

0325-0325 – Concilium Nicaenum I – The Canons

The Canons of the 318 Holy Fathers Assembled in the City of Nice, in Bithynia

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particular, Ptol. *Ep. ad. Flor.* 4 (in Stieren's Irenæus, p. 935); Basilides, Hippol. *Hær.* vii. 22; Carpocrates, Hippol. *Hær.* vii. 32.

From the above passages it will appear that Ante-Nicene writers were not indifferent to the distinction of meaning between the two words; and when once the orthodox Christology was formulated in the Nicene Creed in the words γεννηθέντα οὐ ποιηθέντα, it became henceforth impossible to overlook the difference. The Son was thus declared to be γεννητός but not γενητός. I am therefore unable to agree with Zahn (*Marcellus*, pp. 40, 104, 223, *Ign. von Ant.* p. 565), that at the time of the Arian controversy the disputants were not alive to the difference of meaning. See for example Epiphanius, *Hær.* lxiv. 8. But it had no especial interest for them. While the orthodox party clung to the *homousios* as enshrining the doctrine for which they fought, they had no liking for the terms ἀγέννητος and γεννητός as applied to the Father and the Son respectively, though unable to deny their propriety, because they were affected by the Arians and applied in their own way. To the orthodox mind the Arian formula οὐκ ἦν πρὶν γεννηθῆναι or some Semiarian formula hardly less dangerous, seemed always to be lurking under the expression Θεὸς γεννητός as applied to the Son. Hence the language of Epiphanius *Hær.* lxxiii. 19: "As you refuse to accept our *homousios* because though used by the fathers, it does not occur in the Scriptures, so will we decline on the same grounds to accept your ἀγέννητος." Similarly Basil *c. Eunom.* i., iv., and especially *ib.* further on, in which last passage he argues at great length against the position of the heretics, εἰ ἀγέννητος, φασὶν, ὁ πατήρ, γεννητός δὲ ὁ υἱός, οὐ τῆς αὐτῆς οὐσίας. See also the arguments against the Anomœans in [Athan.] *Dial. de Trin.* ii. passim. This fully explains the reluctance of the orthodox party to handle terms which their adversaries used to endanger the *homousios*. But, when the stress of the Arian controversy was removed, it became convenient to express the Catholic doctrine by saying that the Son in his divine nature was γεννητός but not γένητος. And this distinction is staunchly maintained in later orthodox writers, *e.g.* John of Damascus, already quoted in the beginning of this Excursus.



The Canons of the 318 Holy Fathers Assembled in the City of Nice, in Bithynia.

Canon I.

IF any one in sickness has been subjected by physicians to a surgical operation, or if he has been castrated by barbarians, let him remain among the clergy; but, if any one in sound health has castrated himself, it behoves that such an one, if [already] enrolled among the clergy, should cease [from his ministry], and that from henceforth no such person should be promoted. But, as it is evident that this is said of those who wilfully do the thing and presume to castrate themselves, so

if any have been made eunuchs by barbarians, or by their masters, and should otherwise be found worthy, such men the Canon admits to the clergy.

Notes.

Ancient Epitome⁵⁷ of Canon I.

Eunuchs may be received into the number of the clergy, but those who castrate themselves shall not be received.

BALSAMON.

The divine Apostolic Canons xxi., xxii., xxiii., and xxiv., have taught us sufficiently what ought to be done with those who castrate themselves, this canon provides as to what is to be done to these as well as to those who deliver themselves over to others to be emasculated by them, viz., that they are not to be admitted among the clergy nor advanced to the priesthood.

DANIEL BUTLER.

(Smith & Cheetham, *Dict. Christ. Ant.*)

The feeling that one devoted to the sacred ministry should be un mutilated was strong in the Ancient Church... This canon of Nice, and those in the Apostolic Canons and a later one in the Second Council of Arles (canon vii.) were aimed against that perverted notion of piety, originating in the misinterpretation of our Lord's saying (Matt. xix. 12) by which Origen, among others, was misled, and their observance was so carefully enforced in later times that not more than one or two instances of the practice which they condemn are noticed by the historian. The case was different if a man was born an eunuch or had suffered mutilation at the hands of persecutors; an instance of the former, Dorotheus, presbyter of Antioch, is mentioned by Eusebius (*H. E.* vii., c. 32); of the latter, Tigris, presbyter of Constantinople, is referred to both by Socrates (*H. E.* vi. 15) and Sozomen (*H. E.* vi. 24) as the victim of a barbarian master.

HEFELE.

We know, by the first apology of St. Justin (*Apol.* c. 29) that a century before Origen, a young man had desired to be mutilated by physicians, for the purpose of completely refuting the charge of vice which the heathen brought against the worship of Christians. St. Justin neither praises nor blames this young man: he only relates that he could not obtain the permission of the civil authorities for his project, that he renounced his intention, but nevertheless remained *virgo* all his life. It is

⁵⁷ For the authority of this epitome *vide* Introduction.

very probable that the Council of Nice was induced by some fresh similar cases to renew the old injunctions; it was perhaps the Arian bishop, Leontius, who was the principal cause of it.⁵⁸

LAMBERT.

Constantine forbade by a law the practice condemned in this canon. “If anyone shall anywhere in the Roman Empire after this decree make eunuchs, he shall be punished with death. If the owner of the place where the deed was perpetrated was aware of it and hid the fact, his goods shall be confiscated.” (Const. M. *Opera*. Migne Patrol. vol. viii., 396.)

BEVERIDGE.

The Nicene fathers in this canon make no new enactment but only confirm by the authority of an Ecumenical synod the Apostolic Canons, and this is evident from the wording of this canon. For there can be no doubt that they had in mind some earlier canon when they said, “such men the canon admits to the clergy.” Not, οὗτος ὁ κανὼν, but ὁ κανὼν, as if they had said “the formerly set forth and well-known canon” admits such to the clergy. But no other canon then existed in which this provision occurred except apostolical canon xxi. which therefore we are of opinion is here cited.



