

**THE EPISCOPAL VISITATION OF MONASTERIES
POLICY AND PRACTICE**

WITH SPECIFIC REFERENCE TO ENGLAND IN THE LATER MIDDLE AGES

THESIS

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PREFACE

This is a study of the visitation of religious houses during the later Middle Ages as conducted, primarily, by bishops. Episcopal visitation, as this was termed, was a means by which church authorities maintained order and orthodoxy within the various religious orders. This is not, however, a study of the visited. Any insight it offers into the behavior of regulars during the period is secondary to its purpose. Rather, this study focuses on the conduct of bishops as visitors—specifically, how the actual practice of episcopal visitation corresponded to the dictates of canon law. It seeks, first, to set forth the guidelines by which bishops ought to have conducted themselves as visitors, and, second, to evaluate their behavior and their motivations.

Chapter 1 is a general introduction to the topic of episcopal visitation. It includes necessary background material and provides historiographical perspective. Chapter 2 is a presentation of the relevant prescriptive literature. It discusses the legislation issued by the church between the late twelfth and fourteenth centuries relevant to the conduct of bishops and others as visitors. Chapter 3 discusses two sources of information on visitation as it was actually practiced: the injunctions issued by bishops subsequent to a completed visit and a fifteenth century manual on the subject of visitation. The information provided by these practical sources, in concert with the prescriptive literature presented in Chapter 2, allows, then, for an examination of how bishops conducted

themselves as visitors. This work concludes with such a discussion, seeking to determine not only *how* bishops behaved as visitors, but *why* they behaved as they did.

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TABLE OF CONTENTS

Chapter

1	INTRODUCTION AND HISTORIOGRAPHY.....	1
2	EPISCOPAL VISITATION AND CHURCH LAW.....	25
3	DOCUMENTS OF PRACTICE.....	67
	CONCLUSION.....	97
	BIBLIOGRAPHY.....	102

CHAPTER 1

INTRODUCTION AND HISTORIOGRAPHY

The visitation of the diocese was only one of numerous obligations placed on episcopal authorities by the laws and traditions of the medieval Roman church. As the head of the diocese, the bishop (or a suitable substitute), acting in the role of what is termed the 'ordinary', was expected to perform this important function by traveling on circuit to the various parishes and religious institutions located within the diocesan borders. In the parishes, he was expected to see to the upkeep of the church building and its equipment, to the suitability of the clergy, and to the godliness of the parishioners. In the religious houses, of both males and females, the ordinary acted as an overseer, able to correct perceived faults and otherwise enforce discipline in accordance with canon law and the house's rule. Episcopal visitors also served as the eyes and ears of higher church authorities, including the pope, by inquiring into the conduct of regulars and into the management of a house by its head, typically an abbot/abbess or a prior/prioress. These episcopal visitations, conducted at the diocesan level by the bishop, were distinct from similar visits made to religious houses by regular authorities representing the interests of the order to which an individual house belonged.¹

¹The term 'regular' refers to a man or a woman living a monastic life according to a religious rule, usually the Rule of St. Benedict. The term 'religious', used as a noun in both the singular and plural, refers to the same type of individual, whether he or she be a monk, nun, or canon. The term 'secular clergy' refers to those clergymen authorized to administer the sacraments, generally priests. Visitations conducted within an 'order', or a group of religious houses operating under a single rule, are usually termed 'religious visitations' or as visitations by regular authorities, etc., and are distinct from episcopal visitations by the ordinary and visitations by the 'metropolitan', usually the archbishop of an archdiocese. In this study, the terms 'religious house' and 'monastery' are used interchangeably and both refer to establishments of monks, nuns, or canons regular.

Careful records were kept of episcopal visits and preserved within the registers of the visiting bishops, and it is largely within these registers that historians have found the sources which speak to visitation as it was actually practiced. These sources, which most often include a record of those facts uncovered during a visit and/or the judgments or corrections made by the visitor based on such facts, are therefore naturally useful in understanding the everyday monastic experience. Using a more theoretical or legal approach, historians have also considered the legislation produced at various church councils, letters and decrees issued by popes, and treatises, among other sources, to understand the proper method by which visitations ought to have been conducted (e.g. the steps by which a visit should proceed, what questions ought to be asked of the visited, and how much hospitality a visitor could justly expect).

Those scholars who have dealt with the topic of episcopal visitation fall roughly into three categories according to their approach. Historians of monasticism compose the first of these groups and generally view visitations as an aspect of the larger monastic experience. British historian David Knowles, author of numerous works on English monasticism, explores visitation in his exhaustive, three-volume work, *The Religious Orders in England*. In the first of these books, Knowles states clearly that he regards the study of visitation as useful for three purposes: to gain insight into the monastic life, to allow for consideration of the practices of bishops and of the system of visitation itself, and to offer judgment on the state of religious life in a specific area during a limited period of time. For Knowles, of course, visitation as a topic composes only minor portions of his work, but he certainly makes use of the available sources to evaluate both the practice itself and what it implies about the monasteries he studies. For example, upon consideration of visitation records dating to the early sixteenth century, he asserts, those who would wish them to evince a strong and vital English monasticism existing immediately prior to the Dissolution would likely be disappointed. Knowles does warn readers, however, that one must always be careful when using visitation records as

historical documents, as, he explains, they were never meant to be seen outside the episcopal establishment in which they were created. Plus, he asserts, the “dead as well as the living have a right to their good name.”²

Whereas Knowles treats English monks, Eileen Powers treats their female counterparts. Author of *Medieval English Nunneries*, Powers similarly includes visitation as a topic primarily for its insight into the lives of nuns. Specifically, she considers visitation as one piece of the “machinery of reform” used by authorities to monitor and correct religious houses. Powers’ text on the subject is laced with examples of situations described in the sources involving the abuse and neglect existing in visited nunneries. Like Knowles, however, she warns that the most flagrant examples are those which are recorded, while well-run nunneries in which little occurred to draw episcopal attention were largely ignored. She also asserts that most abuses uncovered (e.g. the keeping of dogs or wearing of forbidden fabrics) can hardly be considered signs of irreversible moral decadence.³

C. R. Cheney’s work, *Episcopal Visitations of Monasteries in the Thirteenth Century*, is certainly more specifically dedicated to the topic of visitation than either Knowles’ or Powers’. Indeed, Cheney’s work offers a wonderful discussion of available sources and a solid description of the process of visitation itself. Cheney himself admits that his work does not “explore unfamiliar ground or arrive at unexpected conclusions,” yet as a treatment of visitation over a small area (largely England and Normandy) over a limited period of time, it is useful indeed. Although he relies heavily on the register of Archbishop Rigaud of Rouen, Cheney also makes use of other sources of information including other bishops’ registers and letters sent among bishops or between bishops and

²David Knowles, *The Religious Orders in England*, 3 vols. (Cambridge: Cambridge University Press, 1948-59). Quote from Knowles, 3:84.

³Eileen Powers, *Medieval English Nunneries* (Cambridge: Cambridge University Press, 1922), 483-98.

the pope to illustrate his points.⁴ The only limitation to the use of Cheney's work today, and indeed to the use of either Knowles' or Powers', is the fact that all three date to the early part of the twentieth century.

Other historians focus on the legal aspects of the visitation process. Thomas Reilly and Andrew Slafkosky both address visitation law in Doctorate of Canon Law dissertations. Reilly's work, "The Visitation of the Religious," centers on the development of church law governing visitations made to religious houses by both regular visitors (authorities within a religious order) and episcopal visitors. In "The Canonical Episcopal Visitation of the Diocese," Slafkosky treats only episcopal visitation; however, much of his work emphasizes the process as it was practiced in visits to parish churches and secular clergy. Structured in much the same way, both of these studies offer a solid historical overview for the development of visitation as an institution from the early Middle Ages to the Council of Trent. Both Reilly and Slafkosky, as legal historians, emphasize the role played by the various church councils and other sources of legislation on visitation, from the writings of the Church Fathers to papal letters. However, both men's dissertations also share in their limitations, as the greater part of the text of each is a commentary on the legislation of the much more recent Code of Canon Law.⁵

Another good source of information on the legal development of both religious and episcopal visitation is the *Dictionnaire de Droit Canonique*. Indeed, the editors of the *Dictionnaire* divide the subject into two articles based on this distinction. Each article begins with a historical overview tracing the development of visitation from the earliest relevant legislation to the Code. Since it is a reference tool, its articles are quite general,

⁴C. R. Cheney, *Episcopal Visitation of the Monasteries in the Thirteenth Century* (Manchester: Manchester University Press, 1931), v.

⁵Thomas Francis Reilly, "The "Visitation of Religious," (Doctorate of Canon Law diss., The Catholic University of America, 1938); Andrew Leonard Slafkosky, "The Canonical Episcopal Visitation of the Diocese," (Doctorate of Canon Law diss., The Catholic University Of America, 1941). As with the works by historians of monasticism, these two dissertations date to the early twentieth century.

offering few specific examples of visitation as it was actually practiced. Its editors do, however, treat exemption and procuration (controversial aspects of medieval visitation) separately, and are perhaps more pessimistic about the development of these than most other modern scholars of episcopal visitation.⁶ The *DDC* is distinctive as a source in that it dates to a relatively more recent time than many other topical works, a fact which allowed the editors access to more newly published source material.⁷

Finally, there are scholars who focus more on the surviving visitation documents than on the historical or legal development of visitation or its practice. The Reverend A. Jessopp is one such scholar. Working for the Camden Society in the 1880s, Jessopp edited the visitation records, dating from 1492 to the eve of the Dissolution in 1532, surviving in the registers of the bishops of the diocese of Norwich. As it treats visitation records of an entire diocese, the work includes information on visits made to cathedrals and colleges, as well as to religious houses. Yet, in his introduction, Jessopp expends a great deal of effort on describing the state of the latter group, and, in general, does not exhibit significant sympathy for their plight. While he laments the fact that other surviving visitation records had not been edited at the time of his writing, he asserts that once they are, either the late medieval religious of England or their sixteenth century persecutors will be found to be men of the “very vilest stamp.”⁸

⁶ The concepts of exemption and procuration are treated in more detail later in this chapter and in Chapters 2 and 3. Generally, though, an exempt religious house was one freed from episcopal oversight (e.g. visitation) by papal mandate. Procuration refers to that which was owed a visiting official by a visited monastery or other institution as a matter of hospitality.

⁷ *Dictionnaire de Droit Canonique* (Paris: Librairie Letouzey et Ane, 1963). The *Dictionnaire* will henceforth be referred to as the *DDC*.

⁸ A. H. Jessopp, ed., *Visitations of the Diocese of Norwich, 1492-1532*, Publications of the Camden Society, vol. 43 (Westminster: Nichols and Sons, 1888). An observer of questionable impartiality, Jessopp asserts that once more records are edited and published, the truth of the monastic condition ought to be told, “though it should appear that every religious house in England was a hell upon earth, and every monk or nun was steeped in the foulest depths of vice and wickedness;... though henceforth in speechless shame and horror we shall be compelled to allow that this human nature of ours is a thousand times more base and degraded than we had hitherto allowed ourselves to believe.” However, assuming the sources indicate otherwise, Jessopp is equally ‘disinterested’ in his treatment of the visitors of the Dissolution, characterizing

A. Hamilton Thompson is probably the most renowned scholar of episcopal visitation records. As an editor of the Lincoln Records Society, Thompson produced six volumes, contained in two trilogies, based on information culled from the surviving registers of the bishops of Lincoln. The first of these trilogies spans the years from 1420 to 1449 (considered a particularly fertile period of English visitation history based largely on the existence of the Lincoln sources) and is composed entirely of records of episcopal visitations to religious houses. Thompson's introductions to the first two books contain a complete account of the process of episcopal visitation common to the period, as well as discussion of the limits and uses of the documents that he reproduces. Transcribed Latin reproductions of the original material follow, with welcome English translations on the opposing pages. Thompson's later trilogy, spanning the years from 1517 to 1531, is not limited to dealing only with visitations to religious houses, but includes records pertaining to the entire diocese of Lincoln. These three books lack the helpful introduction of their predecessors, but they, too, include the reproductions of the records themselves.⁹

Published in the same year as Thompson's first volume of records, G. G.

Coulton's "The Interpretation of Visitation Documents," is less of a summary of what is

them as "creatures of common form, who exhibited as shocking examples of truculent slander, or gratuitous obscenity, of hateful malignity, as can be found among the worst men of any previous of succeeding age" (xlix-l).

⁹A. Hamilton Thompson, ed., *Visitations of Religious Houses in the Diocese of Lincoln: Injunctions and other Documents from the Registers of Richard Flemyng and William Gray, Volume I*, Publications of the Lincoln Record Society, vol. 7 (London: W. K. Morton & Sons, 1914); Thompson, A. Hamilton, ed., *Visitations of Religious Houses in the Diocese of Lincoln: Records of Visitations held by William Alnwick, Bishop of Lincoln, 1436-1449, Volume II*, Publications of the Lincoln Record Society, vol. 14 (London: W. K. Morton & Sons, 1918); Thompson, A. Hamilton, ed., *Visitations of Religious Houses in the Diocese of Lincoln: Records of Visitations held by William Alnwick, Bishop of Lincoln, 1436-1449, Vol. III*, Publications of the Lincoln Record Society, vol. 21 (London: J.W. Ruddock & Sons, 1929); Thompson, A. Hamilton, ed., *Visitations in the Diocese of Lincoln, 1517-1531, Volume I*, Publications of the Lincoln Record Society, vol. 33 (Hereford: Hereford Times Ltd., 1940); Thompson, A. Hamilton, ed., *Visitations in the Diocese of Lincoln, 1517-1531, Volume II*, Publications of the Lincoln Record Society, vol. 35 (Hereford: Hereford Times Ltd., 1944); Thompson, A. Hamilton, ed., *Visitations in the Diocese of Lincoln, 1517-1531, Volume III*, Publications of the Lincoln Record Society, vol. 37 (Hereford: Hereford Times Ltd., 1947).

contained in the records than a guide to how such records should be viewed. Coulton, writing as he was at the very outset of the study of episcopal registers, emphasizes primarily the importance of viewing the surviving documents as pieces of the historical record that contain much valuable information. He challenges the prevailing view held by scholars at the turn of the twentieth century that the records contained in bishops' registers amounted to little more than "common form," that the injunctions, or decisions, issued in writing to a religious establishment after an episcopal visitation were not specific to each individual case. Rather, this school argued, sets of surviving injunctions are so similar in form and content that they are largely interchangeable and therefore of little value to the scholar in the study of specific religious houses or individual visitations. Coulton disagrees whole-heartedly with this approach, asserting the individuality and therefore the worth of each surviving record and lamenting the fact that editors of the records pay less attention to synthesizing the meaning of the sources than to simply reproducing and translating their words.¹⁰

The practice of episcopal visitation, or visitation by the ordinary (usually the bishop of a diocese), to religious houses dates to the early Middle Ages. Indeed, episcopal visitation dates back centuries before the first visitations by religious superiors, who in many cases were forbidden to leave their enclosures without express permission from the king or bishop. Monasteries were generally isolated and independent institutions with few bonds to other houses and with no regular authority above the abbot. Under this nascent system of episcopal visitations, bishops rarely intervened in monastic affairs unless to correct serious disorder.¹¹ There is no evidence that any visitations were

¹⁰G. G. Coulton, "The Interpretation of Visitation Documents," *English Historical Review* 29 (1914): 16-40.

¹¹ *DDC*, 7:1595.

undertaken before the fourth century, but historians have asserted that the idea of necessary supervision through visitation can be traced back to the travels of St. Paul and the writings of the Church Fathers.¹²

By the sixth century, various church councils began to address the need for more systematized supervision of the religious houses, which were rapidly increasing in number across Western Europe. One of the earliest laws, written at Tarragone in 516, entreated bishops to visit their diocese each year and enforce discipline where needed. The Councils of Orleans (511), Epaon (517), Second Orleans (553), and Fifth Arles (554), while they did not legislate exact rules governing the process by which episcopal visitation ought to be undertaken, did stress the need for oversight and discipline by bishops. The Second Council of Braga (572) and the Council of Toledo (633) offered more specific guidelines, charging ordinaries to inspect buildings, clerics, parishioners, and monasteries within their diocese and allowed for the delegation of duties to others when the ordinary could not complete the task.¹³

The first real check on episcopal authority over religious houses came in the seventh century from Gregory the Great, whose support of monasticism and criticism of the abusive practices of bishops have led some historians to consider his legislation the origin of later monastic exemptions from visitation. Reilly maintains that Gregory was only acting to counteract abuses and not to lessen episcopal authority.¹⁴ In fact, the legislation governing visitation passed by councils from the seventh through the eleventh centuries generally supported the bishops' authority over regulars by enjoining the correction of faults, maintenance of discipline, and installation of abbots. Under the

¹² Reilly, 31; *DDC*, VII, 1512-1514. The *DDC* specifies Church Fathers St. Jerome, St. Patrick, and St. Martin of Tours. Slafkosky, 4-6, recognizes St. Gregory, St. Augustine, and St. John Chrysostom, among others.

¹³ *DDC*, 7:1514; Reilly, 33.

¹⁴ Reilly, 37-39.

Carolingians, visiting bishops throughout most of present-day France and Germany were accompanied by *missi dominici*, or secular officials, who were useful in enforcing discipline and maintaining imperial, as well as church, policy.¹⁵ During this period, much of the new legislation focused on the bishops' responsibility to their parishes and parishioners, guiding their actions concerning the secular clergy and the state of parish churches; nevertheless, that which did address the regular clergy urged the visitation of monks, canons, and nuns.¹⁶

In 906, the theologian and commentator Reginio of Prum completed a questionnaire to be used to guide visitors with regards to the proper process of visitation. He focused primarily on the visitation of parish priests and churches (stipulating that the church and its various religious equipment be inspected), but also mentioned appropriate questions to be asked of regulars. Although his questionnaire was the first of its kind and was reproduced a century later by Burchard of Worms (d. 1025), it remains unclear just how frequently it or others like it were used during actual visitations.¹⁷ Moreover, most legislation on visitation issued between the eleventh and the sixteenth centuries pertained to abuses and episcopal neglect, rather than appropriate visitation procedure.¹⁸ By the mid-twelfth century, the *Decretum* of Gratian, a compilation and synthesis of older legislation and commentary, emerged as the most complete source of visitation guidelines.¹⁹

¹⁵ *DDC*, 7:1516; Reilly, 40.

¹⁶ *DDC*, 7:1514; Reilly, 40. According to Reilly, Louis the Pious' *Capitula de Inspiciendis Monasteriis* (817) required bishops to spend several days at each monastery in order to acquaint themselves with the true nature of the house, and it emphasized their power over all regulars.

¹⁷ Slafkosky, 20; *DDC*, 7:1516. The *DDC* points out that although it can be considered "comme un des *precurseurs* des questionnaires de la visite pastorale," Reginio's document was rarely cited by councils as a guide to the proper method of investigation.

¹⁸ Slafkosky, 29.

¹⁹ *DDC*, 7:1517.

According to the *DDC*, the period between the end of the twelfth century and the Council of Trent represents the decline of the institution of episcopal visitation, resulting from the diminishing jurisdictional authority of the bishop and the greater frequency of abuse of the system by bishops and regulars alike.²⁰ Indeed, much of the legislation issued during the thirteenth and fourteenth centuries ordered more frequent visitation and attempted to increase the bishops' oversight of regulars, particularly to see to the strict enclosure of the monasteries, the abolition of private property within them, the prevention of socializing and drinking, and the barring of all inappropriate female visitors to male houses and vice versa.²¹ Yet, Cheney, speaking for the situation in England, regards the first half of the thirteenth century as a period of "great advance" in the regularity of the episcopal visit, thereby implying that neglect had proceeded this period. Spurred on by the reform legislation of Innocent III and Gregory IX, English bishops and archbishops (visiting as metropolitans) visited their dioceses more regularly than ever before. Cheney particularly credits the bishops of Lincoln, of York, and of Bath as leading the way in this effort.²²

Yet, it was also during this period that more and more religious houses applied for and received papal exemption from episcopal visitation. By the Fourth Lateran Council in 1215, only two major orders, the Benedictines and the Augustinian canons, and female regulars of all orders, remained under the jurisdiction of diocesan bishops. The *DDC* asserts that with the increased granting of exemptions, the papacy and regulars undercut episcopal authority severely and weakened visitation as an instrument of reform and discipline. Only at the Council of Trent was the situation reversed and bishops restored

²⁰ *DDC*, 7:1517, 1597. The *DDC* does allow that the fifteenth century did experience some resurgence in visitation standards.

