vel virgae aut unguis'.

\(^659\) W, f. 3r: 'si levis ictus virge vel virgae percussione'.

\(^660\) W: 'in acrontem [sic] iniuriam ut per hoc'. O, f. 107r; V\(^1\), f. 34r-v: 'in atrociem iniuriam proptemur ut per hoc'. V\(^2\), f. 3r: 'in atrociem iniuriam proptemur. [rubric:] Hic per totum notatur differentia personarum assistencium dum fit iniuria et modus sive qualitas iniurie aut percussionis et locus ubi fit percussion sive iniuria. [text continues:] Cum non solum ipsum factum sed etiam facta qualitae et percutiendi et iniuriandi ...'.

\(^661\) O, f. 107r: 'iurandi'. O, f. 107r; V\(^1\), f. 34v: 'iurandi'.

\(^662\) W lacks 'diligenter' (present in O, f. 107r; V\(^1\), f. 34v). V\(^2\), f. 3r, has 'diligentia'.

\(^663\) V\(^2\), f. 3r: 'ut et ex circumstanciis loci videlicet et persone ...'.

\(^664\) V\(^2\), f. 3r: 'modica vel gravis aut enormis iniuria manifestus cognoscatur'.

\(^665\) W: 'vel eorum iudice ... vel in ecclesia vel quorum multis'. O, f. 107r; V\(^1\), f. 34v: 'coram iudice ... vel coram multis'. V\(^2\), f. 3r: 'ut si in atrio vel in foro coram iudice, rege vel prelato, coram multis in ecclesia vel coram multis'.

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loco publico alicui iniuria inferatur; persone autem veluti magister, iudex vel magistratus, dominus vel prelatus, pater vel patronus vel in dignitate aliqua constitutus ab inferiori vel humili contra normam iuris iniuriam patiatur; hoc habetur de hominibus. c. Sicut dignum. Sane quia negotii natura non patitur ut ad plenum omnium spectans judicium talium, an sit levis vel gravis aut enormis iniuria, vestro duximus arbitrio committendum, sic tamen super his vestram potestatem temperetis ut circa metas huiusmodi quam ultra procedatis, ne fatui de absolutione confisi in atroces prorumpant percussiones vel iniurias, vel etiam sententia excommunicationis contemnentes in excommunicationem ci- tius prolabantur. Tutius enim est aliquos qui per vos possunt absolviri superiori remittere absolvendos quam contra statuta canonical qui renum relinquere innodatum cum umbra sepe videatur in opere nec sit multiotiens veritas manifesta.

665 V1, f. 34v: absent.
666 O, f. 107r adds 'si'. V2, f. 3r: 'persone etiam si magistratus, iudex, magister aut prelatus, pater aut patronus vel aliquid in dignitate vel personatu constitutus ab inferiori vel humili contra normam iuris iniuriam patiatur, per hoc autem aut que graves iniurie videntur, aut que leves et modice ex ipso cautius aggressor cognoscas. Sane quoniam negotii natura ...'.
667 V1, f. 34v: 'de homi. c.'.
668 V2, f. 3r: 'ad plenum omnino desstitutur judicium'.
669 W: 'an'. O, f. 107r; V1, f. 34v; V2, f. 3r: 'an'.
670 O, f. 107r: 'vel'. V2, f. 3r: 'sit modica, gravus aut enormis iniuria ...'.
671 W: 'committendum. Si tamen'. O, f. 107r; V, f. 34v: 'committendum sic tamen'. V2, f. 3r-v: 'committendum. [rubric:] Hic notatur quomodo contra judicium penitentiarum temperetur potestas. [text continues:] Ergo potestatem vestram cum ad hoc precesseritis ita temperetis ...'.
672 W: 'circa meta'. O, f. 107r: 'circa metas'. V1, f. 34v; V2, f. 3v: 'circa metas'.
673 V2, f. 3v: 'positionis'.
674 V2, f. 3v: 'ne de absolutione confisi homines de facili in atrociores'.
675 V2, f. 3v: 'iniurias et sic auctoritates et sentencias canonum contemnentes'.
676 W: 'prolabentur'. O, f. 107r; V1, f. 34v; V2, f. 3v: 'prolabantur'.
677 V2, f. 3v: '[rubric:] Mittantur superiori pro absolutione. [text continues:] Tollerabilius est enim ...'.
678 O, f. 107r: 'nos'. V2, f. 3v: 'qui sic per vos absolviri desiderant superioribus absolvendos relinquere quam contra canonum statuta ymagine quadam absolvucios habita non sine gravi periculo quemquam relinquvere innodatum cum umbra quedam videat in opere sic nec sit veritas in effectu'.
679 W: 'quamquam'. O, f. 107r: 'canon' quemquam'. V1, f. 34v: 'statuta canonum quemquam'.
680 W: 'moderatum [vel, subpuncted] umbra'. O, f. 107r; V1, f. 34v: 'innodatum cum umbra'.
681 O, f. 107r; V1, f. 34v: 'sit'.
682 V2, f. 3v, adds: '[rubric:] Nota de enormi iniuria. [text continues:] Nota quod enormis iniuria est si perveniat usque ad effusionem sanguinis illius membris a quo de facili exire non consuevit. Si circulus effodiatur, si vulneretur, si fistibus ceditur extra de gen. con. Illorum; [recte, sen. ex- com. Cum illorum; X 5.39.32]. Gravis iniuria est si par parum pleno ictu percusat ex deliberato extra de off. dele. Excommunicatus [recte, offi. le. Excommunicatis; X 1.30.9], extra e. Officii mei debitus. Levis iniuria est si ponat manum super eum ac[ci]piendo supertunica vel per manum vel per buffetum iratus et motus dicens si non esset propter ordinem etc. extra e. Pervenit ad nos et infra de litteris absolvendis [X 5.39.17]'.

510 PETER D. CLARKE