[In this conclusion Hefele also agrees.]

This law was frequently enacted by subsequent synods and is inserted in the *Corpus Juris Canonici, Decretum Gratiani*. Pars. I. Distinctio LV., C vij.

Excursus on the Use of the Word “Canon.”

(Bright: *Notes on the Canons*, pp. 2 and 3.)

Κανὼν, as an ecclesiastical term, has a very interesting history. See Westcott’s account of it, *On the New Testament Canon*, p. 498 ff. The original sense, “a straight rod” or “line,” determines all its religious applications, which begin with St. Paul’s use of it for a prescribed sphere of apostolic work (2 Cor. x. 13, 15), or a regulative principle of Christian life (Gal. vi. 16). It represents the element of definiteness in Christianity and in the order of the Christian Church. Clement of Rome uses it for the measure of Christian attainment (Ep. Cor. 7). Irenæus calls the baptismal creed “the canon of truth” (i. 9, 4): Polycrates (Euseb. v. 24) and probably Hippolytus (ib. v. 28) calls it “the

⁵⁸ Leontius while still a presbyter lived with a *subintroducta* at Antioch, whose name was Eustolion, so we learn from St. Athanasius, Theodoret (*H. E.* ii. 24) and Socrates (*H. E.* ii. 26); as he could not part from her and wished to prevent her leaving him, he mutilated himself. His bishop deposed him for this act, but the Emperor Constantius (not Constantine, as by a mistake in the English Hefele, I. p. 377) practically forced him into the episcopal throne of Antioch.

canon of faith;" the Council of Antioch in A.D. 269, referring to the same standard of orthodox belief, speaks with significant absoluteness of "the canon" (*ib.* vii. 30). Eusebius himself mentions "the canon of truth" in iv. 23, and "the canon of the preaching" in iii. 32; and so Basil speaks of "the transmitted canon of true religion" (*Epist.* 204–6). Such language, like Tertullian's "regula fidei," amounted to saying, "We Christians know what we believe: it is not a vague 'idea' without substance or outline: it can be put into form, and by it we 'test the spirits whether they be of God.'" Thus it was natural for Socrates to call the Nicene Creed itself a "canon," ii. 27. Clement of Alexandria uses the phrase "canon of truth" for a standard of mystic interpretation, but proceeds to call the harmony between the two Testaments "a canon for the Church," *Strom.* vi. 15, 124, 125. Eusebius speaks of "the ecclesiastical canon" which recognized no other Gospels than the four (*vi.* 25). The use of the term and its cognates in reference to the Scriptures is explained by Westcott in a passive sense so that "canonized" books, as Athanasius calls them (*Fest. Ep.* 39), are books expressly recognized by the Church as portions of Holy Scripture. Again, as to matters of observance, Clement of Alexandria wrote a book against Judaizers, called "The Churches Canon" (*Euseb.* vi. 13); and Cornelius of Rome, in his letter to Fabius, speaks of the "canon" as to what we call confirmation (*Euseb.* vi. 43), and Dionysius of the "canon" as to reception of converts from heresy (*ib.* vii. 7). The Nicene Council in this canon refers to a standing "canon" of discipline (*comp. Nic.* 2, 5, 6, 9, 10, 15, 16, 18), but it does not apply the term to its own enactments, which are so described in the second canon of Constantinople (see below), and of which Socrates says "that it passed what are usually called 'canons'" (*i.* 13); as Julius of Rome calls a decree of this Council a "canon" (*Athan. Apol. c. Ari.* 25); so Athanasius applies the term generally to Church laws (*Encycl.* 2; *cp. Apol. c. Ari.* 69). The use of *κανών* for the clerical body (*Nic.* 16, 17, 19; *Chalc.* 2) is explained by Westcott with reference to the rule of clerical life, but Bingham traces it to the roll or official list on which the names of clerics were enrolled (*i.* 5, 10); and this appears to be the more natural derivation, see "the holy canon" in the first canon of the Council of Antioch, and compare Socrates (*i.* 17), "the Virgins enumerated ἐν τῷ τῶν ἐκκλησιῶν κανόνι," and (*ib.* v. 19) on the addition of a penitentiary "to the canon of the church;" see also George of Laodicea in *Sozomon*, iv. 13. Hence any cleric might be called *κανονικός*, see Cyril of Jerusalem, *Procatech.* 4; so we read of "canonical singers." Laodicea, canon xv. The same notion of definiteness appears in the ritual use of the word for a series of nine "odes" in the Eastern Church service (Neale, *Introd. East. Ch.* ii. 832), for the central and unvarying element in the Liturgy, beginning after the Tersanctus (Hammond, *Liturgies East and West*, p. 377); or for any Church office (Ducange in v.); also in its application to a table for the calculation of Easter (*Euseb.* vi. 29; vii. 32); to a scheme for exhibiting the common and peculiar parts of the several Gospels (as the "Eusebian canons") and to a prescribed or ordinary payment to a church, a use which grew out of one found in Athanasius' *Apol. c. Ari.* 60.

In more recent times a tendency has appeared to restrict the term Canon to matters of discipline, but the Council of Treat continued the ancient use of the word, calling its doctrinal and disciplinary determinations alike “Canons.”

Canon II.

FORASMUCH as, either from necessity, or through the urgency of individuals, many things have been done contrary to the Ecclesiastical canon, so that men just converted from heathenism to the faith, and who have been instructed but a little while, are straightway brought to the spiritual laver, and as soon as they have been baptized, are advanced to the episcopate or the presbyterate, it has seemed right to us that for the time to come no such thing shall be done. For to the catechumen himself there is need of time and of a longer trial after baptism. For the apostolical saying is clear, “Not a novice; lest, being lifted up with pride, he fall into condemnation and the snare of the devil.” But if, as time goes on, any sensual sin should be found out about the person, and he should be convicted by two or three witnesses, let him cease from the clerical office. And whoso shall transgress these [enactments] will imperil his own clerical position, as a person who presumes to disobey the great Synod.