²¹ Slafkosky, 32-37; Cheney, 22-23. According to Slafkosky, the Councils of London (1237) and of Wurzburg (1287) called for more frequent visits.

²² Cheney, 17-21, 32-35.

to some of their former authority.²³

Records of episcopal visitation, usually preserved within individual bishop's registers, become more common after 1250, and most evince a process that remained largely unchanged until, in England at least, the Dissolution. No law ever specifically dictated the proper frequency of visitation, and although annual visitation was encouraged by a number of councils, the schedule of each bishop varied according to the needs of his diocese, his own duties, and often other, quite earthly considerations.²⁴ Occasionally, the pope, from his position as 'universal ordinary', would call for a bishop to visit a specific establishment thought to be in particular need of attention, but even in these cases the bishop acted in his role as ordinary and not as a papal legate.²⁵ According to Canon Law, a bishop was not limited to visiting only those houses thought to be lax or disordered; all houses, except for those asserting special papal exemption from visitation, were eligible.

The records of visitations that survive today tend to support the notion that there was a process by which most visitors operated. Generally, a bishop, or his delegate, would notify a monastery of his impending visit with a mandate requiring that the house be ready to receive him and that its head be present. No formula existed by which this mandate was composed and surviving examples differ in both form and content. Bishops did generally demand that upon arrival they be allowed to view a receipt of their mandate (in the form of a formal certificate written in Latin²⁶), as well as documents concerning the foundation of the house and confirmation of the current abbot or prior. If such documents were not prepared for inspection when the visitation commenced, further business was conducted in order to establish the status of the house and its head.

²³ *DDC*, 7:1519; Reilly, 57-63.

²⁴ Knowles, 1:80-81.

²⁵ Cheney, 28-32.

²⁶ Powers, 483. Often, according to Powers, female monasteries experienced particular trouble drawing up a certificate of receipt due to the lack of knowledge of Latin common among nuns.

Although it was not the norm, bishops conducted occasional unheralded visitations, and that those that were announced usually took place within a few days of the mandate, as bishops did not wish to allow too much advance ‘house cleaning’. Bishops carefully scrutinized all documents produced for their inspection in order to detect any flaw that might affect their authority over the house. They also requested a financial statement, or *status domus*, in order to better appreciate the financial standing of the house and evaluate its management. After completing all of this preliminary work, the bishop, or a cleric deputed with the responsibility, would give a sermon to all those, secular and regular, in attendance in the chapter house.²⁷

For a thorough investigation, the bishop required the assistance of a number of clerks and notaries. Because these men were often seculars, some houses objected to their presence during the subsequent interrogations. In response, Pope Boniface VIII limited the number of seculars who could be present, but maintained their importance as disinterested witnesses and scribes without whom the bishop could not function as a visitor.²⁸ However, in order to protect the privacy of monasteries and preserve their integrity, non-essential seculars left the chapter house following the sermon. Then, one by one, members of the house were individually and privately examined before the bishop and his party.²⁹ This was not meant to be an inquisition by any means; regulars were neither cajoled nor forced to make charges, but bishops encouraged free speech on any subject pertinent to common practices or the spiritual or financial management of the house. As house members spoke, notaries recorded their depositions, whether they reported “*omnia bene*,” or put forward grave accusations of neglect, abuse, or disregard of

²⁷ Cheney, 55-64; Thompson, *Visitations of Religious Houses, Volume I*, x; Knowles, 1:81-82.

²⁸ Cheney, 70-71.

²⁹ Thompson reports that in particularly large houses, more than one regular might be examined simultaneously by the bishop and deputed clerks.

the Rule. The bishop also might inquire into the economic status of the house, the private practices of fellow regulars, or the rule of the abbot or prior. Whatever was freely given or elicited from the examinees became known as the *detecta*, or that which was discovered *to* the bishop, and was duly recorded.³⁰

Both Powers and Cheney remind us that bishops had to maintain a careful scrutiny when so freely entertaining accusations. Bishops considered what motives might lay behind charges, including petty grievances or simple deception, and likely became skilled at sorting out the trivial or untrue from the serious. Nevertheless, if the community of a house were to agree to a conspiracy of silence out of a desire to hide problems, a fear of retribution, or the jealous guarding of the house's independence from episcopal authority, a visitor would have a harder time eliciting the truth. In these cases, the visitor could revoke any oaths of silence previously made or warn those who might seek to retaliate against cooperative parties. However, the bishop's power was limited, and the hostility customarily offered to episcopal visitors by many regulars certainly curbed his efforts.³¹

Based on the evidence discovered in the *detecta*, the visitor and his clerks composed the *comperta*, or that which was discovered *by* the bishop. Based on the *comperta*, those accused of faults or crimes were called before the bishop to hear the charges and then required to either plead guilty and receive penance, or else plead innocent and find compurgators within a specific period of time (usually hours). Thompson reports that bishops were frequently lenient in their treatment of those pleading guilty or those who could not find compurgators. The *comperta* would usually then expand to include the admissions or compurgations of those charged.³²

³⁰ Cheney, 71-78; Knowles, 1:82; Thompson, Thompson, *Visitations of Religious Houses, Volume I*, x; Thompson, *Visitations of Religious Houses, Volume II*, xlvii. Cheney remarks that the examinees were not required to take any oath before their deposition as their original oath of obedience to the Rule required their submission to the visitor's questions.

³¹ Cheney, 84-91; Powers, 485.

³² Cheney, 95; Knowles, 1:82; Thompson, *Visitations of Religious Houses, Volume I*, xi;

Finally, with the full chapter in attendance, the bishop would publish the *detecta* and *comperta* and issue oral injunctions, or rulings based on that which was discovered at the house. The visitation then concluded, and written injunctions, usually more formal and complete than their oral counterparts, would be drawn up and issued to the religious house. Those written documents containing injunctions that remain for study today are in almost all cases copies preserved by the bishops' clerks once the original was issued. Monasteries in fact rarely preserved the originals. The similarity in form and wording that exists among surviving sets of injunctions led some early historians to suggest that they amount to little more than 'common form', or form letters showing no individualization. However, by the early twentieth century, scholars of monasticism and canon law reached the consensus that although the surviving sets of injunctions display common characteristics, they are most certainly not merely formulaic. Rather than viewing these documents as interchangeable and meaningless, these historians regarded their impersonal, formal tone as intended to impart more power and endurance. Very specific, short-sighted injunctions, they argued, would have lost their effectiveness once a situation had passed, while broad rules could be applied to similar situations that might arise in the future. Because the abuses discovered at any particular house tended to be very similar to those uncovered at any other (human nature and the Rule being largely ubiquitous among religious houses), broadly-worded injunctions were recycled numerous times. Moreover, in those cases in which both *detecta* and injunctions survive, one can see that the injunctions issued show enough variation to indicate that they were composed with a house's individual needs in mind. As with snowflakes, no two sets of injunctions, Thompson reminds us, are exactly the same.³³

Thompson, *Visitations of Religious Houses, Volume II*, xlviii.

³³ Cheney, 95-97; Coulton, 33-38; Knowles, 1:82; Powers, 494-495; Thompson, *Visitations of Religious Houses, Volume II*, xlviii. Each of these historians thoroughly argues the point that injunctions were not then and should not now be considered mere common form. Thompson, *Injunctions and other Documents*, xii, describes one particular manuscript in which a rough copy of common injunctions has been

Injunctions rarely included the removal of heads of religious houses from their positions. Even in cases of blatant abuse of power, bishops tended to act in a conciliatory fashion, foreseeing that removal would require them to find an acceptable replacement and would likely bring them into conflict with other houses within the order.³⁴ Bishops also left the enforcement of their articles to the heads of the visited houses, and the resulting situation, Powers maintains, severely limited the articles' effectiveness.³⁵ Penalties for disregarding injunctions were severe (including excommunication), nevertheless, and houses were ordered to retain them and read them aloud periodically. Indeed, it was because new injunctions superseded any which had gone before and were considered as part of the statutes of a house that bishops' clerks maintained copies.³⁶

In addition to visits from the diocesan bishop or his delegate, a non-exempt religious house could also look for periodical inquiries from its metropolitan, usually the archbishop of the archdiocese in which the house was located. Although originally delegated as a visitor only by papal request and upon the negligence, absence, or incapacity of the ordinary, metropolitans became increasingly assertive of their rights throughout Europe during the thirteenth century. This frequently brought them into conflict with the bishops of their archdiocese, who regarded their actions as unnecessary interference and usurpation of power, and with regulars, who felt the privacy and rights of their houses doubly infringed and who resented the required hospitality that another visit would entail.³⁷ Antagonism among the concerned parties became so bad that Pope

"scored and underlined in the effort to include actual *comperta* of the visitation within the rigid limits of common form."

³⁴ Cheney, 101-102.

³⁵ Powers, 492.

³⁶ Thompson, *Visitations of Religious Houses, Volume I*, xii.

³⁷ *DDC*, 7:1516-17.

Innocent VI addressed the issue in his decretal *Romana ecclesia*. Innocent pronounced that the archbishops were not to consider themselves as exercising absolute authority over their suffragans. When on tour of their archdiocese, archbishops, he declared, were not to omit to visit any diocese or to visit any more than once. Additionally, although the archbishop retained the right to inquire into all topics at a religious house, he was only to concern himself with cases of dire seriousness and to allow his bishops to treat religious personally charged. He was not to receive procuration in cash and neither accept nor require gifts.³⁸ Only houses exempt from regular episcopal authority were not affected.³⁹

By limiting the power of the metropolitan, the decree recognized that he did possess certain rights of visitation which a suffragan could not question. Nevertheless, conflict continued and metropolitan visitations remained something to be tolerated or even resisted by both bishops and regulars. Yet, the infrequency of the metropolitan's visits (a schedule never being specified in law) and the distance between most visited houses and the seat of the archdiocese limited his efficacy in maintaining monastic discipline. By the end of the century, rules governing the action of the metropolitan as visitor were embodied in the *Corpus iuris* and more archbishops were active in their charge, but due to the obstacles they faced, archbishops rarely played a major role in the maintenance of monastic order.⁴⁰

Archdeacons, too, played a limited role in the episcopal oversight of the diocese. They generally stood 'interposed' between episcopal authorities and parish priests and were usually charged with annually inspecting secular clerics as to their conduct and fitness for office, overseeing the upkeep of churches and religious equipment, and inquiring into the particular weaknesses of the parish community. Additionally, the

³⁸ Cheney, 135-136. The *Romana ecclesia* is also addressed in Knowles, 2:30, and *DDC*, 7:1517.

³⁹ Knowles, 1:80.

⁴⁰ Cheney, 133, 137-48.

archdeacon had the power to censure and correct and to enforce excommunication. The visitation power of the archdeacon had been based on ecclesiastical law since the eleventh century, but it was subsequently limited, due to charges of abuse, at the Third Lateran Council (1179). Only in special cases did he visit monasteries as a substitute for a bishop.⁴¹ Apart from the archdeacon and the metropolitan, the papal legate also possessed powers of visitation, but such visits were usually more concerned with encouraging papal policies than maintaining order.⁴²

Most religious orders maintained their own internal system of visitation apart from that practiced by episcopal authorities. Early monasticism, as brought to the West by such men as St. Martin of Tours and John Cassian, however, was not characterized by united systems of houses, or orders. Nor was such organization called for in the Rule of St. Benedict of Nursia. The mid-ninth century witnessed the transformation of 'normal' monasticism as characterized by autonomous, independent houses into a system of centralized, international orders. The rise of the latter, with its need for internal regularity and order, necessitated the creation of visitation within religious orders by religious authorities. The Rule of St. Benedict of Nursia, after the Council of Aix-la-Chapelle (816), became the dominant governing law of monasticism in the West, and St. Benedict of Aniane, in the early ninth century, became the first to attempt to impose uniform order on all the Benedictine houses. With the backing of Louis the Pious, St. Benedict of Aniane visited the monasteries in the region and met with their abbots to establish uniform customs. Although he experienced temporary success and did establish the first

⁴¹ *DDC*, 7:1517-18. Slafkosky discusses the treatment of archdeacons' rights by the Council of Lillebone (1080), the Third and Fourth Lateran Councils, Gregory IX's Decretals, the Council of Oxford (1222), and the Synod of Exeter (1287). According to Slafkosky, bishops were given official permission to use archdeacons as substitutes in visitation at the Council of Sens (1528) (38-41).

⁴² Knowles, *Religious Orders*, 1:80.

system of visitation within an order, Benedict's system of visitation did not survive his death in 824.⁴³

The Cistercian order became the first to institute a lasting system of internal visitation; indeed, it was to serve as the model for all systems yet to come. In short, the abbot of a Cistercian mother house was to visit all daughter houses annually, and Cîteaux, the original Cistercian establishment (founded in 1098 as a Benedictine house), was to be visited by four abbots from various houses of the order. Visitors were limited to correcting abuse or neglect of the Rule where they found it but were not encouraged to by-pass the authority of the visited abbot. The Cistercian model was confirmed by Pope Callixtus II in 1119.⁴⁴

Based on the Cistercian system and some reforms instituted by the Premonstatensians, the Cluniacs, another order of Benedictine monks, and indeed the first to institute a satellite system of houses, set up a system of internal visitation in the early thirteenth century. The Cluniac model required that general chapters, or meetings, be called annually to gather the abbots and priors of all Cluniac houses within one of ten provinces. The chapter would then elect one or two members as *procurators* or *camerarii*, responsible for visiting houses within the province and reporting findings at the following year's chapter.⁴⁵ The Military Orders also adopted a system similar to that of the Cistercians, and by the thirteenth century, the only orders not practicing some form of internal visitation were the 'unreformed' Benedictines and the Augustinian canons.⁴⁶ Instead, these two orders, along with the female religious houses affiliated with other

⁴³ Reilly, 8-9.

⁴⁴ *DDC*, 7:1595; Reilly, 12-13.

⁴⁵ *DDC*, 7:1596; Reilly, 10-14.

⁴⁶ Reilly, 15.

orders, were to remain under the visitatorial authority of the diocesan bishop.⁴⁷ Houses belonging to the Cistercian, Cluniac, mendicant, and most other orders would apply for and receive exemption from episcopal visitation.

At the Fourth Lateran Council, reformers within the church (with the support of the pope) sought to correct the lack of internal order in Benedictine and Augustinian houses. Their ruling, termed *In Singulis*, based once again on Cistercian models and even making use of Cistercian ‘facilitators’, created a system of provincial chapters, to be held every three years, charged with electing visitors from among the assembled heads of each order to visit the houses located within the province’s boundaries. Reports from the field were then to be brought back to the chapter for review by *definiteurs* and recording by the secretary. Findings were read aloud to the chapter, and guilty abbots and priors, who were punished if not present, were called to task. *In Singulis*, however, also stipulated that these new practices, which only applied to the Benedictines and Augustinians, did not relieve bishops of their responsibility to visit the houses of these non-exempt orders within their dioceses. According to a supplement to the ruling, Honorius III’s decretal *Ea quae*, religious visitors were allotted further powers of correction and punishment and given the right to recommend the removal of a truly bad abbot or prior, though enforcement remained the prerogative of the bishop.⁴⁸ The English Benedictines continued to practice this form of internal visitation until the Dissolution; the Augustinians and continental Benedictines, despite further enforcement efforts by Benedict XII and others, generally disregarded the new provisions.⁴⁹

⁴⁷ In 1311, the Council of Vienne placed all female religious houses, regardless of the exemptions claimed by their orders, under the authority of the diocesan ordinary. This decree, known as *Attendentes*, will be discussed in more detail in Chapter 2. For discussion of the limits placed on female religious following the implementation of Boniface VIII’s *Periculoso* (1298), see Elizabeth Makowski, *Canon Law and Cloistered Women: Periculoso and Its Commentators, 1298-1545* (Washington, DC: The Catholic University of America Press, 1997).

⁴⁸ *DDC*, 7:1595-96; Reilly, 19-20.

⁴⁹ Reilly, 21.

As previously stated, the reform efforts of the Fourth Lateran Council, along with the *decretals In Singulis* and *Ea quae*, did not apply to orders that had already instituted systems of internal visitation (such as the Cistercians or the Cluniacs), nor were houses of these orders under the supervision of the bishop of the diocese in which they were located. As early as the end of the twelfth century, monasteries were roughly divided into 'exempt' and 'non-exempt', generally Benedictine and Augustinian, houses. Most religious houses sought exempt status early on, for it placed them outside of episcopal interference and the threat of correction, and it protected internal matters of the house from inspection. Some appealed directly to the pope for the right, whereas others relied on shakier tradition. Other clearly non-exempt houses simply refused the bishop's right.⁵⁰ Yet, papal exemptions generally did not include parochial churches which might be on monastic lands. These churches, because they employed secular clergy who administered the sacraments, remained under episcopal authority officially until the mid-fourteenth century but practically until the late fifteenth.⁵¹

Popes were instrumental in creating this dual system of monasticism vis-à-vis exemptions by the thirteenth century. Yet, early decisions that settled conflicts between episcopal authorities and visited houses tended to favor bishops. The ninth century witnessed an increase in appeals for exemption to the Holy See, but even by the end of the tenth century, total papal exemption remained very rare. However, as systematized monasticism emerged as the dominant trend, exemptions became increasingly more common. Some historians attribute this development, which lessened lay and episcopal

⁵⁰ Cheney, 38-40; *DDC*, 7:1518; Reilly, 45.

⁵¹ Reilly, 48-54. According to Reilly, Innocent XI declared, in 1356, the parochial churches of exempt orders exempt from visitation as well, but the former distinction remained the practice until Sixtus IV (1471-1484) and his successors enforced the order. The Fifth Lateran Council (1513-1517), in response to bishops' protests, returned monastic parochial churches to their former non-exempt status.

authority, to a new cooperation between the Holy See and the religious orders (which had quickly discovered the benefits of supporting papal reform programs).⁵²

Other historians do not doubt that popes generally favored exempting monastic orders over maintaining their non-exempt status but attribute this policy more to a papal desire to accommodate monasteries and encourage their support (theological and financial) rather than to a desire to break episcopal hegemony. Indeed, they point out that at the same time that they were allocating exemptions, popes encouraged episcopal visitation in letters to bishops. Innocent III required houses to prove their exempt status (an effort at times not easily accomplished), and he did not in all cases allow the status of a mother house to transfer automatically to daughter houses. For Cheney, the system of episcopal visitation remained too valuable for maintaining order and implementing policy to be “swept away.”⁵³ Furthermore, exempt status could be a fleeting trait, as successive popes could and did revise and revoke exemptions.⁵⁴

Apart from the obvious desire to preserve privacy and independence, financial considerations motivated religious houses to seek to become exempt. Visitations, whether of the ordinary, metropolitan, or fellow religious, demanded hospitality which could put a severe drain on a house’s resources. Legally, visitors were entitled to this hospitality, termed ‘procuration’, not as payment but rather as necessary support for themselves and their parties while on circuit. Ideally, procuration was modest and offered in kind, not in coin. Although bishops had been implored as early as 572 not to abuse this entitlement visiting their diocese, the first legislation regarding procuration was issued in the late twelfth century and was intended to correct some of the abuses that naturally arose due to the circumstances. In 1179, the Third Lateran Council restricted

⁵² Reilly, 41-44.

⁵³ Cheney, 44-53.