Notes.

ANCIENT EPITOME OF CANON II.

Those who have come from the heathen shall not be immediately advanced to the presbyterate. For without a probation of some time a neophyte is of no advantage (κακός). But if after ordination it be found out that he had sinned previously, let him then be expelled from the clergy.

HEFELE.

It may be seen by the very text of this canon, that it was already forbidden to baptize, and to raise to the episcopate or to the priesthood anyone who had only been a catechumen for a short time: this injunction is in fact contained in the eightieth (seventy-ninth) apostolical canon; and according to that, it would be older than the Council of Nicæa. There have been, nevertheless, certain cases in which, for urgent reasons, an exception has been made to the rule of the Council of Nicæa—for instance, that of S. Ambrose. The canon of Nicæa does not seem to allow such an exception, but it might be justified by the apostolical canon, which says, at the close: “It is not right that any one who has not yet been proved should be a teacher of others, unless by a peculiar divine grace.” The expression of the canon of Nicæa, ψυχικὸν τι ἁμάρτημα, is not easy to explain: some render it by the Latin words *animale peccatam*, believing that the Council has here especially in view sins of the flesh; but as Zonaras has said, all sins are ψυχικὰ ἁμαρτήματα. We must then

understand the passage in question to refer to a capital and very serious offence, as the penalty of deposition annexed to it points out.

These words have also given offence, εἰ δὲ προΐόντος τοῦ χρόνον; that is to say, “It is necessary henceforward,” etc., understanding that it is only those who have been too quickly ordained who are threatened with deposition in case they are guilty of crime; but the canon is framed, and ought to be understood, in a general manner: it applies to all other clergymen, but it appears also to point out that greater severity should be shown toward those who have been too quickly ordained.

Others have explained the passage in this manner: “If it shall become known that any one who has been too quickly ordained was guilty before his baptism of any serious offence, he ought to be deposed.” This is the interpretation given by Gratian, but it must be confessed that such a translation does violence to the text. This is, I believe, the general sense of the canon, and of this passage in particular: “Henceforward no one shall be baptized or ordained quickly. As to those already in orders (without any distinction between those who have been ordained in due course and those who have been ordained too quickly), the rule is that they shall be deposed if they commit a serious offence. Those who are guilty of disobedience to this great Synod, either by allowing themselves to be ordained or even by ordaining others prematurely, are threatened with deposition *ipso facto*, and for this fault alone.” We consider, in short, that the last words of the canon may be understood as well of the ordained as of the ordainer.

Canon III.

THE great Synod has stringently forbidden any bishop, presbyter, deacon, or any one of the clergy whatever, to have a *subintroducta* dwelling with him, except only a mother, or sister, or aunt, or such persons only as are beyond all suspicion.

Notes.

ANCIENT EPITOME OF CANON III.

No one shall have a woman in his house except his mother, and sister, and persons altogether beyond suspicion.

JUSTELLUS.

Who these mulieres subintroductæ were does not sufficiently appear...but they were neither wives nor concubines, but women of some third kind, which the clergy kept with them, not for the sake of offspring or lust, but from the desire, or certainly under the pretence, of piety.

JOHNSON.

For want of a proper English word to render it by, I translate “to retain any woman in their houses under pretence of her being a disciple to them.”

VAN ESPEN.

Translates: And his sisters and aunts cannot remain unless they be free from all suspicion.

Fuchs in his *Bibliothek der kirchenver sammlungen* confesses that this canon shews that the practice of clerical celibacy had already spread widely. In connexion with this whole subject of the subintroductæ the text of St. Paul should be carefully considered. 1 Cor. ix. 5.

HEFELE.

It is very certain that the canon of Nice forbids such spiritual unions, but the context shows moreover that the Fathers had not these particular cases in view alone; and the expression *συνείσακτος* should be understood of every woman who is *introduced* (*συνείσακτος*) into the house of a clergyman for the purpose of living there. If by the word *συνείσακτος* was only intended the wife in this spiritual marriage, the Council would not have said, any *συνείσακτος*, except his mother, etc.; for neither his mother nor his sister could have formed this spiritual union with the cleric. The injunction, then, does not merely forbid the *συνείσακτος* in the specific sense, but orders that “no woman must live in the house of a cleric, unless she be his mother,” etc.

This canon is found in the *Corpus Juris Canonici*, Gratian’s *Decretum*, Pars I., Distinc. XXXII., C. xvj.

Canon IV.

It is by all means proper that a bishop should be appointed by all the bishops in the province; but should this be difficult, either on account of urgent necessity or because of distance, three at least should meet together, and the suffrages of the absent [bishops] also being given and communicated in writing, then the ordination should take place. But in every province the ratification of what is done should be left to the Metropolitan.

Notes.

ANCIENT EPITOME OF CANON IV.

A bishop is to be chosen by all the bishops of the province, or at least by three, the rest giving by letter their assent; but this choice must be confirmed by the Metropolitan.

ZONARAS.



The present Canon might seem to be opposed to the first canon of the Holy Apostles, for the latter enjoins that a bishop ordained by two or three bishops, but this by three, the absent also agreeing and testifying their assent by writing. But they are not contradictory; for the Apostolical canon by ordination (χειροτονίαν) means consecration and imposition of hands, but the present canon by constitution (κατάστασιν) and ordination means the election, and enjoins that the election of a bishop do not take place unless three assemble, having the consent also of the absent by letter, or a declaration that they also will acquiesce in the election (or vote, ψήφω) made by the three who have assembled. But after the election it gives the ratification or completion of the matter—the imposition of hands and consecration—to the metropolitan of the province, so that the election is to be ratified by him. He does so when with two or three bishops, according to the apostolical canon, he consecrates with imposition of hands the one of the elected persons whom he himself selects.

BALSAMON.

Also understands καθίστασθαι to mean election by vote.

BRIGHT.

The Greek canonists are certainly in error when they interpret χειροτονία of election. The canon is akin to the 1st Apostolic canon which, as the canonists admit, must refer to the consecration of a new bishop, and it was cited in that sense at the Council of Chalcedon—Session xiii. (Mansi., vii. 307). We must follow Rufinus and the old Latin translators, who speak of “ordinari,” “ordinatio” and “manus impositionem.”

HEFELE.

The Council of Nice thought it necessary to define by precise rules the duties of the bishops who took part in these episcopal elections. It decided (*a*) that a single bishop of the province was not sufficient for the appointment of another; (*b*) three at least should meet, and (*c*) they were not to proceed to election without the written permission of the absent bishops; it was necessary (*d*) to obtain afterward the approval of the metropolitan. The Council thus confirms the ordinary metropolitan division in its two most important points, namely, the nomination and ordination of bishops, and the superior position of the metropolitan. The third point connected with this division—namely, the provincial synod—will be considered under the next canon.

Meletius was probably the occasion of this canon. It may be remembered that he had nominated bishops without the concurrence of the other bishops of the province, and without the approval of the metropolitan of Alexandria, and had thus occasioned a schism. This canon was intended to prevent the recurrence of such abuses. The question has been raised as to whether the fourth canon speaks only of the choice of the bishop, or whether it also treats of the consecration of the newly elected. We think, with Van Espen, that it treats equally of both,—as well of the part which the

bishops of the province should take in an episcopal election, as of the consecration which completes it.

This canon has been interpreted in two ways. The Greeks had learnt by bitter experience to distrust the interference of princes and earthly potentates in episcopal elections. Accordingly, they tried to prove that this canon of Nice took away from the people the right of voting at the nomination of a bishop, and confined the nomination exclusively to the bishops of the province.

The Greek Commentators, Balsamon and others, therefore, only followed the example of the Seventh and [so-called] Eighth Œcumenical Councils in affirming that this fourth canon of Nice takes away from the people the right previously possessed of voting in the choice of bishops and makes the election depend entirely on the decision of the bishops of the province.

The Latin Church acted otherwise. It is true that with it also the people have been removed from episcopal elections, but this did not happen till later, about the eleventh century; and it was not the people only who were removed, but the bishops of the province as well, and the election was conducted entirely by the clergy of the Cathedral Church. The Latins then interpreted the canon of Nice as though it said nothing of the rights of the bishops of the province in the *election* of their future colleague (and it does not speak of it in a very explicit manner), and as though it determined these two points only; (*a*) that for the *ordination* of a bishop three bishops at least are necessary; (*b*) that the right of *confirmation* rests with the metropolitan.

The whole subject of episcopal elections is treated fully by Van Espen and by Thomassin, in *Ancienne et Nouvelle Discipline de l' Église*, P. II. 1. 2.

This canon is found in the *Corpus Juris Canonici*, Gratian's *Decretum*, Pars I. Dist. LXIV. c. j.



Canon V.

CONCERNING those, whether of the clergy or of the laity, who have been excommunicated in the several provinces, let the provision of the canon be observed by the bishops which provides that persons cast out by some be not readmitted by others. Nevertheless, inquiry should be made whether they have been excommunicated through captiousness, or contentiousness, or any such like ungracious disposition in the bishop. And, that this matter may have due investigation, it is decreed that in every province synods shall be held twice a year, in order that when all the bishops of the province are assembled together, such questions may by them be thoroughly examined, that so those who have confessedly offended against their bishop, may be seen by all to be for just cause excommunicated, until it shall seem fit to a general meeting of the bishops to pronounce a milder sentence upon them. And let these synods be held, the one before Lent, (that the pure Gift may be offered to God after all bitterness has been put away), and let the second be held about autumn.

Notes.

ANCIENT EPITOME OF CANON V.

Such as have been excommunicated by certain bishops shall not be restored by others, unless the excommunication was the result of pusillanimity, or strife, or some other similar cause. And that this may be duly attended to, there shall be in each year two synods in every province—the one before Lent, the other toward autumn.

There has always been found the greatest difficulty in securing the regular meetings of provincial and diocesan synods, and despite the very explicit canonical legislation upon the subject, and the severe penalties attached to those not answering the summons, in large parts of the Church for centuries these councils have been of the rarest occurrence. Zonaras complains that in his time “these synods were everywhere treated with great contempt,” and that they had actually ceased to be held.

Possibly the opinion of St. Gregory Nazianzen had grown common, for it will be remembered that in refusing to go to the latter sessions of the Second Ecumenical he wrote, “I am resolved to avoid every meeting of bishops, for I have never seen any synod end well, nor assuage rather than aggravate disorders.”⁵⁹

HEFELE.

Gelasius has given in his history of the Council of Nice, the text of the canons passed by the Council; and it must be noticed that there is here a slight difference between his text and ours. Our reading is as follows: “The excommunication continues to be in force until it seem good to the assembly of bishops (τῶ κοινῶ) to soften it.” Gelasius, on the other hand, writes: μέχρις ἂν τῶ κοινῶ ἢ τῶ ἐπισκόπῳ, κ.τ.λ., that is to say, “until it seem good to the assembly of bishops, *or to the bishop* (who has passed the sentence),” etc.... Dionysius the Less has also followed this variation, as his translation of the canon shows. It does not change the essential meaning of the passage; for it may be well understood that the bishop who has passed the sentence of excommunication has also the right to mitigate it. But the variation adopted by the *Prisca* alters, on the contrary, the whole sense of the canon: the *Prisca* has not τῶ κοινῶ, but only ἐπισκόπῳ: it is in this erroneous form that the canon has passed into the *Corpus juris canon.*

This canon is found in the *Corpus Juris Canonici*, Gratian’s *Decretum*, Pars II., Causa XI, Quæst. III., Canon lxxiiij., and the latter part in Pars I., Distinc. XVIII., c. iij.