⁵⁴ Reilly, 51.

composition of the parties traveling with various visiting officials.⁵⁵ The thirteenth century Councils of London and of Paris forbade procuration to those visitors who either did not fulfill their obligations at a house or in a parish or in fact did not visit at all, and other councils warned against the demand or acceptance of money in lieu of provisions or as bribes from guilty parties. Innocent IV's *Romana ecclesia* (1246), while justifying the necessity of procuration, sets levels by which proper procuration can be charged and forbids the substitution of coin for food and lodging or as a gift.⁵⁶ In 1274, the Second Council of Lyons stipulated that any found to be demanding payment beyond the set limits incurred excommunication unless he paid back double what he had wrongfully received; higher clergy who failed to do so incurred interdict "ab ingressu ecclesiae," while lower officials were suspended from their office and benefice.⁵⁷

Subsequent councils reinforced these efforts, but abuses continued, and payment in coin remained common. Although Innocent IV demanded in a letter to English bishops that maximum procuration limits be set according to the prices particular to a region and enforced accordingly, Cheney sees no evidence of strict compliance. In general, he describes a situation in England and on the continent as one characterized by varying degrees of compliance and abuse. He does acknowledge, however, that visitors could and did often remit payment from small, poor houses, while retaining the right of procuration in the future.⁵⁸ By the end of the thirteenth century, Boniface VIII reversed the often-ignored requirement of payment in kind, allowing that visitors could legally accept money

⁵⁵ The Third Lateran Council recommended the following limitations: archbishops limited to between forty and fifty horses, bishops to between twenty and thirty, cardinals to twenty-five, archdeacons to between five and seven, and deacons to two. Birds, dogs, sumptuous foods, and demands for charity were forbidden of all visitors.

⁵⁶ Słafkosky, 24-28, 48-53; Cheney, 104, 119; Reilly, 49. According to Cheney, a visitation usually lasted no more than one day and one night. Stays of over two nights were very rare.

⁵⁷ Reilly, 55.

⁵⁸ Cheney, 105-117.

if so desired by the visited institution. He also limited visitors to one procuration payment per day. Subsequent legislation warned visitors against abusing their rights, and Benedict XII, in 1336, issued *Vas electionis*, further restricting payments according to the rank of the visitor and the location and financial situation of the visited.⁵⁹ But long before this, according to the *DDC*, bishops had become so accustomed to the promise of profit through procuration that “‘pas de procuration, pas de visite’ [ete] a l’ordre du jour.” Indeed, the *DDC* points to the abuse of the right of procuration, along with that of exemption, as a major cause of the ‘decline’ of the institution of visitation in the later Middle Ages.⁶⁰

Whether episcopal visitation as an institution was in decline in later Middle Ages or not, it does survive within the modern Code of Canon Law. In England, of course, visitation to religious houses ended with the Dissolution, and indeed ‘visitations’, conducted by officials of the Crown rather than of the diocese, were instrumental in the suppression of the monasteries. Yet, both in England and on the continent, those visitation records which survive offer modern historians valuable insight into this distinct medieval practice. Historians of monasticism such as Knowles and Powers have already used them repeatedly for the insight which they offer into that business of a religious house which concerned regulars enough to have caused them to speak out and interested visitors sufficiently for them to have recorded it. By the very nature of the visit, however, such evidence is weighted towards the negative and must be understood with this in mind. Historians interested more in the development of canon law such as Reilly and Slafkosky have made equal use of the sources concerning episcopal visitation existing within the legislation produced at church councils from the very dawn of the medieval

⁵⁹ Slafkosky, 54-56.

⁶⁰ *DDC*, 7:1519. “Le droit de procuration... est une autre raison de la decadence de la visite.”

period to the sixteenth century. Thompson, Jessopp, and other scholars and editors have found more of interest in the visitation documents themselves, in their form, purpose, and meaning.

Yet, the meshing of these approaches to illustrate how the actual practice of episcopal visitation was guided by prescriptive literature appears to have piqued the interest of few. To what extent did bishops conduct their visits to religious houses in accordance with visitation law? Did bishops abuse their powers as visitors, and, if so, how? Were certain aspects of episcopal visitation more prone to abuse than others? What might account for such differences? The answers to these questions seem natural to pursue. But one must first understand the nature of visitation law, how it was produced and codified, and how it evolved between the twelfth and the fourteenth centuries.

CHAPTER 2

EPISCOPAL VISITATION AND CHURCH LAW

The law that came to govern the worlds of both Eastern and Western Christendom and remains the basis of much Christian thought today emerged in the fourth century as the faith found final acceptance in Rome under the emperor Constantine. During the early years of the church, small, local meetings of officials termed synods, or councils, assembled to hammer out the peculiarities of how the young, and newly legal, institution should operate. The decrees of these councils, which ranged in form from pronouncements regarding the heresy of specified groups or the dangers of self-mutilation to doctrinal decisions regarding the divinity of Christ and the justification of the Trinity, formed the beginning basis of all subsequent canon law. The term ‘canons’, as used to describe their decrees, was of Greek origin and described something definite, fixed, and exact. The Council of Antioch (341) was the first in which the term was applied to a council’s pronouncements.¹

Between the Council of Nicaea (325) and the Fifth Lateran Council (1512-17), high-ranking church officials met in eighteen general, or ecumenical, councils to dictate

¹H.J. Schroeder, *Disciplinary Decrees of the General Councils* (St. Louis, MO: B. Herder Book Co., 1937), 1-3.

doctrine and issue disciplinary decrees.² Aside from these, local church officials regularly met in provincial councils to rule on matters of regional concern or to reinforce existing canons. Decrees of all councils became binding on the faithful once they acquired papal confirmation and were then promulgated. Canons produced that related to doctrine were regarded as universal and irrevocable, while those concerning discipline unrelated to natural or divine law were considered a product of time and place and could, and regularly were, subject to later reconsideration by church authority.³

Those in attendance at early councils also constructed the hierarchy of church officials that spanned from the parish priest to the five patriarchs, over which group the patriarch of Rome would later claim preeminence. It was his claim to be the successor of Peter, and therefore of Christ, that allowed the pope, by the fifth century, to pronounce universal and fully-sanctioned church law in papal decrees or in the form of *decretals*, letters in which popes stated their opinions regarding decisions or issues that had been brought before them. These pronouncements were considered, at least in the Latin West, to carry the same weight as conciliar decrees and could equally be termed ‘canons’, though they were frequently referred to as *decretales*, *epistolae*, *constitutines*, or *auctoritates*. Once the popes had established themselves as the foremost officials of the church, papal *decretales*, along with subsequent conciliar decrees, scripture, creeds, and

²Schroeder defines a general or ecumenical council as “a legally convoked assembly of members of the hierarchy and others who have a right to participate in such an assembly, under the presidency of the pope or his legates, for the purpose of considering by common deliberation matters of faith and discipline” (5).

³Schroeder, 4-7.

apocrypha, formed the loose body of canon law under which the church would operate for the next seven centuries.⁴

Beginning in the late fourth century, canon law in all its forms outlined the jurisdictional powers of the bishops and other officials and set forth means by which those officials who either overreached their afforded powers or else failed to fulfill their obligations could be reprimanded. Equally, for those officials who were acting according to their rights and obligations, canon law provided their pronouncements legal authority; indeed, it provided bishops the right to hold their own courts (*audientia episcopalis*) and made their decisions legally binding.⁵ Other canons sought to regulate the governance of the church, the conduct of the laity, and, increasingly, the developing institution of monasticism.⁶ By the sixth century, Western monasticism was solidly established on the basis of the Rule of St. Benedict, which stipulated the orderly conduct of life within a religious house. Though houses were to remain under the direct supervision and management of their elected abbot, the bishop of the diocese in which the house was located retained the right to visit and supervise. This situation naturally encouraged dispute between religious and episcopal authority and this, along with the increasing accumulation of wealth and property by monasteries and the suspicion it raised from those outside the houses, led to the developments of canons designed to curtail abuses of the Rule and to delineate the duties of both abbots and bishops.⁷

⁴James A. Brundage, *Medieval Canon Law* (London: Longman, 1995), 8-10; Schroeder, 3. Schroeder mentions that by the time of the Council of Trent, the term 'canon' was used exclusively to refer to pronouncements of decisions of dogma rather than including disciplinary decrees as well.

⁵Brundage, 11-12.

⁶Helmholz, 3.

⁷Brundage, 21-22.

Although canon law expanded to meet the increasingly complex demands of the growing and developing church, still, the fact that no authoritative, universal collection of canons existed often made it difficult for church officials to fulfill their obligations of maintaining discipline and orthodoxy. Additionally, it was not unusual for canons to contradict each other, to have been designed to apply only to a particular case or in a particular region, or to have become obsolete over time. The church's problems resulting from this confusion only became more difficult as the millennium progressed. Apart from a 'mini-renaissance' experienced by canon law under the rule of Charlamagne at the turn of the eighth century, its formulation and synthesis suffered increasingly from the interference of local lords and land owners in the affairs of both episcopal authorities and religious institutions. In the resulting 'proprietary church regime', or *Eigenkirchentum*, the canonical rules that once dictated the organization and formation of the church hierarchy were increasingly replaced by the whims of powerful layman. The situation only became worse with the advent of the eighth and ninth century invasions from North Africa, Scandinavia, and the eastern steppes.⁸

In the midst of the confusion, however, elements of strength within the church remained and began to reemerge by the ninth and tenth centuries. Monastic life took on a renewed vigor with the establishment of the independent house of Cluny in 909, and canonists such as Reginio of Prum and Burchard of Worms reasserted the force of canon law with their respective compilations of canons and theological principles. While these works were by no means comprehensive or universally recognized, they initiated a renewed interest in the study of the law and desire for authoritative sources.

⁸Ibid., 22-31.

Additionally, Popes Leo IX, Stephen IX, and Gregory VII emerged as dedicated reformers who sought, through means including the issuance of new canons, to deprive secular rulers of the control of ecclesiastical property and offices, to outlaw simony, and to suppress sexuality among priests and religious. Gregory VII, in particular, desired the compilation and synthesis of existing canon law, as well as the formation of new law and the development of means of detection and correction that he felt necessary for the enactment of substantial reform. His calls were answered in the second half of the eleventh century with the publication of a variety of canon law compilations; however, few were extraordinary in terms of organization, comprehensiveness, or universality.⁹

However, one work worthy of particular attention was the *Decretum* of Ivo of Chartres (c.1050-1115). Ivo was the first to include a prologue that guides users as to the best means by which to resolve discrepancies among the various canons included. For example, Ivo warns his readers to pay special attention to the context, authenticity, and hierarchical position of the various sources of canons he reproduced, demonstrating that principles of law might best be applied at different times, to different people, in different places. The structure Ivo employed worked along similar lines as contemporary philosophical thought. In the latter, scholastics sought to reconcile various principles of philosophy, both classical and Christian, through a method of dialectical reasoning to produce what appeared to be the most logical answer to posed questions. Scholastics proposed a thesis, countered it with an antithesis, and emerged with a synthesis. It was the successful use of this type of reasoning in the compilation and synthesis of the law by

⁹Ibid., 27-43.

a twelfth century Bolognese canonist known as Gratian that would finally produce the first authoritative compilation of canons.¹⁰

Gratian's *Concordantia discordantium canonum*, normally termed the *Decretum Gratiani* or, more simply, the *Decretum*, was published around the year 1140. Although little is known of Gratian himself, besides that he was likely a Camaldolese monk and taught at Bologna in the twelfth century, he became widely recognized as the first canonist to succeed in collecting, organizing, and synthesizing existing canons into a single authoritative work. The *Decretum* is not, however, a codification of law by a hands-off editor; Gratian is present in the work, offering his opinions as to how contradictory canons ought to be understood based on analyses of authorship, the environment in which they were created, etc. His use of dialectical reasoning and his reliance on logic and subtlety in such a successful fashion endeared his work to teachers of canon law at Bologna and other universities, increasing the circulation of his ideas. Although his was never an official publication or statement of law by the church, neither sponsored nor officially recognized by the papacy or other ecclesiastical body, Gratian promptly came to be recognized as the contemporary authority on canon law.¹¹

With the advent of the *Decretum*, scholars consider canon law as entering its 'classical stage'. In universities, where it became the standard textbook on canon law, teachers and students added their own explanatory comments and queries, called 'glosses', to specific points of Gratian's or produced whole commentaries on the text

¹⁰Ibid., 38; Charles Duggan, *Twelfth-century Decretal Collections and their importance in English History* (London: The Athlone Press, 1963), 14-15. Duggan includes with Ivo both Bernold of Constance and Alger of Liege as contributors to the new approach of trying to resolve conflicts within canon law. He specifies Peter Abelard's *Sic et Non* as particularly influential in the scholastic method of dialectic reasoning.

¹¹Brundage, 44-47; Helmholz, 6-10.

called '*summae*'. Scholars refer to authors of both as decretists. Interestingly, not only was Gratian successful in synthesizing existing canon law and inspiring commentaries, the nature of his work as a foundation on which to build resulted in the accelerated production of new legislation concerning issues the *Decretum* did not fully address or else ignored entirely. Most of this legislation was produced in the form of papal decisions, commonly issued as *decretales*.¹²

Papal *decretales* were generally answers to specific questions that were posed to the pontiffs for decision or advice. While they were not legislative in the same sense as conciliar decrees were, they nevertheless served as statements of law that were both unchallengeable and remarkably contemporary. Their decisiveness and speed of issuance made them the most practical means by which the church could address individual concerns and made them quite popular with both the papacy and those who appealed for them.¹³ Papal *decretales* were usually either general or special in nature, the former group being applicable throughout the church's jurisdiction and for all time, the latter concerned with isolated circumstances and not designed to be applied universally.¹⁴

The earliest *decretal* collections date to the sixth century, and some of those that predate the twelfth century were quite influential during their time. Other collections, however, were little more than random assemblages lacking logical organization. Following the publication of the *Decretum* and the subsequent legislative activity of the twelfth century, popes such as Alexander III requested that an authoritative collection be

¹²Brundage, 49-53; Duggan, 16-17.

¹³Duggan, 19-21, 24-27; Helmholz, 10-11.

¹⁴Duggan, 33.

made. Alexander's request was met with Bernard of Pavia's *Breviarum extravagantium* (c.1188-1192), which included nearly 1000 *decretales* arranged into five books, each of a single theme. Although Bernard's work would not become the authoritative work he had intended it to be, his organization system would remain the template with which later compilers would work.¹⁵ Subsequently, Gregory IX (1227-41) commissioned a Catalan canonist by the name of Raymond of Penafort to prepare a church-sanctioned collection of all relevant papal and conciliar law since the publication of the *Decretum*. Certainly up to the task, Raymond published, in September of 1234, the *Decretales Gregorii IX*, also termed the *Liber extra*, as it was considered an addition to the *Decretum*.¹⁶

The *Decretales Gregorii IX* was so successful because Raymond had been careful in their formulation and organization. He had omitted superfluous and obsolete materials, had eliminated or explained contradictions to maintain consistency, and had edited the work to increase its understandability. He grouped conciliar decrees, papal decrees and *decretales* according to their subject and used Bernard of Pavia's five-book structure to organize his groupings topically, with each book divided into titles, and titles into chapters. Shortly after its completion and sanction by Gregory, the work was promulgated to the canon law schools at Bologna and Paris as an official text.¹⁷ In similar fashion, popes commissioned subsequent compilations of contemporary conciliar

¹⁵Brundage, 53-54; Duggan, 19, 22; Helmholz, 11.

¹⁶Brundage, 55; Helmholz, 12.

¹⁷Brundage, 55; Helmholz, 12-14. The topics of the five books (in translation) are "the constitution and organization of the church," "jurisdictional and procedural rules," "the clergy, sacraments, and ecclesiastical obligations," "marriage, divorce, and domestic relations," and "the penal law of the courts." Duggan warns his readers, however, that although the *Decretales Gregorii IX* and their thirteenth century successors superseded all subsequent decretal collections and ultimately deprived them of authority, they only contained a fragment of the material that certain preceding collections had included. He adds that the thirteenth century collections, too, were not immune from the problems plaguing all medieval works—mistakes in copying and manipulation by compilers (6-7).

legislation and papal decrees. In 1298, the *Liber sextus* of Boniface VIII appeared; this was followed in 1317 with the *Constitutiones Clementinae*, commissioned by Clement V but posthumously published by John XXII. Eight years later, Jesselin de Cassagnes, a scholar of canon law at the university in Toulouse, published several canons from the papacy of John XXII as the *Extravagantes*, and still more were published as the *Extravagantes communes* in 1500. Subsequent to the publication of the *Extravagantes*, other sources of legislation, such as the decisions of the Roman Rota, began to eclipse papal *decretales* as the major source of new canon law. Interestingly, it would not be until the advent of printing in the fifteenth century that the *Decretum* was published accompanied by the various *decretal* collections as the *Corpus iuris canonici*.¹⁸

Studying the episcopal visitation of religious houses in the later Middle Ages vis-à-vis procedural visitation requires that one access the various sources of contemporary canon law previously discussed. Although, as illustrated in Chapter 1, early church councils did periodically produce legislation designed to encourage episcopal visitation, the bulk of relevant canon law appeared between the mid-twelfth and mid-fourteenth centuries. Therefore, for a study of the subject, one must focus primarily on the decrees of the councils, both general and provincial, that met during this period, as well as contemporary papal pronouncements and *decretales*, in order to come away with the most complete understanding of what guided visitation procedure subsequent to the mid-twelfth century. This is not to say that Gratian's *Decretum*, being published c. 1140, is irrelevant to such investigation; indeed, as a foundation on which all consequent canon

¹⁸Brundage, 55-56; Helmholz, 14-15.

law was built, it is an indispensable, if secondary, resource. Naturally, though, it is that legislation that appears in the *decretal* collections of the *Corpus iuris* or in assemblages of conciliar decrees that requires the most attention.

It is also important to the investigation of the episcopal visitation of religious houses that one is able to define exactly which canons are relevant and which are not. Failing to do so would lead one to delve into a morass of legislation absent any means of navigation. While it is true that the collections that form the *Corpus iuris* were considered by contemporaries to be, organizationally-speaking, far beyond anything which had come before, to modern eyes they can appear frustratingly jumbled and redundant to the point that one would be foolish to declare his or her work a “comprehensive investigation” of some matter of medieval canon law. For this reason, this author will make no such claims, but will instead simply explain which types of canons are included and why, and, equally, which are excluded, while making no claims of comprehensiveness.

Some canons, whether issued by councils or popes, are vital to any complete study of episcopal visitation. These primarily stipulate procedure with which bishops and other visitors ought to comply and include, for example, limits placed on procuration and hospitality or on the size of retinues that may accompany a visitor. Other relevant canons concern monastic behavior directly related to episcopal authority such as grants of exemptions to certain monasteries or exhortations to visitors to guard against specific unholy practices thought to be widespread within houses. Finally, other canons dictate guidelines according to which episcopal visitors and heads of religious houses are to interact. In contrast, other canons are less relevant. Those canons that relate to the

episcopal visitation of the parish churches, secular clergy, and laity are excluded unless they also concern the visitation of the religious within the same diocese (e.g. how procuration is to be charged). Also excluded are those canons that relate to the office of the bishop but not to his role as visiting ordinary and those that concern problems within religious orders that are not tied directly to episcopal oversight. Canons that concern problems and conflicts within religious houses are excluded unless they are grouped with others that direct visitation and the correction of abuses by episcopal authorities.¹⁹

As stated above, Gratian's *Decretum* served as the foundation on which all subsequent medieval canon law rested, and its appearance in the mid-twelfth century did much in the way of encouraging both the production and collection of canons over the next two hundred years. Therefore, it is the natural place to start when beginning an investigation of canon law relevant to episcopal visitation in the later Middle Ages. The *Decretum* is in a general sense structured topically, but there is definite overlap of ideas and a redundancy of information throughout. Gratian divided his work into three major parts. Part I is divided into 101 *distinctiones*, which are in turn composed of *capitula* and *dicta* that concern a single topic or related ones. The 973 canons themselves form the *capitula*, while Gratian's comments on them are indicated with the title *dicta Gratiani*. Part II includes thirty-six *causae* in which Gratian illustrated a situation and followed it with individual *quaestiones* that he addressed using existing canons (2,576 total) along

¹⁹Regarding this final point, numerous canons direct the proper dress of monks and/or nuns, the regulation of their diet, their appearance outside of the cloister, etc. In some instances, within the *Corpus iuris*, these were either grouped together by Gratian to answer a posited question or else were included in a conciliar decree or papal *decretal* expounding on the importance of following the Rule. At other times, however, such canons appear in the midst of others that dictate a visitor's authority within a religious house and appear to have been intended to make the visitor aware of the prevalence of certain abuses and the means by which they could be addressed.

with his own input. Part III is termed the *Tractatus de consecratione*, is composed of five *distinctiones* and 396 canons, and mostly concerns law related to the sacraments and liturgy.²⁰

It is Part III that is of most relevance to the study of episcopal visitation. Although other individual canons related to the topic are scattered throughout Parts I and II, they usually stand alone or else are of only marginal importance. Too, within Part II, only *Causae* X, XII, XVI, XVIII, and XIX contain material that will be presented here, and within them only certain *quaestiones* contain canons that will be discussed. In large, it is not the dialectical format of the *Decretum* that matters for purposes of understanding what legislation existed in c.1140, it is the canons themselves, and for this reason, attention will be paid more to these than to the format in which they appear (e.g. as answers to questions) or to Gratian's opinions of them. Indeed, one could argue that Gratian's structuring of the information actually works against the process of trying to gather canons relevant to a general topic.²¹

Beginning in *Causa* X, Gratian includes canons related to the episcopal visitation of the diocese. The first eight *capitula* he presents deal primarily with a bishop's duties to the churches and church furniture and ornaments of his diocese. However, he also includes a decree of the Council of Tarragona that generally states that bishops are to

²⁰Brundage, 190-194. The first appendix of *Medieval Canon Law* offers a brief but exceedingly helpful guide to understanding the structure of the *Corpus iuris* and other legal collections of the time. Brundage includes an explanation of both the modern citation system and those utilized by prior generations. For the sake of brevity, such detail will not be restated here, except to say that the *Modern Form* of citing the work, developed by Edward Gibbon, will be used (e.g. *Causa* X, *Quaestio* I, *Capitulum* III cited as C.10 q.1 c.3.)