⁵⁹ Greg. Naz. *Ep. ad Procop.*, Migne, *Pat. Græc.*, No. cxxx.

Excursus on the Word προσφέρειν .

(Dr. Adolph Harnack: *Hist. of Dogma* [Eng. Tr.] Vol. I. p. 209.)

The idea of the whole transaction of the Supper as a sacrifice, is plainly found in the *Didache*, (c. 14), in Ignatius, and above all, in Justin (I. 65f.) But even Clement of Rome presupposes it, when (in cc. 40–44) he draws a parallel between bishops and deacons and the Priests and Levites of the Old Testament, describing as the chief function of the former (44.4) προσφέρειν τὰ δῶρα. This is not the place to enquire whether the first celebration had, in the mind of its founder, the character of a sacrificial meal; but, certainly, the idea, as it was already developed at the time of Justin, had been created by the churches. Various reasons tended towards seeing in the Supper a sacrifice. In the first place, Malachi i. 11, demanded a solemn Christian sacrifice: see my notes on *Didache*, 14.3. In the second place, all prayers were regarded as a sacrifice, and therefore the solemn prayers at the Supper must be specially considered as such. In the third place, the words of institution τοῦτο ποιεῖτε, contained a command with regard to a definite religious action. Such an action, however, could only be represented as a sacrifice, and this the more, that the Gentile Christians might suppose that they had to understand ποιεῖν in the sense of θύειν. In the fourth place, payments in kind were necessary for the “*agapæ*” connected with the Supper, out of which were taken the bread and wine for the Holy celebration; in what other aspect could these offerings in the worship be regarded than as προσφοραί for the purpose of a sacrifice? Yet the spiritual idea so prevailed that only the prayers were regarded as the θυσία proper, even in the case of Justin (*Dial.* 117). The elements are only δῶρα, προσφοραί, which obtain their value from the prayers, in which thanks are given for the gifts of creation and redemption, as well as for the holy meal, and entreaty is made for the introduction of the community into the Kingdom of God (see *Didache*, 9. 10). Therefore, even the sacred meal itself is called εὐχαριστία (Justin, *Apol.* I. 66: ἡ τροφή αὕτη καλεῖται παρ’ ἡμῖν εὐχαριστία . *Didache*, 9. 1: Ignat.), because it is τραφή εὐχαριστηθεῖσα. It is a mistake to suppose that Justin already understood the body of Christ to be the object of ποιεῖν,⁶⁰ and therefore thought of a sacrifice of this body (I. 66). The real sacrificial act in the Supper consists rather, according to Justin, only in the εὐχαριστίαν ποιεῖν whereby the κοινὸς ἄρτος becomes the ἄρτος τῆς εὐχαριστίας.⁶¹ The sacrifice of the Supper in its essence, apart from the offering of alms,

⁶⁰ Harnack seems to know only the printed (and almost certainly incorrect) reading of the modern texts of the I. Apology (Chapter LXVI) where τοῦτο ἐστὶ has taken the place of τούτεστι. The passage did read, τοῦτο ποιεῖτε, εἰς τὴν ἀνάμνησίν μου, τούτεστι τὸ σῶμά μου; in which it is evident that the words “my body” are in apposition with τοῦτο and the object of ποιεῖτε, which has its sacrificial sense “to offer,” as in the Dialogue with Trypho, ὁ κύριος ἡμῶν παρέδωκε ποιεῖν (chapter xlj).

⁶¹ Harnack evidently does not fully appreciate the Catholic doctrine of the Sacrifice in the Holy Eucharist. No catholic theologian teaches that the essence of that sacrifice is to offer up the already present Body of Christ, but that the essence of the Sacrifice is the act of consecration; the “making the Eucharistic Sacrifice,” as he accurately says, “whereby the common bread

which in the practice of the Church was closely united with it, is nothing but a sacrifice of prayer: the sacrificial act of the Christian here also is nothing else than an act of prayer (See *Apol.* I. 14, 65–67; *Dial.* 28, 29, 41, 70, 116–118).

Harnack (*lib. cit.* Vol. II. chapter III. p. 136) says that “Cyprian was the first to associate the specific offering, i.e. the Lord’s Supper with the specific priesthood. Secondly, he was the first to designate the *passio Domini*, nay, the *sanguis Christi* and the *dominica hostia* as the object of the eucharistic offering.” In a foot-note (on the same page) he explains that “*Sacrificare, Sacrificium celebrare* in all passages where they are unaccompanied by any qualifying words, mean to celebrate the Lord’s Supper.” But Harnack is confronted by the very evident objection that if this was an invention of St. Cyprian’s, it is most extraordinary that it raised no protest, and he very frankly confesses (note 2, on same page) that “the transference of the sacrificial idea to the consecrated elements which in all probability Cyprian already found in existence, etc.” Harnack further on (in the same note on p. 137) notes that he has pointed out in his notes on the *Didache* that in the “Apostolic Church Order” occurs the expression ἡ προσφορὰ τοῦ σώματος καὶ τοῦ αἵματος.



Canon VI.

LET the ancient customs in Egypt, Libya and Pentapolis prevail, that the Bishop of Alexandria have jurisdiction in all these, since the like is customary for the Bishop of Rome also. Likewise in Antioch and the other provinces, let the Churches retain their privileges. And this is to be universally understood, that if any one be made bishop without the consent of the Metropolitan, the great Synod has declared that such a man ought not to be a bishop. If, however, two or three bishops shall from natural love of contradiction, oppose the common suffrage of the rest, it being reasonable and in accordance with the ecclesiastical law, then let the choice of the majority prevail.

Notes.