²¹Brundage explains that the unusual structure of the *Decretum* makes it a hard read for those unaccustomed to its peculiarities and, "in the opinion of some, merely confirms the tradition that Gratian was a law teacher" (190).

visit their whole diocese annually. Later *capitula* allow bishops who are gravely ill to entrust the duty of visitation of others (presbyters or deacons) and instruct bishops, when on visits, to examine clerics closely. Although none of these three *capitula* specifically mention the visitation of religious houses and their language implies their application to seculars, the generality of their language makes them useful.²²

Gratian also includes legislation concerning the power of the visiting bishop to alienate the property of the churches of their diocese. Gratian presents several canons that state that he may not do so, but then counters them with a decree of Pope Martin that maintains that the bishop has ultimate power over church property and might alienate it with good reason and “cum omni reverential et timore Dei.” He is not allowed to do so for his own profit or without necessity. Again, these canons do not specify that the churches of regulars are included, but neither do they exclude them. This suggests applicability to all churches within the diocese.²³

In *Causa III*, Gratian deals with the bishop’s ability to exact funds from those he visits. Utilizing canons issued by various councils, Gratian explains that bishops are not to profit from the funds they collect but should use them for the “honorem cathedralici” and that a third of what they collected should go towards the repair of churches. Another canon specifies that bishops are not to accept more than two *solidos* from a parish church, and still others further instruct bishops to abide by local customs when on visitation, to

²²C.10 q.1 c.10-12. *Capitulum XII* specifies that bishops ought to see that the clerics of their diocese correctly practice certain sacraments, implying that secular clergy was the primary subject of the canon without denying its applicability to regulars.

²³C.10 q.2 c.1-8. Indeed, C.16 q.2 c.7 specifies that monastic churches remain under the control of bishops, and C.16 q.7 c.10, taken from the Council of Orleans, reinforces this point.

not burden priests above what is customary, nor demand more in meals than local mores dictate.²⁴

In *Causa XVI*, Gratian writes specifically of the proper conduct of regulars and affairs within monasteries and occasionally addresses the role of episcopal authority in enforcing canon law and the Rule. For example, he includes canons that direct monks to be discreet in their behavior and caution that they are not to be frequently among the laity. Others state that regulars do not have the power to baptize, hear confession, or celebrate mass.²⁵ Gratian includes canons that speak against the usurpation of episcopal powers and obligations by regulars and that specify that monks living outside the cloister remain under the supervision of their bishop and are compelled to return to their respective houses on his command. A monk could, however, be ordained, with the permission of his abbot and only by his bishop. Subsequent *capitula* continue to address the role of the bishop but few involve his appropriate relations with regulars. An exception is *Capitula LXIV*, which reinforces the idea that a bishop is to demand nothing from the monks of his diocese for his own profit.²⁶

Gratian then addresses the issue of regulars maintaining private property. He quotes from one *decretal* that maintains that upon entrance into the monastic life, regulars are to surrender all their property to the monastery and from another that specifies that bishops are not to tolerate the ownership of possessions within the monasteries of their diocese. Further *capitula* warn others, lower clergy and laymen alike, against interfering

²⁴C.10 q.3 c.1-10.

²⁵C.16 q.1 c.1-5, 19, 21.

²⁶C.16 q.1 c.9-12, 17-18, 27-39, 64. Gratian's *capitula* include various rules that limit the ordination of monks or election of abbots. For example, *Capitulum XXXVI* asserts that monks who have deserted their monasteries are not to be advanced.

with the duties of the bishop and obligations of his episcopal authority regarding the maintenance and proper function of churches and church offices.²⁷

In *Causae XVIII*, Gratian addresses the subject of a bishop's role in the election and installation of an abbot and, generally, the relationship between the two positions. One canon specifically states that it is the role of bishop to install abbots and other church officials and threatens excommunication to those who act otherwise. However, following the method of point and counterpoint, Gratian includes a canon that limits the role a bishop might play in the selection and installation of abbots. Gratian further empowers bishops in subsequent *capitula*, including canons that disallow abbots from abandoning their positions without the permission of their bishop and that prevent monasteries, or cells within monasteries, from being constructed absent the same. Further, he includes canons that specify that bishops have the authority and obligation to examine those placed in charge of female regulars and to remove unfit abbots from their offices, along with others that reinforce the idea that abbots and their monks remain under the authority of the bishop of the diocese in which their house is located. Subsequent *capitula* included concern relations between male regulars and women, both regular and lay. Monks are explicitly prohibited from living with nuns and, for the sake of each, neither are to live in houses constructed near one another. Holy women are also to be prevented from having their own rooms, but are instead to take their meals in the refectory and sleep in the dormitory. Additionally, laymen and non-regular clerics are not to dwell in monasteries without themselves taking orders. Gratian also includes canons that more blatantly than any of their predecessors address the role of bishops as visitors of religious

²⁷C.16 q.6 c.5, 7; C.16 q.7 c.12-20.

houses. One canon specifically states that the bishop maintains the power to visit monasteries and exhort compliance with the Rule and church law; another asserted that this visitation should be performed frequently (“non semel, sed saepius in anno”) and that all found to be in need of correction be corrected.²⁸

One of the major sources of canons for Gratian’s *Decretum* was the pronouncements of church councils, both ecumenical and provincial. Of course, as the *Decretum* dates approximately to the year 1140, it includes the decrees of those councils meeting before the great influx of visitation legislation began. This is not to say that councils meeting prior to this date were silent on subject—the previous presentation of the contents of Gratian’s work explicitly proves this is not the case. As stated in Chapter 1, the *DDC* maintains that the institution of visitation declined substantially between the late twelfth and early fifteenth centuries, as the jurisdictional powers of the episcopate decreased and frequency of abuse within the system increased.²⁹ One might theorize that this decline would correspond with a marked laxity or indifference vis-à-vis episcopal visitation on the part of both church councils and the papacy and that few, if any, new pieces of legislation were produced to remedy events. One might even postulate that this decline was indeed the result of the failure of the church to address matters involving visitation. However, both views would be held in error. The centuries in which the institution of visitation met its greatest challenges were also those that witnessed the most

²⁸C.18 q.2 c.1-5, 8, 10-19, 21-26, 28-29.

²⁹*DDC* 7:1517, 1597.

substantial, both in quality and quantity, production of legislation in an attempt to increase episcopal authority while insuring against abuses.³⁰

The Third Lateran Council assembled in Rome in March of 1179, to address a number of issues confronting the church at the end of the twelfth century. Pope Alexander III (1159-1181) presided over approximately 1000 leading church officials, including 300 bishops and numerous abbots and other dignitaries. Episcopal visitation was certainly not the primary reason the council was called; the pope's major goals were to reconcile various elements within the church following the twenty-year schism that had resulted from disagreement between the papacy and the Holy Roman Emperor Frederick I and to condemn the Albigensian heresy that threatened Catholic hegemony in the south of France.³¹ Some canons, however, were more specifically directed at improving the functioning of institutions within the church.

The fourth canon of the Third Lateran Council, for example, applies directly to the episcopal visitation, particularly as it addresses the need for bishops to refrain from abusing the hospitality of those they visited. The council underscored the fact that certain bishops and other visitors made unreasonable demands on their subjects due both to their own greed and to the sheer size of their retinues. Accordingly, this canon stipulates limitations applicable to the size and composition of visitors' retinues, limiting

³⁰One could make the case, as the *DDC* (7:1519) does, that legislation furthering the number or power of monastic exemptions from episcopal visitation does contribute to the latter's decline.

³¹Schroeder, 214; Tanner, 205. Tanner assures his readers as to the identification of this council as truly ecumenical in nature, that is, universally applicable to and centered around issues concerning the entire Roman church (in contrast to its Lateran predecessors), due to the fact that it was presided over by the pope, that it hosted a large number of church officials, and that it dealt with matters that threatened the church's unity and authority. Additionally, Tanner considers the acts of Lateran III to be of much higher legislative value and originality than those of many of its predecessors and explains that, because of this, they were frequently included in the *decretal* collections of the twelfth and thirteenth centuries, including Gregory IX's (206-207).

archbishops to no more than forty or fifty horses, cardinals to twenty-five, bishops to between twenty and thirty, archdeacons to five or seven, and deans to two. None are allowed hunting dogs and birds. Next, echoing Gratian, the council warned bishops neither to demand lavish meals nor to make excessive appeals for monetary support (above what is justified as procuration) and expressly forbade archdeacons and deans from exacting any money from priests or clerics. Finally, perhaps in an attempt to cover all bases, the council warned that maximum numbers for horses applied only in those areas that could support them and that numbers should ideally correspond with the abilities of the visited to accommodate guests; moreover, those accustomed to using fewer horses were not now to suppose they might increase their numbers.³²

In November of 1215, Pope Innocent III (1198-1216) assembled the Fourth Lateran Council in Rome. Lateran IV is often considered both the high point of Innocent III's papacy and the most important ecclesiastical gathering in the Middle Ages. Approximately 1200 officials attended, including 412 bishops (only two bishops in each province were to be excused from attendance and even these were to send representatives), and, in all, seventy canons were issued. Most of these dealt either with the pope's desire to reestablish Roman Catholic authority in the Holy Land and to reform troubled institutions and procedures within the church. Canons of the latter stripe concern this investigation, due particularly to the fact that bishops and other attendees were instructed to express their own opinions regarding those procedures, happenings, etc., most in need of correction.³³

³²C.4—Schroeder, 218-219; Norman P. Tanner, *Decrees of the Ecumenical Councils* (Washington DC: Georgetown University Press, 1990), 213-214.

³³Schroeder, 236-237; Tanner, 227.

The council decreed that metropolitans (e.g. archbishops) were to hold annual provincial synods, gatherings of their suffragans (e.g. bishops), in order that they might instill in the latter the importance of conducting visitations throughout their diocese and of correcting abuses and reforming lax morals. Metropolitans were also to ensure that the bishops understood relevant canon law and were familiar with newly enacted legislation. To ensure that both metropolitans and their suffragans were aware of problems within the dioceses, the council suggested that special investigators, lacking jurisdictional power, were to be appointed to uncover abuses and transgressions and reveal them yearly to the assembled synod. Uncovered problems were then to be speedily addressed before they became unmanageable.³⁴ The council further dealt with the subject of the bishop's duty to act as visitor, this time specifically to cathedral chapters. While they did not address the role of the bishop vis-à-vis religious houses, the nature of the canon does suggest a link. Specifically, the council specified that those chapters that by custom regulated their own affairs nevertheless remained under the supervision of their bishops and must enact any needed reforms within an amount of time specified by the bishop. Otherwise, the bishop was obligated to intervene as the *cura animarum* dictated, and he retained the power to appeal to the metropolitan to enforce proper order. Vice versa, episcopal authorities were warned not to use this canon as a means by which to abuse the independent status of chapters.³⁵

The twelfth canon issued by the Fourth Lateran Council, referred to as *In Singulis*, deals both with the visitation of religious houses by fellow religious and with episcopal

³⁴C.6—Schroeder, 246-247; Tanner, 236-237.

³⁵C.7—Schroeder, 247-248; Tanner, 237.

visitation. The juxtaposition of these two complementary, but often times conflicting, avenues of oversight makes consideration of this piece of legislation particularly crucial to understanding the complexities of visitation. First, the council outlined the manner in which religious visitation was to be conducted. It largely based its directives on the methods used by the Cistercian order, and indeed specified that Cistercians were to be directly involved in its implementation in other monastic orders. While the details of the religious visitation are not crucial to this study, it is important to understand that the council maintained the ability of religious visitors to remove unfit persons from monastic office with the approval of the bishop; appeal over an unresponsive bishop to the Apostolic See was possible but only if he failed to act in a fit manner. Equally telling is the fact that the council implored diocesan ordinaries to strive to maintain order and good morals within the religious houses of the diocese so that religious visitors would find more deserving of commendation than correction. The fact that this observation was addressed to the episcopal visitor and not to the religious visitor certainly implies that correction and reform began at the diocesan level, not within a particular order, mitigating the threat that the existence of a newly created system of internal visitation might potentially have posed to established authority. The council then continued on to warn both episcopal and religious authorities against oppressing those in their charge and allowing outside forces, particularly laymen, to molest persons or property belonging to a monastery.³⁶

The Fourth Lateran Council again addressed the topic of episcopal visitation in two later canons. The former specifically concerns the subject of procuration and

³⁶C.12—Schroeder 253-254; Tanner 240-241.

reinforces the pronouncements of the Third Lateran Council.³⁷ Again, visitors are only to seek procuration when they had themselves visited a particular place and are bound to observe the limits placed on the size of retinues based on their rank. Visitors are also not to seek to benefit personally from what they receive as procuration, but are instead to act in the interests of Jesus Christ and to preach, correct, and reform accordingly. The attendants of Lateran IV, however, did not merely restate the orders of their predecessors, but instead strengthened them with consequences. Those found to be in contempt of the above restrictions were obliged to return their gains in equivalent compensation. The council addressed the related issue involving local churchmen who extort funds from their subjects under the guise of collecting for procurations. These men were to be made not only to restore what they had sinfully amassed, but were to give an equal amount to the poor.³⁸

The Fourth Lateran Council also issued canons related to the topic of episcopal visitation. They decreed that abbots who had taken it upon themselves to act in the role of the bishop, by enjoining penances, hearing matrimonial disputes, or issuing indulgences, were to cease immediately unless they could prove such doings were of absolute necessity. They issued canons that strengthen the hand of the bishop in his oversight of the monasteries of his diocese, reinforcing the idea that bishops maintained complete control in preventing regulars from receiving tithes from laymen, administering to the excommunicated, or attempting to install or remove priests in churches not their

³⁷However, the thirty-third canon makes certain exceptions for those legates and nuncios conducting visitations directly under the authority of the Apostolic See. For example, they were made certain allowances to charge procuration from those not visited if they found themselves unavoidably delayed and in need of support.

³⁸C.33, 34—Schroeder, 270; Tanner, 250-251.

own. The council also provided that bishops be granted the authority to see that no regular, male or female, was guilty of the offense of simony in charging or paying prescribed amounts for entrance into a religious house. The guilty were to be either expelled or else reassigned to another house. Equally, though, the council ordered that bishops were not to attempt to extort money from their subjects for performing their duties. Namely, they were prohibited from demanding payment for the induction or burial of laymen within monasteries; as previously stipulated, those found to be in violation of this canon were obliged to repay twice the extorted amount.³⁹

The First Council of Lyons met in the summer of 1245, primarily to deal with needed internal reforms and with outside threats posed by the Muslims in the Holy Land, the Byzantine Christians, and the invading Tartars, as well as by the ambitions of Emperor Frederick II.⁴⁰ Unlike the majority of the canons issued by the Fourth Lateran Council, the only relevant piece of legislation approved by the First Council of Lyons acted to limit the power of the visiting bishop.⁴¹ Amidst all legislation addressing the various issues previously described, the council acted to restrict the power of the ordinary over those regulars customarily considered exempt from episcopal authority due to special grant by the Apostolic See (e.g. a regular from a house of the Cistercian or other traditionally exempt order). While some exempt secular clergy who committed

³⁹ C.60, 61, 64, 65—Schroeder, 285-286, 288-289; Tanner, 262, 264-265.

⁴⁰ Schroeder, 297-301.

⁴¹ Schroeder presents this particular decree as the sixth of the First Council of Lyons' "second series" of canons, which he includes in addition to the legislation of the council widely accepted by scholars. The canons of this second series, he explains, were almost certainly pronouncements of Innocent IV, formulated with input from the council and approved by it (316-317). Tanner does not include this particular decree within his assemblage of additional law (274-276). However, both scholars make clear that the identification of a canon as the legitimate product of a particular council can be a delicate task, and one that invites disagreement even among experts.

transgressions when in a non-exempt locality could be compelled to stand before the ordinary to answer for their actions, regulars of houses immune to the interdict, suspension, or excommunication of a bishop retained immunity, unless they have been assigned to non-exempt monasteries and resided there.⁴²

Twenty-nine years after the meeting of the first Council of Lyons, the second of this designation was called by Gregory X to deal with such matters as the liberation of the Holy Land, reunification with the Eastern Church, and the further internal reform of the Roman Church. Prior to the opening of the Second Council of Lyons, the pope requested that those attending submit reports relating their own concerns regarding irregularities and abuses within the church institution.⁴³ Largely in response to complaints issued by diocesan bishops, the council recommended that all religious orders founded since the Fourth Lateran Council (1215) be abolished, with the exception of certain orders enjoying the express support of the Apostolic See.⁴⁴ In its twenty-fourth canon, referred to as *Exigit*, the council turned once more to the subject of procuration by restating the contents of a decree previously issued by Innocent IV that demanded that such support be made in kind and not in coin (and then only for visitations actually performed) and banned the acceptance of all other gifts by visitors.⁴⁵ Specifically, this canon specifies that all who violat these provisions are to be compelled to restore double what they have

⁴²C.6—Schroeder, 321-322.

⁴³Schroeder, 324; Tanner, 303-304.

⁴⁴C.23—Schroeder, 351; Tanner, 326. The bishops, and secular churchman in general, most opposed the growing numbers and influence of the mendicant orders, members of which, they felt, encroached on their authority by preaching and bestowing certain sacraments (i.e. hearing confession and issuing penance). As mendicants were not confined to religious houses, they were not subject to the traditional episcopal oversight of religious houses and are, therefore, not relevant to his study.

⁴⁵Innocent IV issued his orders regarding procuration and other visitation matters in his decree *Romana ecclesia*, which, as part of the contents of the *Liber sextus*, will be subsequently discussed.

received, or else be restricted from entering any church (if a patriarch, archbishop, or bishop) or be removed from office (if a delegate) until such satisfaction is made.⁴⁶ The canon thus provides consequences for the violation of a law previously sanctioned by the church.

Under pressure from King Philip IV of France, Pope Clement V (1305-1314) assembled the next general council, which met in Vienne in fall of 1311. The most important issue with which the assembled grappled was the question of future standing of the Order of the Knights Templar within the church; Philip IV was the leading force behind the movement to destroy the order. Attendance remained low (approximately 300 church officials came), primarily due to the fact that many of the defenders of the Templars refused their invitation to protest both the persecution of the order and the manner in which the king of France appeared to control the papacy of Clement. However, the council also addressed the seemingly ubiquitous issues of freeing the Holy Land and instituting internal reform. Those canons that dealt with the subject of episcopal visitation and relations between the bishops and the regular subjects are indeed numerous.⁴⁷

⁴⁶C.24—Schroeder, 353-354; Tanner, 327.