ANCIENT EPITOME OF CANON VI.

The Bishop of Alexandria shall have jurisdiction over Egypt, Libya, and Pentapolis. As also the Roman bishop over those subject to Rome. So, too, the Bishop of Antioch and the rest over those who are under them. If any be a bishop contrary to the judgment of the Metropolitan, let him

becomes the Bread of the Eucharist.” Harnack says truly that “the sacrificial act of the Christian here also is nothing else than an act of prayer,” but he does not seem to know that this is the Catholic doctrine to-day, nor to appreciate at its Catholic value the “Prayer of Consecration.” The act of consecration is the essence of the Christian Sacrifice according to the teaching of all Catholics.

be no bishop. Provided it be in accordance with the canons by the suffrage of the majority, if three object, their objection shall be of no force.

Many, probably most, commentators have considered this the most important and most interesting of all the Nicene canons, and a whole library of works has been written upon it, some of the works asserting and some denying what are commonly called the Papal claims. If any one wishes to see a list of the most famous of these works he will find it in Phillips's *Kirchenrecht* (Bd. ii. S. 35). I shall reserve what I have to say upon this subject to the notes on a canon which seems really to deal with it, confining myself here to an elucidation of the words found in the canon before us.

HAMMOND, W. A.

The object and intention of this canon seems clearly to have been, not to introduce any new powers or regulations into the Church, but to confirm and establish ancient customs already existing. This, indeed, is evident from the very first words of it: "Let the ancient customs be maintained." It appears to have been made with particular reference to the case of the Church of Alexandria, which had been troubled by the irregular proceedings of Miletius, and to confirm the ancient privileges of that see which he had invaded. The latter part of it, however, applies to all Metropolitans, and confirms all their ancient privileges.

FOULKES.

(*Dict. Christ. Antiq. voce* Council of Nicæa).

The first half of the canon enacts merely that what had long been customary with respect to such persons in every province should become law, beginning with the province where this principle had been infringed; while the second half declares what was in future to be received as law on two points which custom had not as yet expressly ruled... Nobody disputes the meaning of this last half; nor, in fact, would the meaning of the first half have been questioned, had it not included Rome... Nobody can maintain that the bishops of Antioch and Alexandria were called patriarchs then, or that the jurisdiction they had then was co-extensive with what they had afterward, when they were so called... It is on this clause ["since the like is customary for the Bishops of Rome also"] standing parenthetically between what is decreed for the particular cases of Egypt and Antioch, and in consequence of the interpretation given to it by Rufinus, more particularly, that so much strife has been raised. Rufinus may rank low as a translator, yet, being a native of Aquileia, he cannot have been ignorant of Roman ways, nor, on the other hand, had he greatly misrepresented them, would his version have waited till the seventeenth century to be impeached.

HEFELE.

The sense of the first words of the canon is as follows: "This ancient right is assigned to the Bishop of Alexandria which places under his jurisdiction the *whole* diocese of Egypt." It is without

any reason, then, that the French Protestant Salmasius (Saumaise), the Anglican Beveridge, and the Gallican Launoy, try to show that the Council of Nice granted to the Bishop of Alexandria only the rights of ordinary metropolitans.

BISHOP STILLINGFLEET.

I do confess there was something peculiar in the case of the Bishop of Alexandria, for all the provinces of Egypt were under his immediate care, which was Patriarchal as to extent, but Metropolitical in the administration.



JUSTELLUS.

This authority (ἐξουσία) is that of a Metropolitan which the Nicene Fathers decreed to be his due over the three provinces named in this canon, Egypt, Libya, and Pentapolis, which made up the whole diocese of Egypt, as well in matters civil as ecclesiastical.

On this important question Hefele refers to the dissertation of Dupin, in his work *De Antiqua Ecclesiae Disciplina*. Hefele says: “It seems to me beyond a doubt that in this canon there is a question about that which was afterward called the patriarchate of the Bishop of Alexandria; that is to say that he had a certain recognized ecclesiastical authority, not only over several civil provinces, but also over several ecclesiastical provinces (which had their own metropolitans);” and further on (p. 392) he adds: “It is incontestable that the civil provinces of Egypt, Libya, Pentapolis and Thebaïs, which were all in subjection to the Bishop of Alexandria, were also ecclesiastical provinces with their own metropolitans; and consequently it is not the ordinary rights of metropolitans that the Sixth Canon of Nice confers on the Bishop of Alexandria, but the rights of a superior Metropolitan, that is, of a Patriarch.”

There only remains to see what were the bounds of the jurisdiction of the Bishop of Antioch. The civil diocese of Oriens is shown by the Second Canon of Constantinople to be conterminous with what was afterward called the Patriarchate of Antioch. The see of Antioch had, as we know, several metropolitans subject to it, among them Cæsarea, under whose jurisdiction was Palestine. Justellus, however, is of opinion that Pope Innocent I. was in error when he asserted that all the Metropolitans of Oriens were to be ordained by him by any peculiar authority, and goes so far as to stigmatize his words as “contrary to the mind of the Nicene Synod.”⁶²

Excursus on the Extent of the Jurisdiction of the Bishop of Rome Over the Suburbican Churches.

62 *Contra mentem Synodi Nicæni.*

Although, as Hefele well says, “It is evident that the Council has not in view here the primacy of the Bishop of Rome over the whole Church, but simply his power as a patriarch,” yet it may not be unimportant to consider what his patriarchal limits may have been.

(Hefele, *Hist. Councils*, Vol. I., p. 397.)