⁴⁷Schroeder, 365-372, 413; Tanner, 333-335. As in the case of the First Council of Lyons, scholars disagree on exactly which legislation issued directly from the council and which originated with the pope alone. The distinction is in part clouded by the fact that the decrees of the council and those of Clement V were first promulgated together by his successor, Pope John XXII, as the decretal collection, the *Clementines*. Both Schroeder and Tanner take a rather liberal stand on the issue of which canons can be fairly attributed to the council; Schroeder states that though he does include eighteen canons in addition to those concretely identifiable as issuances of the Council of Vienne, these “seem nevertheless to have the earmarks of decrees emanating from the deliberations of the council” (372). Tanner draws even less distinction, presenting thirty-eight canons together, with no separation between those which appear in the *Clementines* under the heading, “with the approval of the sacred council” and those that do not (335). For purposes of clarity, Tanner’s numbering of canons will be used here.

The council authorized local ordinaries to fill vacant benefices that traditionally fell under the jurisdiction of regular officials if the latter failed to act in their duty within the time prescribed. With this, the council gave bishops a limited authority (acting with *apostolica auctoritate*) over houses regularly regarded as exempt. The bishops were also instructed to see that those benefices deemed exempt were not used by regulars as means by which to extort taxes and pensions from parishioners beyond what was reasonable. The council worked to strengthen the authority of the bishop by allowing those bishops who had been unjustly forced from their diocese to continue to exercise jurisdiction over their subjects and challenge their persecutors from whatever place they found refuge, so long as they acquired the permission of the bishop of the diocese in which their sanctuary was located.⁴⁸ Another canon instructed bishops to seek out and punish those clerics who worked as butchers or tavern keepers or in other occupations inconsistent with their state.⁴⁹

The council denounced those clerics, regular and secular priests included, who had cast off the garments appropriate to their station in favor of others, namely striped or variegated (“*virgata vel partita*”) clothing, short outer garments, or red or green shoes. Those found guilty of such charges were to lose their benefices for a designated period of time or, if without a benefice, to be denied one for the same period. Or, if they were not responsible for *cura animarum*, regulars were to turn over the offending garments to their superiors. The council also instructed bishops to ensure that religious did not attempt to

⁴⁸ C.4, 7—Schroeder, 415-416, 418-420; Tanner, 362, 363-364.

⁴⁹ C.8—Schroeder, 421-423; Tanner, 364-365. According to Schroeder, this canon was primarily aimed at clerics who had not yet taken orders or entered the priesthood, in which state they could, at this time, still legally marry under specific circumstances.

usurp tithes illegally or, in any other way, to defraud churches. Those who did so were subject to forced restitution or else excommunication, any privileges they might possess notwithstanding.⁵⁰

The council's fourteenth and fifteenth canons are two of the most important and widely referenced pieces of legislation issuing from the Council of Vienne. The first, commonly known as *Ne in agro*, was produced specifically to govern the inner and outer workings of houses of the Benedictine order.⁵¹ It consists of nine individual decrees. The first dictates that garments worn under the habit are to be of black, brown, or white, according to local custom, and of modest cut, and they are not to be ornamented. The canon continues to describe the appropriate dress for abbots and priors and for regulars traveling or working outside their houses. The second requires that all monks go to confession at least once a month and receive communion on the first Sunday of each month. The third decree prohibits hunting and fowling and the keeping of dogs and birds for such purposes within a monastery. The fourth prescribes the punishments that are to be applied to those who transgressed the aforementioned rules.

The fifth decree forbids monks and canons from leaving their houses to go the courts of secular lords without the permission of their superiors. If they do so for the express purpose of injuring their houses or superiors, they are to be excommunicated. The same applied to those who carried arms within the walls of a monastery. Sixth, the council decreed that no monks were to live alone in houses; if a house did not have the

⁵⁰C.9, 11—Schroeder, 423–425; Tanner, 365, 369.

⁵¹As explained in Chapter 1, unlike the Cistercians or Cluniacs, the Benedictines never managed to procure the papal privilege of exemption from episcopal oversight, and, therefore, this legislation would have applied directly to the authority of bishops.

means to support more than one monk, it was to be united with others of the order in a practical way by the local ordinary. The seventh decree prohibits anyone under the age of twenty-five from serving as prior of a conventual priory, and anyone under twenty from serving at a non-conventual one. All candidates to the priesthood are to have taken monastic orders and may be deprived of their offices if they do not attain the priesthood within a specified amount of time. Eighth, monks were to receive instruction in the sciences within their own houses and, if requested to do so by their abbots, were to have themselves raised to the priesthood (“omnes ordines sacros”). The ninth decree reinforces the contents of Innocent IV’s *Romana ecclesia*.⁵²

The fifteenth canon issued by the Council of Vienne, known as *Attendentes*, is particularly relevant to the study of episcopal visitation in that it deals specifically with the visitation of female regulars. Once more, it enjoins bishops to make yearly visitations, this time to the monasteries of nuns, both exempt and non-exempt.⁵³ Visitors are to take special care that none of the nuns wear clothing unbecoming their station, such as silk garments, variegated headdresses, and styled hair, and that none attend dances and secular banquets, nor travel freely outside their houses. Visitors are to make corrections where necessary without regard to special circumstances. They are also to see to it that abbesses who had need of blessing (“benedictionis”), as custom dictated, receive it. The canon also specifies that secular canonesses, like secular canons, who by definition had neither taken orders nor renounced property, were, nevertheless, to be visited according

⁵²C.14—Schroeder, 425-428; Tanner, 370-373.

⁵³With the issuance of this decree, the Council of Vienne rejected all claims of female monasteries to exempt status. Accordingly, empowered by this decree, a bishop now exercised visitation rights over all female monasteries located in his diocese, regardless of their order.

to their status as exempt or non-exempt. Finally, the canon limits visitors to the accompaniment of two notaries, two clerics, and four additional honorable men (“*viris aliis honestis utique et matures*”) and threatens excommunication for any who sought to interfere with the proper course of visitation.⁵⁴

The Council of Vienne also addressed monastic oversight of churches and convents. Monasteries were instructed to pay all necessary dues on such properties to the appropriate papal legates and bishops, who maintained the authority they had over these institutions before the properties were acquired by regulars. Monasteries could claim exemption to the episcopal oversight of their acquired properties if they could prove these same properties exempt by special privilege; however, such claims were not to be made on any properties acquired after the promulgation of this decree.⁵⁵ The council then turned again toward limiting, rather than expanding, the authority of episcopal visitors. Specifically, it reasserted that bishops were neither to oppress nor otherwise molest exempt religious (i.e. Cistercians) when conducting the visitation of their diocese. The council acknowledged that some bishops who received hospitality at houses of exempt orders made excessive demands for, among other things, the service of meat at meals and for unwarranted procuration. Such demands, naturally, went against the Rule as observed by the Cistercians and their status as an exempt order. The council also reported that the same bishops and their unregulated retinues consumed the amount of food in one hour that should have lasted the community a long time (“*longi temporis victum brevis hora*

⁵⁴C.15—Schroeder, 387-388; Tanner, 373-374.

⁵⁵C.19—Schroeder, 429-430; Tanner, 376-377. Schroeder maintains that by favoring the authority of the bishops and other visitors over claims of exemption, this canon marked “a radical departure from the traditional discipline, and signified an important victory of the bishops over the privileges of exempt religious....” (429).

consumit”). Also, the council lamented that on occasion bishops who were opposed in these things attempted to take what they desired by force, that they demanded procuration (often in money) from places they had not visited or were not permitted to visit, and otherwise abused and oppressed their subjects. As remedy, the council specified that bishops receiving hospitality from exempt houses should neither demand procuration nor attempt to extort money for questionable causes but should appreciate what was presented to them. It also placed limits on when and under what circumstances a bishop might demand that he be served meat.⁵⁶

The Council of Vienne further attempted to rein in abusive and overreaching bishops. The council stated explicitly that certain practices had come to its attention in the form of vocal, frequent complaints from various religious who had experienced them firsthand. Those most relevant to relations between bishops and regulars involved the seizure, imprisonment, suspension, and excommunication of exempt religious, the prevention of chaplains from celebrating the mass in churches that were the rightful property of religious, demands for excessive and unjustified payments from exempt houses, interference with the internal functioning of the same and the installation of priests in regular churches. Further, bishops were accused of having other parties violently destroy or else seize the property of exempt houses and vacant benefices belonging to them, of sending their relatives and supporters to the same with demands of free maintenance, or granting these parties control over offices, possessions or properties of exempt houses, or even of destroying houses and preventing their repair. In response to such charges, the council decreed that oppressive and abusive practices were to cease

⁵⁶C.20—Schroeder, 405-406; Tanner, 377-378.

immediately and that episcopal authorities guilty of them instead treat all their subjects, regardless of status, charitably and not attempt to suppress the reporting of such practices by preventing abbots, priors, or other regulars from gathering at the general chapters of their orders. However, the council imposed no penalty on those who ignored its orders.⁵⁷

The council's thirty-first canon is in much the same vein as its predecessor and is composed of a list of complaints, but in this instance they are on the part of bishops and are against the religious of their dioceses. For instance, the canon states that religious who administer the sacraments without the express permission of the parish priest are to face excommunication, as are those who issue plenary indulgences; those who denounce other prelates in sermons or attempt to attract parishioners away from parish churches are to receive "maledictionis aeternae," as are those who interfere with the execution of wills for their own benefit or with the bringing of charges against them by church prosecutors. Those acting in violation of these decrees are to be, for a period of two months, subjected to the penalties customarily prescribed in the Rule or other governing law. The superiors of offenders, too, are to face suspension from their office should they not make sufficient restitution to the offended parties.⁵⁸

The council later granted bishops and archbishops passing through exempt territory the right to bless the people and to hear and celebrate the divine offices; however, the council stipulated that none should assume this canon validates any other supposed right on the part of episcopal authorities within exempt localities. And, finally,

⁵⁷C.30—Schroeder, 431-434; Tanner, 385-387.

⁵⁸C.31—Schroeder, 434-438; Tanner, 387-388. In contrast to the harshness of this decree towards offending religious, the council did maintain that its stipulations regarding the celebration of sacraments did not apply to those who, with the permission of the Apostolic See, administered to members of their own household or to the poor in their hospices.

the council imposed harsh penalties on those who struck or seized a bishop by force or who were otherwise involved in the commission of such horrors, including excommunication and removal from all ecclesiastical and secular offices (both for themselves and their male descendents to the second generation) and the placement of the locality in which such offenses occurred under interdict until satisfaction was made.⁵⁹

Following Vienne, no general council was assembled until 1414, and this sixteenth general council, the Council of Constance, did not produce significant legislation for the purposes of this study, nor did any other until the Fifth Lateran Council in the sixteenth century. However, the five general councils previously discussed were not the only sources of conciliar legislation issued between the twelfth and fourteenth centuries. Contemporaneous to these five were a number of provincial, or regional, councils, not a few of which addressed the topic of episcopal visitation. Some, or course, merely reissued the directions of the general councils or slightly adapted them to fit local practices. Others, however, offered decrees that were of sufficient originality to make their inclusion necessary.

The twelfth canon of the Council of Rouen (1189) fits well into the first of these categories in that it restates the Third Lateran Council's limits on retinue size; however, it only does so partially, focusing solely on the retinues of archdeacons. This suggests that it was their visitations that most troubled those in attendance at Rouen in 1189.⁶⁰ The Council of London (1200) focused primarily on ensuring that all visitors conducted their

⁵⁹C.32, 33—Schroeder, 402-404; Tanner, 388-389.

⁶⁰C.12—Kark Joseph von Hefele and Henri Leclercq, *Histoire des conciles d'après les documents originaux*, 11 vols. (Paris: Letouzy et Ane, 1907-1952), 5:1159.

visitations appropriately before requesting any sort of procuration.⁶¹ The Council of Paris (1212), in contrast, devoted a great many canons to the appropriate behavior of both regulars and visitors, particularly bishops. The twenty-one canons of the fourth section of the council's legislation deal specifically with bishops. Bishops are warned to avoid having overly large retinues, too freely deputing inferiors to conduct visitation, and demanding payment for services, such as burial, that ought to incur no charges. Other canons directed at visitors are scattered among those that deal primarily with appropriate behavior within monasteries. For example, one canon specifies that bishops are to have all secret doors in monasteries barred, another demands that they prevent religious women from receiving suspect clerics or servants and any conversation between young nuns and secular clergy. Bishops are even required to see to it that nuns receive family members only in the presence of older companions. If the number of nuns in a particular house becomes too great for its resources, bishops are directed to remove some to other locations; bishops are also to see to it that nuns received the ministrations of experienced confessors and that no abbesses or prioresses abuse their offices.⁶²

The Council of Oxford (1222), like its predecessor in Rouen, acted to forestall abuses by archdeacons by limiting them to one procuration per day, and only then when

⁶¹Ibid., 7:1959.

⁶²Ibid., 5:1310-1314. The Council of Paris (1212) issued much additional legislation directed at reforming abuses found within religious houses. Those directives listed above are presented in the canons as the direct responsibility of bishops. The council gave responsibility for the correction of other abuses to the heads of houses or to chapters. Others they specified to neither episcopal nor regular authority. For example, the council decreed that monasteries ought to offer hospitality to the poor or infirm, that monks ought to abstain from wearing white gloves, that neither male nor female religious ought to have their own chambers within the monastery but that every member should have his or her own bed, and that important decisions affecting the monastery ought to be made by an abbot or prior only with the assent of at least seven monks of age. There were many more directives such as these, but it remains unclear who was to see that these directives were followed and what penalties were incurred by those found to be acting in violation of them.

present, and to the permitted number of horses. As with the Council of Paris, however, the Council of Oxford went into depth on what was and what was not appropriate behavior in a monastery. Again, though many directives were listed, only certain ones were specified as responsibilities of the bishop. For example, nuns were not to receive strangers into the enclosure without the permission of the bishop. Bishops were to appoint confessors in all female monasteries.⁶³ The Council of Chateau-Gonthier (1231) issued a canon specifically preventing visitors from receiving procuration in the form of money.⁶⁴ The Council of London (1237), rather than limiting the authority of archdeacons to visit, issued a canon encouraging such visitation and the collecting of appropriate procuration; it also warned such visitors against accepting payment for visitations not conducted.⁶⁵ In 1254, the Council of Albi issued canons redirecting that visitors were to receive procuration only for personal visits and specifying that those traveling with the visitor should neither demand nor receive anything. Also, visitors were not to stay any longer in one place than was necessary nor demand sumptuous repasts.⁶⁶ Indeed, as to the latter, the Council of Nantes (1264) stipulated that bishops were to accept only two plates of food and that remaining food was to be given to the poor.⁶⁷

⁶³C.15, 21, 38, 39, 43-49—Hefele-Leclercq, 5:1434-1436. The council also addressed the seemingly inherent improprieties found in monasteries. Nuns were to abstain from fancy dress, no regulars were to enjoy private quarters or special meals, none were to be allowed to leave the cloister unaccompanied by others, etc.

⁶⁴C.13—Hefele-Leclercq, 5:1531.

⁶⁵C.20—Ibid., 5:1580.

⁶⁶C.57-60—Ibid., 6:81. The Council of Albi also issued numerous canons addressing the behavior of monks and nuns, specifically their dress and comportment, and, among other things, the minimum number of regulars needed to support monasteries.

⁶⁷C.5—Ibid., 6:118.

In 1268, another Council of London assembled. It addressed a number of issues of concern involving the Benedictine order and its need for reform. As to episcopal visitation in particular, it decreed that no bishop ought to demand anything in excess of what is due him as procuration.⁶⁸ The Council of Langeais (1278), which met near the town of Tours in France, issued the somewhat peculiar decree that, although procuration in kind remained the preferred method, procuration received as money was legitimate so long as it was offered according to the customs or limitations of the particular locality being visited. The council also decreed that bishops were to see to it that no monastery attempt to support more monks or nuns than it could feed.⁶⁹ The Council of Wurzburg (1287) specifically dealt with relations between the visiting bishop and female regulars. Bishops were to see to it that abbesses enforced certain rules, that novices took the veil after one year of probation, that those over fifteen years residing in the house cut their hair, that the nuns not leave the enclosure, and that all had necessary food and clothing.⁷⁰

In 1314, the Council of Ravenna (1314) issued a number of canons dictating the appropriate formalities with which bishops should conduct their visitations. For example, the clergy of parishes or religious houses that a bishop visited were to ring bells so that any who were interested might come and receive benediction. Bishops were then to be formally received and processionally conducted to the parish or monastery church. Also, a bishop of one diocese who traveled through that of another was allowed to give the

⁶⁸C.3,19—Ibid., 6:142-146. The council specifically cited the decretal of Innocent IV, *Romana ecclesia*, which appeared in 1246, and the legislation of the Fourth Lateran Council (1215) as governing all issues related to procuration. As to Benedictine reforms, the council stated that special care should be paid to the education of novices, that private property be abolished, that the eating of meat be prohibited, and that officials of a house be held accountable for its management.

⁶⁹C.1, 12—Ibid., 6:240.

⁷⁰C.3, 19—Ibid., 6:311.

benediction in the absence of the diocesan bishop, or with his permission if he was present. No cleric, regular or secular, could rightfully oppose the visit of the ordinary or other superior under pretext of local custom.⁷¹ The Council of London, which met in 1321, issued canons further restricting the imposition of unjust procuration and excessive retinues.⁷² The Council of Marsiac (1326) specified that archdeacons were to abide by the restrictions placed on them by the fourth canon of the Third Lateran Council and stated that they were to receive no more than thirty *solidi* for a single procuration. Also, it maintained that no monks from exempt houses were to raise oratories or chapels in non-exempt territory.⁷³ The Council of Apt, held in 1365 near Avignon, limited the value of procuration for archbishops and bishops both to four *florins*, the choice of means (kind or coin) remaining the prerogative of the visited.⁷⁴

The five general councils and numerous provincial councils that met between the publication of Gratian's *Decretum* in c. 1140 and the mid-fourteenth century were responsible for issuing a substantial portion of medieval canon law relevant to episcopal visitation. However, these assemblages were not the only bodies within the Roman Catholic Church interested in the subject, nor were they the only ones that could and did issue the canons that governed it. Indeed, subsequent to the mid-twelfth century, the papal decree and *decretal* became the dominant means by which ecclesiastic law was produced and promulgated. It is true that some papal decrees merely restated decisions

⁷¹C.6, 8—Ibid., 6:734-735.

⁷²C.2—Ibid., 6:791.

⁷³C.37-39—Ibid., 6:809.

⁷⁴C.10—Ibid., 6:956.

of general councils at the head of which the authoring pope sat; nevertheless, others were original and intended to govern universally, unchangeable and unrevokable, over the Christian world. Both types found their way into the *decretal* collections later incorporated into the *Corpus iuris*, but examples of the latter, original and concerned with the topic of episcopal visitation, remain of most interest here. What follows is by no means a comprehensive presentation of all material touching the topic of episcopal authority or monasticism contained within the *decretal* collections of the *Corpus iuris*; rather, it is an overview of particularly relevant, important, and original canon law.

Book I of the *Decretales Gregorii IX* contains a number of *decretales* issued by popes and other officials or official bodies guiding the proper role of bishops as visitors. Most of the *capitula*, each restating a particular canon and its source, concerned the rights and duties of bishops. A decree of Pope Honorius III instructs bishops to visit the monasteries of their diocese yearly and to seek only moderate procuration. The following *capitula* states that visiting bishops ought not to bring secular assistants into the monasteries, but rather two or three religious. A *decretal* of Gregory IX preserves the exempt status of specific orders against the authority of the bishop.⁷⁵ Book I also includes a number of *capitula* that affirm the archdeacon's authority to visit the parish yearly. It includes others, however, that limit his authority. The archdeacon is not to assume *cura animarum* without the mandate of his bishop, nor is he to excommunicate. Most significantly, another capitulum restates the decree of Pope Honorius III that

⁷⁵X 1.31. 16, 17, 19.

archdeacons were not to exercise authority over monasteries except in certain places and there only to whatever extent this right had been conferred to them by custom.⁷⁶

Book III of the *Decretales Gregorii IX*, contains canons that primarily govern the conduct of regulars. *Capitula* direct that monks are not to hold any property or money within a monastery without the approval of the abbot. Those that have not resigned their property before death are not to be interred in the cemetery (and, curiously, are to be removed if already buried, if it can be accomplished without scandal). Monks are to obey the Rule concerning meals, clothing, abdication of property, etc.⁷⁷ The seventh *capitulum* of this group is a restatement of *In Singulis*, the twelfth canon issued by the Fourth Lateran Council; the eighth is something of an addendum to it, issued by Honorius III and commonly known as *Ea quae*. This *decretal* instructs bishops to diligently inquire into the conduct of regulars and to correct and reform them spiritually and temporally (“in spiritualibus quam in temporalibus corrigant et reformat quae viderint corrigenda”). It authorizes visitors, as delegates of the Holy See, to censure rebellious monks, while allowing delinquent monks to be punished by the abbot according to the ordinary’s findings, the Rule, and *apostolica instituta*. Abbots who hesitated to perform their correctional duties are, if exempt, to be censured and punished by the general chapter of their orders; if not exempt, they are to be suspended by the bishop. Honorius specified that all guidelines he provided applied equally to both monks and nuns.⁷⁸

⁷⁶X 1.23.1-10.

⁷⁷X 3.35.1-6.

⁷⁸X 3.35.8

Subsequent *capitula* concern the bishop's duties to the churches of his diocese and his authority over them. One reaffirms the simple fact that monasteries are subject to the bishop of the diocese in which they were located, unless they are able to demonstrate exemption. Another restates the ruling of the Fourth Lateran Council that no more monastic orders are to be created without the authority of the Roman pontiff, as the present number creates confusion.⁷⁹

Liber III, Titulus XX, includes Innocent IV's *decretal Romana ecclesia*. *Romana ecclesia* is often cited in visitation scholarship as legislation pertinent to procuration, and it does indeed represent well the opinion that held that procuration must always be received in kind. However, this pronouncement offers much more. For example, it describes how a proper visitation ought to be conducted. The visitor, in this case the archbishop, is to begin his visitation tour with the chapter of his own cathedral. He is then to proceed to the other churches, both major and minor, of the episcopal city. He is to pay attention to the conduct of clerics and laypersons throughout. From his own city, the archbishop is to proceed out into the rest of his province, visiting parish churches, monasteries, and other ecclesiastical establishments. Only after completing his entire tour can he return to any particular place, and only then if he visits the entire province again, unless conditions at any one place demand his immediate attention. Upon arrival, he is to give a sermon and inquire into the lives and behavior of churchman; he is to require no oaths but offer salutary advice ("salubria monita"). He can denounce any infamous ordinaries, as they were his suffragans, conduct examinations, and proceed in correcting and enacting punishments where needed. Procurations, as stated above, are to

⁷⁹X 3.1-9, 36.

be only received in kind, not in coin, nor are gifts given under any circumstances to be accepted. Those who act contrary incur *maledictionem* and remain in such a state until they returned twice what they have received. The decree then states that the pope's directives apply to all visitors, bishops and other prelates, ordinaries and their substitutes.⁸⁰

Title XX also includes the twenty-fourth canon of the Second Council of Lyons, which is Gregory X's confirmation of Innocent's decree and issuance of penalties for violators. However, this is followed by a decree of Pope Boniface VIII, dating to 1298, in which the pope offered a contrary opinion. Due to the inconvenience the offer and reception of procuration in kind could cause to visitors and visited alike, the decree asserts that archbishops, bishops, and other prelates bound by duty to conduct visitations can accept money instead of food if it is the will of the visited to so act. Still, only one procuration can be received each day even if a visitor travels to several places and each is able to pay. The decree states that such allowances are the necessary response to what experience has demonstrated. Additionally, the decree contends that an archbishop is able to visit his province, and even repeat his visit, hear confession, absolve, and impose punishment, whether or not his suffragans have been negligent in their duties.⁸¹

Book V includes a restatement of the twenty-fourth canon of the Second Council of Lyons, which involved the state of privileged monasteries, and *capitula* defending the idea of monastic exemption from episcopal authority. This includes a decree of

⁸⁰VI 3.20.1

⁸¹VI 3.20.2-3, 5. Boniface's ruling regarding the return visit of archbishops supercedes Innocent IV's pronouncement in *Romana ecclesia* that such an action was not to be taken by the archbishop without the *concilio* of his suffragans.

Alexander IV that maintains that exempt houses are not permitted to construct oratories or chapels in non-exempt territory without the permission of the bishop, or in exempt places without the license of the pope. Also, according to a decree of Boniface VIII, exemptions do not protect those regular churches that host the celebration of divine services for outsiders in places under interdict or admit the excommunicated for burial.⁸² The subsequent *decretal* collection, the *Clementines*, does include canons relevant to episcopal visitation; however, two of its major decrees, *Ne in agro* and *Attendentes*, are restatements of the fourteenth and fifteenth canons of the Council of Vienne. The *Extravagantes Johannis XXII* offers little of relevance; the *Extravagantes communes* offers, in a single *capitulum*, substantially more.

The *Extravagantes communes* contains a final piece of legislation of concern to this study—namely, a decree issued by Benedict XII in 1336, known as *Vas Electionis*. With his decree, Benedict built on the work of his predecessor Boniface VIII by establishing guidelines governing the manner in which a visitor might receive procuration in money. Put simply, Benedict divided the Christian world under the Roman church into four regions; within each, he established the maximum amount of money that could be accepted as procuration for each of the various ecclesiastical institutions visited. Additionally, he created a graded scale, so that archbishops might accept more money than might a deacon and a substitute receive less than whomever he replaced. If, in any of these regions, an institution customarily offered less than Benedict subscribed for them, the lower, customary limit was to take precedence. Procuration in kind was favored over procuration in money, but the latter was acceptable if it was the preference

⁸²VI 5.7.1-11.

of the visited. Benedict also retained the penalties set out in *Exigit* and added several others.⁸³

It is said that people do not commonly legislate against what is not occurring. Although this idea was not originally put forward to describe the legislative process of the church during the Middle Ages, it nevertheless applies. The number of canons issued between the twelfth and the fourteenth centuries relevant to episcopal visitation is undeniable significant, as are their scope. Clearly, those laws that existed to govern the process at the time of the *Decretum* would prove unequal to the task even as the twelfth century came to a close. But what drove this legislation? What were all the conciliar decrees and papal pronouncements intended to do? Reviewing the evidence with these questions in mind suggests that, one, the church recognized that problems existed within religious houses and sought to correct the situation, and, two, certain aspects of visitation proved quite susceptible to abuse from those charged with carrying the process out.

The first of these ‘themes’ found within the prescriptive literature on visitation, that concerning the behavior of regulars, is not particularly relevant to this study. In question here is the conduct of bishops as visitors. If anything, legislation directing visitors to be on guard against certain behaviors on the part of regulars supports the notion that the church appreciated the efficacy of the institution of episcopal visitation for maintaining order. It is the second theme, that involving abuses on the part of visitors themselves, that proves much more meaningful, for it suggests that specific aspects of visitation caused significant concern—namely, the bishop’s misuse of procuration, his contempt for claims of exemption, and the conflicts that emerged between him and

⁸³Extrav. comm. 3.10.1.

regular authorities or other visitors. Yet, it is a rare canon indeed that speaks to a bishop's abuse of his office as judge and inquisitor or that calls into question his behavior while collecting information and issuing his injunctions.

What accounts for this situation? Why does the legislation frequently address specific aspects of episcopal visitation, such as procuration, and why might these aspects have been more susceptible to abuse, if indeed they were? Does the church's selective silence on the matter suggest that authorities were ignorant of problems related to injunctions or that they had contempt for their effectiveness? Does it rather illustrate the church's confidence in the ability of injunctions to correct and reform? To answer these questions, one must look to those sources that speak not to visitation as it ought to be done, but as it actually was.

CHAPTER 3

DOCUMENTS OF PRACTICE

As stated in the previous chapter, the period between the mid-twelfth and mid-fourteenth centuries witnessed the most prodigious legislative activity of the topic of visitation in the history of the Roman church. The *Corpus iuris canonici* and the decrees of the various church councils, both general and provincial, offer modern scholars a remarkable amount of information about the procedure to be followed episcopal visitation. Consequently, it is not an overly difficult task to investigate the evidence and to use it to create a model of proper visitation procedure. However, while a modern scholar might speak with authority about how a visit ought to begin, the kinds of violations of the monastic life a visitor should guard against, or the various abuses a visitor ought to avoid, the process of visitation as actually practiced for centuries by real bishops, in real religious houses across the Christian west remains elusive. Yet, other sources of evidence are there, and, with the proper approach, can be accessed by those interested in the actual practice of episcopal visitation.

Injunctions, or the rulings issued by the visitor based on that which was discovered at the house, are the major source of information on visitation available to

modern investigators.¹ In the case of episcopal visitation, these injunctions were penned by a bishop's clerks shortly after the completion of the visit (subsequent to the issuance of oral injunctions by the bishop before the assembled house) and sent to the appropriate authorities of the house in question. Although injunctions were intended to become a permanent part of a monasteries' assembled record collection, most of the samples that survive today are copies that were maintained in diocesan stores, usually included in bishop's registers. Consequently, the only first-hand accounts of actual visitations come to modern scholars from the archives of the visitors and not the visited. Moreover, these sole records of procedure are the products of the visitors and, again, not the visited. It was the bishop's notaries, not any servants of the visited house, who were given the responsibility of recording the 'who, what, why, and how.'

Indeed, this fact leads to yet another problem inherent with the best surviving evidence of visitations—the notaries who produced the injunctions were not acting as impartial referees positioned between the bishop and a visited house. They were instead, and without question, the servants of the visitor, and their duty was to produce an account of the visitation focusing on the deeds of the visited. This is not to say that notaries were to be actively hostile to their religious hosts; in fact, as will be demonstrated shortly, they were clearly not to act in such a manner. However, the nature of their work was to create a record of the events of a visit and its outcome for practical use by the members of a

¹Injunctions were based on the *detecta* and the *comperta*, respectively, that which was discovered to the bishop in the form of answers to questions or testimony freely issued and that which the bishop uncovered himself through examination, accusation, and pleadings. These two bodies of evidence were also recorded by notaries for the episcopal record, but, compared to injunctions, less frequently survive for study. See Chapter 1.

house and for retention by the bishop. There was not the responsibility to record what the bishop, as visitor, failed to do, nor what he did in excess or abuse of the law.

Naturally, then, the evidence that survives in the form of injunctions preserved in bishops' registers is of limited use for the study of the common practices of the bishop. This is not to say, however, that they are of no use. As injunctions are judgments that rule a particular practice of a religious house or one or more of its members in violation of the monastic Rule, canon law, and/or church tradition, they can be useful in hypothesizing about the issuer's intentions in visiting. Of what practices was he most wary? On what did he rely most to guide his visit? Knowing the answers to these questions can assist the modern scholar to assess the visitor's performance. Do the judgments correspond with contemporary law governing visitation? What types of injunctions appear most often and why? In those cases in which both *detecta/comperta* and injunctions survive, can one evaluate the extent to which a bishop's rulings reflected the needs of each individual house?

Surviving sets of injunctions are not readily available sources, and the fact that relatively few have been edited and published severely limits their accessibility. Injunctions surviving alongside *detecta* or *comperta* are even more scarcely found. This situation, however, of accessing these materials side-by-side, is paramount evaluating how seriously the bishop took his role as corrector and reformer to be. Fortunately, in his trilogy containing material drawn from the registers of the fifteenth century bishops of Lincoln, A. H. Thompson includes a number of surviving examples of *detecta* and *comperta* along side their corresponding injunctions.² Although this is not the case for all

²A. Hamilton Thompson, ed., *Visitations of Religious Houses in the Diocese of Lincoln: Injunctions and other Documents from the Registers of Richard Flemyng and William Gray, Volume I*,

the sets of injunctions included in these volumes, those that do appear provide some means to determine how well a visitor, in this case, William Alnwick, the bishop of Lincoln, executed his duties.³

Thompson describes the evidence for Alnwick's actions as visitor of the religious houses of the diocese of Lincoln as "singularly perfect," and asserts that as a visitor the bishop was "painstaking and thorough in his work."⁴ Thompson maintains that there remains no evidence that Alnwick dealt with the regulars of his diocese unfairly; though, he does concede that, like most others in his position, he resented the presence of "ecclesiastical republics" (e.g. exempt houses), in his diocese. As one might suspect, Thompson is a definite partisan of the bishop.⁵ But this does not detract from his fair presentation of the documents of his register, which are retained in their original Latin.

Publications of the Lincoln Record Society, vol. 7 (London: W. K. Morton & Sons, 1914); Thompson, A. Hamilton, ed., *Visitations of Religious Houses in the Diocese of Lincoln: Records of Visitations held by William Alnwick, Bishop of Lincoln, 1436-1449, Volume II*, Publications of the Lincoln Record Society, vol. 14 (London: W. K. Morton & Sons, 1918); Thompson, A. Hamilton, ed., *Visitations of Religious Houses in the Diocese of Lincoln: Records of Visitations held by William Alnwick, Bishop of Lincoln, 1436-1449, Vol. III*, Publications of the Lincoln Record Society, vol. 21 (London: J.W. Ruddock & Sons, 1929).

³One finds examples of preserved *detecta* and *comperta* among the sets of injunctions Thompson includes in his second and third volumes of the mid-fifteenth century trilogy. The visitations in question were all made by Bishop Alnwick between 1437 and 1448. Thompson (*Visitation of Religious Houses, Volume II*, xiv-xix) maintains that William Alnwick's career "was that of the ordinary prosperous secular clerk" (xv). A native of Alnwick in Northumberland, Alnwick began his career as a papal notary, studied at Cambridge, and rose to become archdeacon of Salisbury by 1420. He came into the service of King Henry V at about the same time. Indeed, under Henry VI, he served for a time as keeper of the privy seal until 1428, before which time he was granted the bishopric of Norwich, an office which he held for four years prior to being appointed confessor to Henry VI. He held the latter position when, in 1436, he was appointed bishop of Lincoln. Thompson continues on to discount a number of contemporary theories circulating which "give a singularly misleading idea of his early life" (xv). One of these theories suggests that Alnwick was a member of the powerful Percy family, another that he was once pardoned for reasonable correspondence.

⁴Thompson, *Visitation of Religious Houses, Volume II*, xix, xx.

⁵Alnwick, according to Thompson, desired to "increase, and not diminish, the spiritual effectiveness of secular chapters and religious houses" (xx); he was a "diocesan conscious of this duty which the monasteries owed him as their ordinary and desirous to enforce his anxiety for their better guidance and governance without undue severity" (xxi).

Thompson explains that injunctions were the issued with the problems of a particular house in mind and were not merely left as a sort of calling card. He points to the fact that the more general the language of the injunctions the better they could be for guiding a house over an extended period of time, while orders aimed at individuals or specific events could be easily disregarded by unrelated parties in the future. Formality of composition, he explains, was not formality of content. The bishop's clerks worked with specific *detecta* and *comperta* before them, carefully meshed the two, using the formulaic and general tone of the common form when possible, while, at the same time, maintaining the particulars of the visitation. In cases in which clerks and copyists referred to other documents while abbreviating preambles or specific directives in another, it should be kept in mind that what exists today was a copy retained for the records of the diocese; the document which was sent to the visited party would have been full and complete in its form.⁶

Investigation of Alnwick's register gives credence to the view that bishops fulfilled their obligations regarding the correction and reform of those religious in their charge. This is demonstrated in the registers in several ways. Frequently, if not always, there appear injunctions of a solidly specific nature set among those more general; or, components of otherwise general directives include a specific name or term. Also, although it is undeniable that certain types of injunctions appear over and over again in the visitation documents of houses located throughout the diocese, visited at different times within Alnwick's tenure, comparing *detecta* and injunctions of a single visitation demonstrate that even the most general of injunctions addresses a specific point

⁶Thompson, *Visitation of Religious Houses, Volume II*, xlvii-li.

uncovered in the course of the bishop's investigation. Finally, there is a single, marked distinction between those injunctions issued to female houses and those issued to males. That is, the former were published in English, the latter in Latin.

Invariably, one finds among the visitation records of the bishop of Lincoln that even the most seemingly broad sets of injunctions include particular references to people or events peculiar to the house in question. In the injunctions issued to the priory of Harrold in 1442, one finds the bishop enjoining the prioress to "dispose so for a commune lauendere in your place that she wasshe your susters clothes ones every fourtenyghte." This statement directly addresses the issue as raised by a certain Dame Thomasine Courteney as recorded in the corresponding *detecta*. At Leicester Abbey, Alnwick carefully admonishes the abbot to "make provision of a serviceable teacher, who shall instruct and learn your younger canons... in grammar." He makes this statement only after spending a considerable sum of words describing the importance of maintaining a school at the abbey due to the number of students who, in the past, "grew up to be persons of weight and of mark." At Markby Priory, he ordered that alms coming from the table of the prior and convent be administered among the poor and needy and that they no longer be wasted on "miseris mulierculis aut meretricibus."⁷

This inclusion of specifics such as these, clearly drawn from the previously conducted interrogation of house members, is the norm among the sets of injunctions issued by Alnwick. At Newnham Priory, which the bishop visited in 1442, Alnwick describes in detail in one injunction a particularly disturbing practice he has uncovered. It appears that certain canons run, first thing in the morning, to the priory kitchen, seeking

⁷Ibid., 132, 214; Thompson, *Visitation of Religious Houses, Volume III*, 226.

out large helpings (“fercula grandia”) of food. After stuffing themselves so full that they cannot take a noontime meal, they collect these lunch dishes instead and store them for future use. The bishop prescribes fasting on Wednesdays and Fridays for one month as an appropriate reckoning for such actions. Oddly enough, in another injunction issued from the same visitation, Alnwick observes that the common cook of the house prepares otherwise healthful and tasteful food so disgracefully, negligently, and insipidly (“inhoneste necgligenter et insulse”) that the canons “so abhor it because of its unsavouriness and ill appointment that they dare not and cannot taste or take aught of it.” Similarly, Alnwick directs the subcellarer of Thornton Abbey to see to it that food is prepared in such a manner that the canons do not abhor it and become ill (“illa abhorreant et infirmitates aliquas incurrant”).⁸

The inclusion of these types of personalized injunctions are the rule rather than the exception throughout Alnwick’s register. This is not to be regarded, however, as an isolated trait. For instance, in the register of one of Alnwick’s predecessors, Bishop William Grey, one finds an injunction specifying that “young monks shall in no wise shave one another, as has been their wont, on account of the serious dangers which may arise from want of skill in that art.” Another, related to the visitation of Elstow Abbey, enjoins the abbess of the house to locate the apostate Dame Purnell, being “pluries in lapsu carnis delinquens,” so that her sisters may learn from her punishment and not her flauntings.⁹ Likewise, in visitation injunctions issued two hundred years earlier by John le Romeyn, the Archbishop of York, one finds similar examples. At Newstead Priory,

⁸Thompson, *Visitation of Religious Houses, Volume III*, 236, 381.

⁹Thompson, *Visitation of Religious Houses, Volume I*, 2, 54.

the archbishop ordered the removal of a sacrist from office and the punishment of former prior Richard Halam.¹⁰ Le Romeyn's predecessor, William Wickwane, excommunicated the abbot of Selby Abbey for, among other things, employing a witch ("Elyam Fauvelle, incantatorem et sortilegum") to recover his dead brother's body from the River Ouse.¹¹ Examples such as these indicating a marked specificity of detail and care, drawn from Alnwick's register as well as from others, indicate clearly that injunctions followed *detecta*.

Even in those cases in which injunctions appear broad and general, comparison with *detecta* (as is possible in the case of Alnwick's register) indicate they were still composed with care. Throughout the Lincoln visitation documents, one finds that certain types of seemingly universal injunctions appear with regularity: dogs should not be kept in the monastery, nuns ought to dress in a seemly manner, no drinking is allowed after compline, silence should be kept according to the rule, etc. While most of these types of injunctions do not refer to specific people or events, a link with evidence uncovered during the bishop's investigation into the goings-on at the house is apparent.