The translation of this [VI.] canon by Rufinus has been especially an apple of discord. *Et ut apud Alexandriam et in urbe Roma vetusta consuetudo servetur, ut vel ille Egypti vel hic suburbicariarum ecclesiarum sollicitudinem gerat.* In the seventeenth century this sentence of Rufinus gave rise to a very lively discussion between the celebrated jurist, Jacob Gothfried (Gothofredus), and his friend, Salmasius, on one side, and the Jesuit, Sirmond, on the other. The great prefecture of Italy, which contained about a third of the whole Roman Empire, was divided into four vicariates, among which the vicariate of Rome was the first. At its head were two officers, the *præfectus urbi* and the *vicarius urbis*. The *præfectus urbi* exercised authority over the city of Rome, and further in a suburban circle as far as the hundredth milestone. The boundary of the *vicarius urbis* comprised ten provinces—Campania, Tuscia with Umbria, Picenum, Valeria, Samnium, Apulia with Calabria, Lucania and that of the Brutii, Sicily, Sardinia, and Corsica. Gothfried and Salmasius maintained, that by the *regiones suburbicariæ* the little territory of the *præfectus urbi* must be understood; while, according to Sirmond, these words designate the whole territory of the *vicarius urbis*. In our time Dr. Maasen has proved in his book,⁶³ already quoted several times, that Gothfried and Salmasius were right in maintaining that, by the *regiones suburbicariæ*, the little territory of the *præfectus urbi* must be alone understood.

Hefele thinks that Phillips “has proved” that the Bishop of Rome had patriarchal rights over places outside the limits of the ten provinces of the *vicarius urbis*; but does not agree with Phillips in thinking Rufinus in error. As a matter of fact the point is a difficult one, and has little to do with the gist of the meaning of the canon. One thing is certain: the early Latin version of the canons, called the *Prisca*, was not satisfied with the Greek wording and made the Canon read thus: “It is of ancient custom that the bishop of the city of Rome should have a primacy (*principatum*), so that he should govern with care the suburban places, AND ALL HIS OWN PROVINCE.”⁶⁴ Another interesting reading is that found in several MSS. which begins, “The Church of Rome hath always had a primacy (*primatum*),” and as a matter of fact the early date of this addition is evinced by the fact that the canon was actually quoted in this shape by Paschasius at the Council of Chalcedon.

Hefele further on says, “The Greek commentators Zonaras and Balsamon (of the twelfth century) say very explicitly, in their explanation of the Canons of Nice, that this sixth canon confirms the rights of the Bishop of Rome as patriarch over the whole West,” and refers to Beveridge’s *Synodicon*,



⁶³ Friedrich Maasen: *Der Primat des Bischofs von Rom. und die alten Patriarchalkirchen*. Bonn, 1853. § 100–110. Maasen goes on to express the opinion that the patriarchal power of Rome was much larger.

⁶⁴ *Vide* Labbe’s *Observation*. Tom. II., col. 47.

Tom. I., pp. 66 and 67. After diligent search I can find nothing to warrant the great amplitude of this statement. Balsamon's interpretation is very vague, being simply that the Bishop of Rome is over the Western Eparchies (τῶν ἐσπερίων ἐπάρχιων) and Zonaras still more vaguely says that τῶν ἐσπερίων ἄρχειν ἔθος ἐκράτησε. That the whole West was in a general way understood to be in the Roman Patriarchate I have no doubt, that the Greek scholiasts just quoted deemed it to be so I think most probably the case, but it does not seem to me that they have said so in the particular place cited. It seems to me that all they meant to say was that the custom observed at Alexandria and Antioch was no purely Eastern and local thing, for a similar state of affairs was found in the West.

Canon VII.

SINCE custom and ancient tradition have prevailed that the Bishop of Ælia [*i.e.*, Jerusalem] should be honoured, let him, saving its due dignity to the Metropolis, have the next place of honour.

Notes.

ANCIENT EPITOME OF CANON VII.

Let the Bishop of Ælia be honoured, the rights of the Metropolis being preserved intact.

There would seem to be a singular fitness in the Holy City Jerusalem holding a very exalted position among the sees of Christendom, and it may appear astonishing that in the earliest times it was only a suffragan see to the great Church of Cæsarea. It must be remembered, however, that only about seventy years after our Lord's death the city of Jerusalem was entirely destroyed and ploughed as a field according to the prophet. As a holy city Jerusalem was a thing of the past for long years, and it is only in the beginning of the second century that we find a strong Christian Church growing up in the rapidly increasing city, called no longer Jerusalem, but Ælia Capitolina. Possibly by the end of the second century the idea of the holiness of the site began to lend dignity to the occupant of the see; at all events Eusebius⁶⁵ tells us that "at a synod held on the subject of the Easter controversy in the time of Pope Victor, Theophilus of Cæsarea and Narcissus of Jerusalem were presidents."

It was this feeling of reverence which induced the passing of this seventh canon. It is very hard to determine just what was the "precedence" granted to the Bishop of Ælia, nor is it clear which is the metropolis referred to in the last clause. Most writers, including Hefele, Balsamon, Aristenus

⁶⁵ Eusebius: *Hist. Eccl.* Lib. v., c. 23.

and Beveridge consider it to be Cæsarea; while Zonaras thinks Jerusalem to be intended, a view recently adopted and defended by Fuchs;⁶⁶ others again suppose it is Antioch that is referred to.



Excursus on the Rise of the Patriarchate of Jerusalem.

The narrative of the successive steps by which the See of Jerusalem rose from being nothing but Ælia, a Gentile city, into one of the five patriarchal sees is sad reading for a Christian. It is but the record of ambition and, worse still, of knavery. No Christian can for a moment grudge to the Holy City of the old dispensation the honour shewn it by the Church, but he may well wish that the honour had been otherwise obtained. A careful study of such records as we possess shews that until the fifth century the Metropolitan of Cæsarea as often took precedence of the Bishop of Jerusalem as vice versa, and Beveridge has taken great pains to shew that the learned De Marca is in error in supposing that the Council of Nice assigned to Jerusalem a dignity superior to Cæsarea, and only inferior to Rome, Alexandria, and Antioch. It is true that in the signatures the Bishop of Jerusalem does sign before his metropolitan, but to this Beveridge justly replies that the same is the case with the occupants of two other of his suffragan sees. Bishop Beveridge's opinion is that the Council assigned Jerusalem the second place in the province, such as London enjoys in the Province of Canterbury. This, however, would seem to be as much too little as De Marca's contention grants too much. It is certain that almost immediately after the Council had adjourned, the Bishop of Jerusalem, Maximus, convoked a synod of Palestine, without any reference to Cæsarea, which consecrated bishops and acquitted St. Athanasius. It is true that he was reprimanded for doing so,⁶⁷ but yet it clearly shews how he intended to understand the action of Nice. The matter was not decided for a century more, and then through the chicanery of Juvenal the bishop of Jerusalem.