Another such 'typical' injunction found throughout Alnwick's and other registers directs abbots, priors, abbesses, etc., to render an account of their administration of their house before the assembled chapter on a regular basis. At Ankerwyke Priory, the archbishop ordered the prioress to demonstrate a "fulle and playn accompte of your mynystracyone" before the assembled chapter between the feasts of Sts. Michael and

¹⁰*The Register of John le Romeyn, Lord Archbishop of York, 1286-1296, Part I*, Publications of the Surtees Society, vol. 128 (Durham, UK: Andrews & Co., 1913), 319.

¹¹*The Register of William Wickwane, Lord Archbishop of York, 1279-1285*, Publications of the Surtees Society, vol. 114 (Durham, UK: Andrews & Co., 1907), 24.

Martin. At Gracedieu Priory, he instructs the prioress to do the same between the feast of St. Michael and Halloween (“alle Halowen”); for the prioress of Harrold Priory, this was to be done within the Michael to Martin time span, likewise for the abbot of Humberstone. These are but a very few of the houses that received such instruction, but they represent the norm in that each injunction stemmed from a complaint or accusation issuing from a member of the house. At Ankerwyke, Dame Margery Kyrkeby accused the prioress of failing to render account of her administration; at Gracedieu, it was Dame Agnes Roteby, at Harrold, Thomasine Courteney, at Humberstone, Brother Thomas Frssheneby.¹²

The same phenomenon is displayed by injunctions generally related to preventing regulars from leaving the cloister and traveling into nearby towns for unseemly activities. Although very similar language is employed to issue warnings against such behavior at Catesby, Daventry, Godstow, and Kyme all follow from the accusations of individuals. The Catesby injunction follows from the accusation that Dame Isabel Benet regularly passes the night with the Austin friars of Northampton, among others, dancing and playing the lute. Brother John Daventre, of Daventry Priory, relates that “monks do haunt the public wine and beer-taverns in the town to the scandal and impoverishment of the house.” Dame Alice Lumley of Godstow reports that nuns often go out into Oxford on pretext of visiting their friends. At Kyme, the sub-prior, Richard Ingoldsby, asserts that the young canons do go out with the son or the officers of their patron to eat and

¹²Thompson, *Visitation of Religious Houses, Volume II*, 2-9, 120-125, 131, 141-146.

drink in town without the prior's license. He tellingly adds, "Fiat iniunctio" ("Let an injunction be made").¹³

Further evidence, too, implies the care with which injunctions were developed for each house. Specifically, in the case of Alnwick's register, all injunctions issued to female religious houses were penned in English, since female religious frequently lacked the knowledge of Latin required of them to communicate effectively in the language of the church.¹⁴ If visiting bishops issued injunctions carelessly and with little concern for their impact on the activities of a house, it is doubtful that they would have gone to such trouble to ensure that female religious could understand their directives in their mother tongue. This evidence of forethought and consideration on the part of the ordinary, coupled with the obvious relevance of his issued injunctions, attests to the notion that, at least in his roles as an interrogator, investigator, and reformer, the bishop acquitted himself honorably.

Another source, too, offers this same type of indirect evidence of actual practice. In 1475, Italian theologian and canonist Joannes Franciscus de Pavinis, published the *Tractatus visitationum episcoporum*. This work is an expansive treatment of episcopal visitation, which Joannes published while serving as an auditor, or judge, of the papal Rota.¹⁵ As its title suggests, the *Tractatus* deals with general aspects of episcopal visitation and includes much concerning the visitation of the diocese—parishes, hospitals,

¹³Ibid., 50-52, 62-66, 114-116, and 169-172.

¹⁴Powers, 483.

¹⁵For more on the Rota, see the *DDC*, 7:742-770.

cathedral chapters, etc.—as well as religious houses. Joannes' work is not narrative in form, but rather is arranged topically into sections, and is most basically a list of answers to questions, rulings, restatements of legislation, citations, etc., all concerning some aspect of episcopal visitation. It is, basically, a manual on visitation.

As in the case of the registers, the use of the *Tractatus* as a source for this study requires an explanation. It is undeniable that much of what Joannes wrote simply repeats, restates, or summarizes, in an accessible, reference form, the legislation that guided visitation. Certainly, its structure as a synthesis of existing law and custom suggests its most apparent value to be as a yet another source prescribing proper visitation procedure. However, like the injunctions of the registers, the *Tractatus* offers something more with regard to visitation as it was actually practiced and to the shortcomings and merits of the visitor. Joannes wrote with an audience in mind—namely, those who had an interest in visitation, as visitors or as the visited. Aside from the more obvious topics he tackles, such as how often visitation should be conducted, which were readily accessible in contemporaneous sources, Joannes deals with topics simply not addressed in visitation legislation, due, perhaps, to their specificity. For example, he contends that visitors may exact nothing in the form of procuration for purchasing horseshoes.¹⁶ The question of whether or not procuration could be used for shoeing horses simply is not found in the *Corpus iuris* or in council decrees, but it, nevertheless, has its roots in procuration law.¹⁷

¹⁶Joannes Franciscus de Pavinis, *Tractatus visitationum*, in *Tractatus universi iuris*, vol. 14 (Venice: Franciscus Zilettus, 1514-1586), 1.9.30. This numbering system will be subsequently used to cite the *Tractatus*. For example, 1.9.30 refers to the thirtieth point contained under the ninth quaestio in the first part.

¹⁷In its twenty-fourth canon (*Exigit*), the Second Council of Lyons warned that procuration in kind remained the only legal means of receiving hospitality and that no gifts were to be accepted. See Chapter 2.

This is exactly the type of question, however, that likely would have caused contention between a bishop (with a shoeless horse) and the abbot of the next religious house on his route, and if Joannes thought to include its answer in his treatise, certainly an account of such a dispute had come to his attention at some previous time. This is the basic key to the use of the *Tractatus* as a source on common practice. The peculiarities it includes, the answers to specific and unusual questions not easily found in visitation legislation, speak to the sorts of issues that concerned those intimately involved in the practice of visitation. If someone needed to ask about the shoeing of a horse, some visitor, at some time, or even numerous visitors at numerous times, attempted to utilize the power of procuration in this way. Of course, one of Joannes' more general point such as "Visitatores, quot equitaturas habere possint" might suggest that visitors were ignoring limitations, but it might equally be a simple restatement of a well-known and specific visitation law that belonged in a treatise on visitation whether or not it was being abused. Certainly, one must take care in utilizing the *Tractatus* as a source on common visitation practices.

Scholars know neither when Joannes Franciscus de Pavinis was born, nor when he died, but in accordance with the epitaph he composed for his father Antoine Pavini's tomb in Padua and with the dates of his own works, he must have been born some time in the first thirty years of the fifteenth century. By 1448, he was a canon in Padua, teaching canon law and was considered something of an expert on the papal *decretales*. Some time after this, he was called by Pope Paul II to Rome to serve as auditor of the Rota, and he continued on to exercise this office under subsequent popes Sixtus IV and Innocent VIII until his death. As both canon and auditor and even after his death, he enjoyed great

renown as a theologian and canonist and authored numerous works of theology and canon law. In 1472, and subsequently in 1475, Joannes published a collection of decisions of the Rota rendered prior to his appointment as auditor.¹⁸

Also in 1475, he published the *Tractatus visitationum episcoporum*. According to Joannes' introduction, episcopal visitation in the last quarter of the fifteenth century was of particular import. Joannes writes that due to the fact that man naturally seeks to serve sensuality, that the young are particularly guilty of this, and that people continue to reproduce, visitation by authorities was more necessary than ever to sow virtues, correct excesses, and reform customs throughout the Christian west. The *Tractatus* is largely a reference work and not a narrative treatise. It deals with various aspects of episcopal visitation to the parishes and institutions of the diocese. It contains material relevant specifically to monasteries, both male and female, as well as more general material applicable to visitations made to parishes, hospitals, cathedral chapters, etc. The work is divided into two parts, the first, according to Joannes, containing material relevant to the theory of visitation, the second, that pertaining more to its practice. Each part contains ten *quaestiones* (questions), which are in turn composed of numerous, specific questions or points of fact. The latter, Joannes explores to varying degrees; in some instances he presents firm answers to specific questions, in others he presents conflicting opinions or else cites the works of other canonists.

The first two *quaestiones* deal, respectively, with the nature of visitation and with those who may by law conduct a visitation. In the case of these *questiones*, Joannes offers little that speaks to actual practice. He does, however, discuss the proper roles of

¹⁸DDC, 5:899-900.

substitutes. He acknowledges that they are most helpful in the visitation of large, diffusely populated provinces and diocese, but warns that in any case, those chosen to visit on account of another ought to a worthy church elder or other suitable man.¹⁹

Joannes also deals with the question of visitation by the archdeacon, who had been the focus of legislation governing retinue size at the Third Lateran Council three hundred years prior to the publication of the *Tractatus*. Joannes acknowledges the archdeacon's right to visit regularly, but particularly in cases in which the bishop is impaired or negligent, in which case he ought to receive the procuration due a bishop's substitute.²⁰

The third *quaestio* of part one of the *Tractatus* deals with who may be visited. As one might expect of a member of the Rota, Joannes carefully enumerates all who may be visited by the pope (namely, all provinces and peoples of the earth). As to the visitation of bishops, Joannes offers an interesting formula for how visitation ought to be conducted. According to this, bishops ought first to visit his own cathedral chapter, followed by the churches of inferior prelates and officials of the diocese, and from those to monasteries in accordance with the statutes *In Singulis* and *Ea quae*. Likewise, according to Joannes, a bishop may even visit exempt houses if he acting with *auctoritate apostolica*. For this statement Joannes cites the statute *Attendentes*, which, when it was produced by the Council of Vienne in 1311, dealt specifically with female monasteries. It appears, though, that Joannes does not distinguish between male and female houses when making his case and is perhaps attempting to further the power of the papacy to

¹⁹Joannes Franciscus, 1.2.48-49.

²⁰*Ibid.*, 1.2.33.

authorize visits even to those accustomed to exempt status.²¹ By the time he is writing, in the late fifteenth century, the tide had turned toward limiting the liberties enjoyed by orders claiming exemption from visitation.²² Perhaps Joannes' is foreshadowing this movement in his work in response to those complaints heard in the Rota regarding the misuse of exemptions. It certainly suggests that by the late fifteenth century, exempt houses, both male and female, were feeling increasing pressure exerted by bishops and even the pope.

Also of interest in Joannes' third *quaestio* is the special attention he pays to two points. One, he encourages visitors to take special care to see that cloistered women maintain the standards of clothing specified by canon law and the rules governing the various orders. Two, he stresses the importance visitors ought to place on seeing that religious women remain cloistered and be allowed only the most limited and necessary access to the outside world. He specifies exactly the types of excesses regarding grooming and appearance he regards as most troubling (e.g. the wearing of sandals, striped clothing, and curled hair). Likewise, Joannes includes special mention that nuns are not to attend secular feasts, nor to go out into surrounding villages or city streets. The visitor is to see that such things are not done; the fact that they are specified in the *Tractatus* and allotted such special treatment (similar points of concern not being issued for male religious under this *quaestio*), suggests that cases of such behavior were

²¹Ibid., 1.3.7, 10, 18-20, 26.

²²Schroeder, 500-502. The bull *Regimini universalis ecclesiae*, issued by the Fifth Lateran Council in 1515, worked to restore the authority of ordinaries over those deemed to be abusing their exempt status.

regularly encountered by visiting officials. However, it is also true that these types of offenses were described in legislation issued by the Council of Vienne.²³

In the fourth *quaestio* of part one of the *Tractatus*, Joannes deals with how often visitations can be made, among other things. He specifies that visitations ought to be made every year, but that when the necessity calls for it, a bishop, or his substitute, may visit a place more often. However, visitors must content themselves with a single procuration in these cases.²⁴ Clearly, this was a point of contention between houses and their visitors; visitations were not taken lightly by those charged with providing hospitality not only for a single bishop or official, but his entire retinue. For archbishops, Joannes reinforces the ruling that they may repeat a visit to a particular place in a single year, but must visit their entire province before returning.²⁵ Questions regarding the visitation of the archbishop, as metropolitan, certainly emerged from the various parties concerned. Joannes, reflecting the position of contemporary canon law, maintains that archbishops do have the right to visit their provinces even in cases in which no negligence on the part of their suffragans (e.g. bishops) was charged.²⁶ But this position on the part of the church clearly did not settle the question. As the further issues Joannes addresses regarding the appropriate procuration and the method by which an archbishop must proceed illustrate, conflict between the archbishop and his suffragans, and between the visitor and the visited religious houses remained even after the church attempted to

²³Joannes Franciscus, 1.3.32. See *Attendentes*, the fifteenth canon issued by the Council of Vienne, described in Chapter 2.

²⁴Ibid., 1.4.1-3.

²⁵Ibid., 1.4.6; Joannes returns to the is point again (1.7.12-13), once more citing *Romana ecclesia* as a guide to the archbishop's actions regarding repeated visitations.

²⁶Ibid., 1.3.29.

specify the rights and obligations of each, and, clearly, this had implications for determining the actual practice of visitation.²⁷

Joannes addresses another interesting point under this *questio*. What happens when a single monastery finds itself hosting two visitors at the same time, particularly if each visit is impeding the other? While Joannes does resort to ‘first come, first served’ as an immediate solution, he proceeds to explain that if the visitation of a bishop concurs with that of another official (e.g. an archdeacon), neither being apparently first, the bishop’s visitation takes precedence, with the same preferment being given to the archbishop over his suffragan.²⁸ Such possibilities and their solutions were simply not addressed before this time by either popes or councils. Joannes is clearly responding here to either actual or theoretical events that have come to his attention; in either case, the inclusion of such material certainly illustrates his appreciation of the needs of those practicing visitation.

Indeed, Joannes continues: What happens in cases in which a bishop’s visitation concurs with that of religious visitors (visitation of a monastery conducted by authorities of the same order)?²⁹ Joannes’ answer to this question is more than a little surprising. In regard to non-exempt houses (the only houses that should have been susceptible to this sort of occurrence), *In Singulis*, the twelfth canon issued by the Fourth Lateran Council,

²⁷Cheney, 133, 137-48; *DDC*, 7:1516-17; see also, *Romana ecclesia*, VI 3.20.1, and the *decretal* of Boniface VIII, VI 3.20.2-3,5, for more on guidelines for archbishops and procuration limits, as discussed in Chapter 2. Joannes maintains that, following Innocent IV’s ruling in *Romana ecclesia*, the archbishop ought seek the consent of his suffragans before setting out on a return visit. However, in accordance with Boniface VIII’s subsequent ruling, he maintains that such consent was not required, further illustrating that this point was certainly one of contention in the common practice of episcopal visitation.

²⁸Joannes Franciscus, 1.4.15-16.

²⁹ See Chapter 1 for a more thorough description of the internal system of visitation practiced by religious houses.

specified two things. First, it allowed religious visitors to remove unfit persons from office in a house by appealing to the bishop of the diocese in which the house was located. Second, it implied that correction of problems within a house and subsequent reform were first and foremost the responsibility of the bishop, not of religious visitors.³⁰ Both of these facts certainly suggest that in non-exempt houses, episcopal visitors take precedence over religious. However, Joannes takes a different view, one which appears to be based more on practicality than on theoretical arguments. According to Joannes, religious visitors are accorded preference in such cases for the simple fact that know better how their own brothers ought to be reformed due to their superior knowledge of the constitutions of their order. Moreover, according to Joannes, bishops have been known to try to impede religious visitors for wicked reasons (“malitiose causa”).³¹

In *quaestio* five, Joannes deals with a number of aspects of visitation procedure. Specifically, that a visitor ought to announce his arrival with letters, that he ought to examine the books of previous visitors and to seek the advice of experts in visitation. The latter two of these do imply that visitors ought to acquaint themselves with visitation theory and with the history of the place to be visited. *Quaestio* six, though, offers more in the way of specific points that speak to the actual practice of visitation. Joannes brings up the question of when it is licit for visitors to consume meat, which was of import when visiting houses belonging orders that restricted its consumption. He answers that, when possible, the visitor should be content with the menu that is offered to him any place. Meat may be consumed at times or in places that would customarily be prohibited, but

³⁰C.12—Schroeder 253-254; Tanner 240-241. See Chapter 2 for more information on this legislation.

³¹Joannes Franciscus, 1.4.17.

only if done so out of necessity. He does advise, though, that bishops in such circumstances should may an attempt to go elsewhere (to a private home), away from the place in question, to dine, if such an action is possible.³²

Joannes additionally warns visitors to take care that all female religious remain cloistered in their houses in accordance with *Periculoso*, a decree issued by Boniface VIII in 1298, which restricted nuns of all orders to rigorous enclosure. Scholars have asserted, and investigation of visitation injunctions suggests, that this decree was a particularly difficult one to enforce.³³ Again, its inclusion in the *Tractatus* as a distinct point of fact reinforces the notion that Joannes, at least, considered it to be particularly relevant to the common practice of visitation. So, too, the idea that visitors should see that monks observe monastic law in their dress, that Benedictines wear garments of black and white and that all be duly corrected for donning exquisite ornamentation or engaging in excesses of any kind as prescribed in the Rule. Joannes mentions a number of specifics in this case (e.g. that visitors should ensure that monks do not have ornamented bridles for their horses nor fancy belts for themselves) that, again, suggest that he is writing in response to problems encountered regularly during visitations.³⁴

As to how visitors ought to correct errant religious (certainly a practical question to any visitor charged with correcting), Joannes also has something to say. He specifies

³²Ibid., 1.6.17-18. Joannes here is utilizing the twentieth canon issued by the Council of Vienne, which was designed to deal with complaints made by Cistercian houses against episcopal visitors. The canon states that visitors who come to a house seeking simple hospitality ought to be content with what they receive. Visitors who arrive demanding lawful procuration may request meat on days when it is allowed but ought to consume it outside of the regular door (“portam... quam regularem appellant”), or, at least, outside of the monastic enclosure.

³³Ibid., 1.6.19. According to Makowski, enforcement proved difficult for a number of reasons, one of which being that contact with the outside world had, previous to this issuance, been vital for the economic well being of female monastics in the same way that it continued to be for men.

³⁴Ibid., 1.6.40.

that correction and reform ought to be done with moderation and pity in mind. Indeed, monks found to be in violation of the Rule, he maintains, are first to be moved to reform through words. However, if this does not suffice to produce the desired change, beating is allowed. This punishment is to be administered by the abbot and with moderation, so that, whether done in private or in public, no blood is drawn.³⁵

The ninth *quaestio* of part one of the *Tractatus* is unquestionably linked to the common practice of visitation as it solely addresses the issue of procuration. Perhaps no issue caused so much conflict between visitors and the visited, for, as procuration affected the pocket books of both, theoretical guidelines often fell short of their desired purpose. One can see just from the extent to which Joannes addresses the issue that questions regarding this aspect of visitation remained varied and numerous even as the fifteenth century drew to a close. Additionally, the *Tractatus* as a source of information regarding the common practice of visitation is particularly important in this area, for conflicts regarding procuration, hospitality, retinue size, etc., are in no way discernable in bishops' injunctions. Certainly the extent to which these topics are addressed in papal decrees and council action dating from between the late twelfth and fourteenth centuries implies that they remained practically problematic, but it is the specificity of Joannes' treatment that confirms this idea. The *Tractatus* not only summarizes and cites legislation relevant to these issues, but it demonstrates how the law applied to actual cases involving visitation.

Early on, Joannes includes the guidelines first put forward in the Third Lateran Council regarding retinue size, which limited visiting archbishops to between forty and

³⁵Ibid., 1.6.36,29;1.10.66.

fifty horses, bishops to between twenty and thirty, cardinals to twenty-five, archdeacons to between five and seven, and deans to two. Perhaps he simply includes this list because it was the first one put forward by church authorities to guide retinue size and, obviously, remained authoritative even in the last quarter of the fifteenth century.³⁶ However, Joannes continues in this vein, suggesting that despite the existence of this seemingly unquestionable rule, conflicts regarding retinue size continued. One complaint clearly was that overly large retinues consumed too much food. Joannes reassures the visited that they are correct to refuse procuration to any parties bringing with them more horses than prescribed by canon law; and, if any visitors respond to such a challenge with the issuance of excommunication, such judgment are to be considered invalid.³⁷ This solution doubtlessly emerged in response to complaints issuing from visited religious houses or other institutions that saw themselves as powerless in the face of visiting authorities, regardless of the dictates of the law.

Joannes has more to say regarding the abuse of procuration by visitors. In order to guard against visitors traveling with more horses than needed, previously described limits notwithstanding, Joannes maintains that the maximum number of horses in a retinue ought not to exceed the number of people in the same group. Also, he asserts that if a visitor loses a horse while on route, once lost, he is no longer able to charge procuration from visited places for the needs of the horse, nor is able to demand procuration to cover expenses he incurred while traveling.³⁸ Procuration, as explained in

³⁶Ibid., 1.9.3.

³⁷Ibid., 1.9.5.

³⁸Ibid., 1.9.11, 16-17.

chapter one, was never regarded as payment or tribute, but rather seen as simple hospitality—food and shelter for the visitor and his party during their stay at a visited location. The fact that popes and church councils continued throughout the medieval period to restate this in the form of various legislation speaks to the fact that this idealized notion was regularly abused by visitors, bishops included. Joannes' specific examples demonstrate the means by which visitors sought to skirt church law by utilizing threats and subtleties.

Apart from retinue size, another aspect of procuration open to abuse by visitors involved the various means by which procuration could be offered. Ideally, procuration as room and board for the period in which the visitation took place was the norm. However, even when limited in this way, it is clear from the *Tractatus* that some visitors sought to abuse procuration in kind, whether, as described above, by attempting to exact hospitality for parties not present at the visitation, or by stretching the definition of hospitality to include questionable charges. The latter category is exemplified in Joannes' stipulation that the price of horseshoes could not be considered part of regular hospitality. Indeed, Joannes specifies what may be considered as hospitality—namely, food, drink, clothing, fodder, and other necessities of life. He also is careful to restate Boniface VIII's decree, which stated, regardless of the number of locations visited in a single day, only one procuration may be charged. Naturally, this would be the case if procuration equaled that which was necessary hospitality for one day; yet, it appears that this was not unquestionably accepted by visitors.³⁹

³⁹Ibid., 1.9.20, 30, 32-33; See Boniface VIII's decree, VI 3.20.2-3, 5.

Joannes addresses several other problematic aspects of visitation. Cooks accompanying visitors, he asserts, are not to attempt to exact anything from the visited. This seems a curious point, at first, but it actually echoes the twentieth canon of the Council of Vienne, as well as correspond with more general legislation issued by the Council of Albi in 1254.⁴⁰ Perhaps cooks, with their access to the bishop's own store of food and drink, were particularly prone to abusing their position to attempt to exact money or favors from the visited, whether in religious houses, or, more likely, among poorer citizens of visited parishes. The *Tractatus* also includes a discussion of *Vas electionis*, Benedict XII's guidelines governing the manner in which a visitor might receive procuration in money rather than in kind.⁴¹ The church's acceptance of procuration in coin certainly exposed the visited to more numerous and varied forms of extortion.

Another point on which Joannes concentrates suggests that abuses of procuration law were not made solely by visitors. In this case, Joannes asserts that archdeacons are entitled to two procurations if they visit a location once in their own right and once as a substitute for the diocesan bishop, in amounts corresponding with each position. Undoubtedly, any archdeacon attempting to do this met with resistance or at least resentment from the visited, and likely they were more than once challenged. Joannes' acceptance of their claims to two procurations appears peculiar in light of his seeming protection of the rights of the visited. It also illustrates, however, that he was not writing

⁴⁰Joannes Franciscus, 1.9.31. The Council of Albi (1254) decreed that those accompanying a visitor should neither demand nor receive anything from visited parties. The Council of Vienne complained that visitors' cooks demand and extort money by reason of their office, citing episcopal visitations to Cistercian houses as particularly problematic in this regard.

⁴¹Ibid., 1.9.35; Extrav. comm.. 3.10.1.

simply as a partisan proponent of the rights of the visited, but rather sought to address problems on both sides of the process of visitation. Indeed, he continues on to clarify the point that monasteries owe procuration for the visitation of properties and members situated outside of the main house.⁴² It seems that some houses attempted to avoid doing so when it suited them.

In the tenth *quaestio*, Joannes addresses some other abuses of visitation. He specifically notes a number of instances by which bishops abuse their powers of visitation. Likely in response to actual complaints from abused parties, Joannes produces the following guidelines: bishops ought not to seek to extort money from monasteries for the installation of abbots, nor for their consecration, benediction, or ordination. Similarly, bishops are not empowered to decline to bless elected and confirmed abbots. All visitors are again warned not to attempt to exact more than is due them in procuration or to oppress the visited in any way. Likewise, Joannes assures his readers that bishops have limited powers of dispensation and may not use their discretion under all circumstances. He includes as an example the fact that bishops are not empowered to make allowances for the existence of double monasteries, houses in which both male and female religious reside.⁴³ Joannes appears quite intentional in the inclusion of the above examples of episcopal abuse; doubtlessly this is because these were some of the means by which bishops most frequently overstepped their authority as ordinaries.

However, Joannes is careful to protect those powers which the bishop rightfully practices as a visitor. Joannes assures both visitors and the visited that the bishop

⁴²Joannes Franciscus, 1.9.23-24, 43.

⁴³Ibid., 1.10.6-9, 12-15, 65.

maintains the power to excommunicate, except in cases in which he is impeded from doing so by local custom or the order of a superior. Moreover, those who seek to impede a lawful visitation are deserving of such punishment. Joannes also reasserts the power of the bishop to offer dispensations for certain irregularities contrary to local custom, but only with significant cause.⁴⁴ The bishop's power to excommunicate was certainly his most potent weapon against those who sought to impede or otherwise interfere with his visitation. While Joannes allows that this weapon could be abused (as in the case of overly-large retinues), he obviously understands its necessity for the maintenance of order and regularity throughout a large and diverse diocese. Joannes assurances regarding the excommunication of those seeking to interfere with a bishop's duty as the visiting ordinary underscore the fact that visitors not infrequently met with such obstacles.

The first *questio* of the second part concerns the ceremony of visitation, along with other matters. First, Joannes describes the ceremonial arrival of the visitor, discussing his reception, procession, genuflection to the crucifix and relics, and his celebration of the mass. He also lists those things the bishop ought to do after arriving. He was, for example, to review the condition of church ornaments, inquire into the lives of church officials and the laity, investigate charges of adultery, fornication, fortune telling, and similar offenses against the church. Generally, he is to see to the spiritual well being of his subjects.⁴⁵ Of course, the inclusion of such material by Joannes says

⁴⁴Ibid., 1.10.55, 56, 59-64, 85.

⁴⁵Ibid., 2.1.1,5-10.

little in regard to how strictly such instructions were being followed; it is simply the natural place to begin such a discussion.

However, Joannes follows this with more specific and telling assertions. One, priests are not to attempt to walk or sit before the visiting bishop in procession. Such action on the part of locals must have been of some concern to their visiting superiors. Also, Joannes explicitly states that visiting bishops lacked the power to assemble a local synod without the permission of his metropolitan. When provincial synods were held, attending bishops are instructed to relate that which was concluded in the assemblage to their substitutes within six months of the date of meeting.⁴⁶

Joannes includes information in the third *questio* related to proper visitation procedure. Some of this apparently relates to conflicts between archbishops and bishops regarding appropriate behavior while on circuit through their provinces or dioceses, respectively. Apparently, although much of what Joannes subsequently explains is simply a restatement of canon law on the matter, questions concerning such matters continued to be asked into the late fifteenth century. Joannes explains that the visiting archbishop maintains certain privileges while traveling. He may carry the cross before him and offer benediction to the people of his province even in places exempt from his jurisdiction as metropolitan. He is granted the power to issue general letters of indulgence and remission in accordance with canon law; however, those acting as his substitutes in visitation do not retain this power. Likewise, visiting archbishops, according to Joannes, ought to hear the confessions of all the substitutes of his suffragans and issue penances accordingly. Concerning the bishop's rights, too, Joannes has

⁴⁶Ibid., 2.1.2, 25-26.

something to say. Like his superior, the bishop maintained the right to bless the people, even in the exempt places of his diocese; however, according to Joannes, the bishop may not assume to carry the cross before him, a privilege granted only to archbishops, papal legates, and patriarchs.⁴⁷

With the fourth *quaestio* of part two of the *Tractatus*, Joannes begins to deal with the inquisitory work of the visitor and the practical concerns of both the investigator and investigated. He begins with a discussion of the role of notaries in visitations.⁴⁸ Because of the considerable responsibility, and thereby power, wielded by these men, assuring appropriate behavior on their part was of justifiable concern to those whose fates flowed from their pens. Indeed, Joannes begins his discussion with a question properly on the minds of all the visited: are a visitor's notaries able to receive money? Joannes responds that, no, they are not, nor other officials traveling with a visitor. All such men are to be provided for with reasonable hospitality instead.⁴⁹ Just as a visitor's cook was prevented from attempting to exact payment from vulnerable people, notaries, who wielded considerably more responsibility for the outcome of a visitation, were neither to attempt to extort money from those parties to who they should be impartial nor to accept bribes from the same. No doubt, though, both were attempted.

There also appears to have been some question regarding who may serve as a notary. This would have been particularly relevant to religious houses, which had rules

⁴⁷Ibid., 2.3.1, 8-9, 10-11, 12. The Council of Vienne granted the right to visiting bishops and archbishops to bless the people in exempt locations with their jurisdictions.

⁴⁸Joannes uses the Latin *notarius* to describe those clerks who accompanied bishops and other visitors in their visitations and were duly charged with maintaining accurate written records of relevant events.

⁴⁹Joannes Franciscus, 2.4.1.

restricting the access of seculars. Accordingly, Joannes is explicit that the notaries of visitors should be churchmen and not laymen and that they should not be married. Also, no regular should serve as a notary, except in heresy inquisitions. Joannes continues on to explain that a monk should be considered “dead to the world” (“*monachus mundo mortuus dicitur*”), and that, therefore, he ought not to exercise an office that puts him in such close proximity with happenings in locations far removed from his house. The presence of notaries in female houses raised another issue. Not only did visitation expose female regulars to contact with seculars, but to secular *men*. This was apparently such an issue with religious women and their advocates that the Council of Vienne specified that visitors to such establishments must limit themselves to two notaries, two clerics, and four additional honorable men. Although these limits were set out in the early fourteenth century, Joannes is careful to include them here. Perhaps one reason being the inclusion of the last group, the “*quatuor aliis viris honestis, & maturis aetate,*” for Joannes adds that these men should specialize in the visitation of female monasteries.⁵⁰

In the above case it is difficult to tell how these men’s lack of experience with visitation manifested itself. In other instances, though, Joannes is quite explicit in dealing with objectionable behavior on the part of notaries. He explains, notaries are not to attempt to acquire church property from bishops, nor are they to attempt to sell their records or their own offices, such action being considered simony. Any notary found to be acting contrary to visitation law (“*videre visitantes perverse agree*”), according to Joannes, ought to be submitted by his superiors to public punishment.⁵¹

⁵⁰Ibid., 2.4.14, 16, 32.

⁵¹Ibid., 2.4.3-4, 19, 31.

In the fifth *quaestio*, Joannes discusses how visitors ought best to deal with those found to be in violation of church law during visitations. Much of the material Joannes includes involves bishops acting as judges in audience courts (*audientia episcopalis*), in which they heard cases involving the violation of canon law throughout their diocese.⁵² Scattered among these points, however, are some relating to the topic of the common practice of visitation of religious houses. For instance, Joannes assures his readers that visitors may call upon help from civil authorities if need be. He also asserts the right of the bishop to compel monks to reveal any property they are holding to their superiors. Bishops are also to remove quarrelling monks from their houses.⁵³

As to how visitors ought to act in their roles as judges (whether bishops over audience courts or any visitor inquiring into the goings-on of religious institution), Joannes has more to say. The proper behavior of the visitor as a judge was instrumental to the success of the visitation. Any abuse of his authority would call into question any rulings made or injunctions issued and be in complete opposition to the intended purpose of the visit. Joannes appears to understand the importance of having safeguards in place for all parties involved. When faced with accusations by one party against another in court, or when inquiring into the daily life of a religious house, the visitor, according to Joannes, should keep in mind the reputations of the accusers and disregard any knowledge obtained through evil means. Also, a visitor ought to consider void any actions taken or words spoken by witnesses out of fear, and, obviously, prefer the

⁵²See Chapter 2.

⁵³Joannes Franciscus, 2.5.10,13, 27.

testimony of two or three witnesses to that of one.⁵⁴ The understanding of such facts was certainly key to the practice of visitation and the legitimacy of injunctions.

Along with injunctions, Joannes Franciscus de Pavinis' *Tractatus visitationem episcoporum* is crucial to understanding how visitation legislation compared to actual practice. Prescriptive literature clearly demonstrates that visitors did overstep their authority and misuse their powers. Visitors abused their right to procuration. Bishops attempted to meddle with exempt houses. Visitors jockeyed amongst themselves for position. But *Joannes* demonstrates *how* this was done by citing particular cases and answering specific questions that legislation simply could not address. Rather than vague pronouncements, one finds in the *Tractatus* visitors attempting to charge procuration for lost horses, bishops demanding to be served meat at Cistercian houses, and archbishops and their suffragans quarreling over how a repeat visit may be carried out. Clearly, then, the *Tractatus* not only bolsters what the legislation demonstrates, but its nature as manual responsive to real world problems illustrates the common practice of visitation with a greater degree of clarity than canon law alone.

⁵⁴*Ibid.*, 2.5.27,53,57-58.

CONCLUSION

To what extent did bishops conduct their visits to religious houses in accordance with canon law? This question has guided this study in part and has dictated the sources on which it relies. Answering this question necessitates the consideration of prescriptive literature read with an understanding of the concerns of medieval lawmakers. But canon law alone is not enough. One must also come to some understanding of how episcopal visitation was actually carried out. This is a considerably more difficult task, but it is certainly not an impossible one. While the injunctions and other materials contained in bishops' registers speak loudest of those abuses discovered within religious houses, they are not silent about the behavior of the bishops as visitors. Likewise, the *Tractatus visitationem episcoporum* proves to be more than a mere restatement of canon law, providing details related specifically to visitation as it was actually carried out.

What, then, do these sources suggest? Basically, they attest to two points. One, the bishop fulfilled his role as visitor in the sense that when he came to a monastery as investigator and judge, he inquired into the conduct and well-being of its members, formed judgments based on this information, and then issued rulings in the form of injunctions, which spoke specifically to the concerns of the individual house.¹ The

¹Historians Thompson, Coulton, Knowles, and Powers are clearly correct in their opinion that injunctions are not examples of common form, but, despite what appearances might suggest, were rather issued as general guidelines addressing specific concerns. The nature of Bishop Alnwick's register, too, supports the argument of Cheney that subsequent to the issuance of legislation in the first half of the thirteenth century, the situation in England involving episcopal visitation improved considerably.

reason one does not find in the prescriptive literature decrees instructing bishops to more faithfully render their judgments or to refrain from abusing regulars while conducting inquiries is not because church authorities held injunctions in contempt, but rather because they understood that such directives were not required. Indeed, the evidence one does find in both the legislation and in the *Tractatus* concerning abuses endemic among regulars (e.g. the keeping of dogs, the failure to render accounts, the violation of enclosure) demonstrates that it was the bishops who were charged with guarding against such practices. If bishops made ineffective reformers, issuing capricious or abusive injunctions, the authorities of the church certainly would not have granted them such responsibility.

However, prescriptive literature and the *Tractatus* also suggest something else. If episcopal visitation had been a perfect mechanism for maintaining order within the diocese, nowhere near the volume of legislation issued in the later Middle Ages would have been necessary. If bishops did not regularly abuse their roles as judges, what explains the concern of legislators? This relates to two other questions from Chapter 1. Did bishops abuse their powers as visitors, and were certain aspects of visitation more prone to abuse than others? The answer to both of these is “yes.” Bishops did violate canon law regarding visitation. No other scenario can explain the volume and nature of visitation legislation. Moreover, they violated the law in predictable ways. Generally, bishops may have made reliable judges of spiritual and moral conduct, but they also interacted with the religious houses of their diocese in much more earthly ways. Legislation demonstrates that church authorities had to intervene throughout the period in attempts to protect regulars from unlawful or excessive demands for procuration. The

Tractatus illustrates in more detail how such demands were made. The same is true of legislation issued to maintain the exempt status of certain orders and to govern the competing interests of the various visiting parties.²

Why, then, did some bishops abuse their rights to procuration, attempt to circumvent claims of exemption, and engage in squabbles with fellow visitors? How can such behavior be squared with the fact that bishops largely fulfilled their roles as inquisitors and judges? The answer involves motivations that are often not apparently expressed in the sources. Bishops largely made good judges because it was in their interest to do so. A bishop would not benefit in any way from having disorderly and troublesome monasteries in his diocese. The bishop had the authority to direct the conduct of non-exempt regulars and the evidence indicates that he jealously guarded it. By acting in this way, the bishop not only served as the conduit through which his superiors, including, ultimately, the pope, demonstrated their power of supervision and control, but he served his own interests as well. Indeed, legislation demonstrates that bishops regularly sought, through both legal and extralegal channels, to increase their supervisory powers. Of course, this is not to say that those bishops who attempted to visit exempt houses or who opposed the intrusion of their metropolitans acted solely out of concern for their flock. Other considerations certainly entered into these situations; but, nevertheless, even those bishops who acted with less than blameless designs acted in ways that increased their responsibilities and committed them to a task of visitation that, though necessary, could be both frustrating and thankless.

²The *DDC* makes the case well that abuses of the rights of procuration and of exemption severely weakened the effectiveness of episcopal visitation as a reforming force. As for the latter, however, the *DDC* appears to consider the excessive issuance of exemptions as more damaging than the bishops' abuse of such claims.

Acknowledging bishops' motivations, too, is crucial to understanding why certain aspects of visitation met with such abuse. Pride certainly played a role. As Thompson explained of Bishop Alnwick, bishops resented the presence of "ecclesiastical republics" in their dioceses. Bishops naturally did not support the idea that religious orders could request and receive papal exemptions to diocesan control. Likewise, they did not want to have their authority challenged by either their archbishops, who attempted to visit as metropolitans, or by religious visitors, sent by an order's authorities to inquire into the situations of its houses. While most bishops either shrugged their shoulders in acquiescence or else fumed silently, a significant enough number chose to act their frustrations that legislation was deemed the necessary response. A prideful bishop, too, would have wanted to have the largest and most imposing escort possible despite the restrictions the church set out. Again, while most bishops accepted the appropriate retinue limits, the prescriptive literature and the *Tractatus* clearly indicate that others, motivated by pride and/or a desire for comfort and security in numbers, sought to circumvent them.

No aspect of visitation, however, claimed as much attention in canon law as procuration, and the motivation for abuse here is not difficult to appreciate. Although the church stated time and time again that procuration equaled hospitality and included nothing more, lawmakers clearly understood how susceptible such a system was to abuse. Whether in chickens, horseshoes, or coins, bishops were paid to visit. If they could increase the amounts owed them or charge more procuration than they were due, they profited. Obviously, the temptation to behave inappropriately was too much for some visitors to resist, and, consequently, they demanded food for horses that did not exist and

allowed their cooks to wheedle what they could out of the naïve or frightened. And the church responded to such actions with more laws, at first attempting to reinforce the rules by simply repeating them, later threatening punishments, and finally, with Boniface VIII's decree (1298), by meeting the abusers half way.

How, then, did bishops' conduct in the visitation of religious houses correspond to prescribed procedure? Those aspects of visitation procedure that allowed the bishop to act as inquisitor and judge and to maintain order in his diocese experienced little abuse. Those that threatened the bishops' sense of pride and authority as the ordinary of his diocese or involved his pocket book witnessed considerably more. Of course, all bishops were not impartial judges, nor were they all prideful thieves. Medievalists rarely have the luxury of statistics to assert numbers with confidence, and such is the case with this study. It is impossible to know the percentage of bishops who demanded meat from Cistercian houses or attempted travel with a retinue of thirty-one horses. Nevertheless, the sources have something to say, and the truth they offer is clear.

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