(Canon Venables, *Dict. Christ. Biography.*)

Juvenalis succeeded Praylius as bishop of Jerusalem somewhere about 420 A.D. The exact year cannot be determined. The episcopate of Praylius, which commenced in 417 A.D., was but short, and we can hardly give it at most more than three years. The statement of Cyril of Scythopolis, in his Life of St. Euthymius (c. 96), that Juvenal died "in the forty-fourth year of his episcopate," 458 A.D., is certainly incorrect, as it would make his episcopate begin in 414 A.D., three years before that of his predecessor. Juvenal occupies a prominent position during the Nestorian and Eutyhian troubles towards the middle of the fifth century. But the part played by him at the councils of Ephesus and Chalcedon, as well as at the disgraceful ληστρική σύνοδος of 449, was more

⁶⁶ Fuchs: *Bib. der Kirchenversammlungen*. Bd. i., S. 399.

⁶⁷ Socrates: *Hist. Eccl.*, ii. 24.

conspicuous than creditable, and there are few of the actors in these turbulent and saddening scenes who leave a more displeasing impression. The ruling object of Juvenal's episcopate, to which everything else was secondary, and which guided all his conduct, was the elevation of the see of Jerusalem from the subordinate position it held in accordance with the seventh of the canons of the council of Nicæa, as suffragan to the metropolitan see of Cæsarea, to a primary place in the episcopate. Not content with aspiring to metropolitan rank, Juvenal coveted patriarchal dignity, and, in defiance of all canonical authority, he claimed jurisdiction over the great see of Antioch, from which he sought to remove Arabia and the two Phœnicias to his own province. At the council of Ephesus, in 431, he asserted for "the apostolic see of Jerusalem the same rank and authority with the apostolic see of Rome" (Labbe, *Concil.* iii. 642). These falsehoods he did not scruple to support with forged documents ("insolenter ausus per commentitia scripta firmare," Leo. *Mag. Ep.* 119 [92]), and other disgraceful artifices. Scarcely had Juvenal been consecrated bishop of Jerusalem when he proceeded to assert his claims to the metropolitan rank by his acts. In the letter of remonstrance against the proceedings of the council of Ephesus, sent to Theodosius by the Oriental party, they complain that Juvenal, whose "ambitious designs and juggling tricks" they are only too well acquainted with, had ordained in provinces over which he had no jurisdiction (Labbe, *Concil.* iii. 728). This audacious attempt to set at nought the Nicene decrees, and to falsify both history and tradition was regarded with the utmost indignation by the leaders of the Christian church. Cyril of Alexandria shuddered at the impious design ("merito perhorrescens," Leo. *u. s.*), and wrote to Leo, then archdeacon of Rome, informing him of what Juvenal was undertaking, and begging that his unlawful attempts might have no sanction from the apostolic See ("ut nulla illicitis conatibus præberetur assensio," *u. s.*). Juvenal, however, was far too useful an ally in his campaign against Nestorius for Cyril lightly to discard. When the council met at Ephesus Juvenal was allowed, without the slightest remonstrance, to take precedence of his metropolitan of Cæsarea, and to occupy the position of vice-president of the council, coming next after Cyril himself (Labbe, *Concil.* iii. 445), and was regarded in all respects as the second prelate in the assembly. The arrogant assertion of his supremacy over the bishop of Antioch, and his claim to take rank next after Rome as an apostolical see, provoked no open remonstrance, and his pretensions were at least tacitly allowed. At the next council, the disgraceful *Latrocinium*, Juvenal occupied the third place, after Dioscorus and the papal legate, having been specially named by Theodosius, together with Thalassius of Cæsarea (who appears to have taken no umbrage at his suffragan being preferred before him), as next in authority to Dioscorus (Labbe, *Concil.* iv. 109), and he took a leading part in the violent proceedings of that assembly. When the council of Chalcedon met, one of the matters which came before it for settlement was the dispute as to priority between Juvenal and Maximus Bishop of Antioch. The contention was long and severe. It ended in a compromise agreed on in the Seventh Action, μετὰ πολλήν φιλονεικίαν. Juvenal surrendered his claim to the two Phœnicias and to Arabia, on condition of his being allowed metropolitanical jurisdiction over the three Palestines (Labbe, *Concil.* iv. 613). The claim to patriarchal authority over the Bishop of Antioch put forward at Ephesus was discreetly dropped. The difficulty presented by the Nicene canon does not appear



to have presented itself to the council, nor was any one found to urge the undoubted claims of the see of Cæsarea. The terms arranged between Maximus and Juvenal were regarded as satisfactory, and received the consent of the assembled bishops (ibid. 618). Maximus, however, was not long in repenting of his too ready acquiescence in Juvenal's demands, and wrote a letter of complaint to pope Leo, who replied by the letter which has been already quoted, dated June 11, 453 A.D., in which he upheld the binding authority of the Nicene canons, and commenting in the strongest terms on the greediness and ambition of Juvenal, who allowed no opportunity of forwarding his ends to be lost, declared that as far as he was concerned he would do all he could to maintain the ancient dignity of the see of Antioch (Leo Magn. *Ep. ad Maximum*, 119 [92]). No further action, however, seems to have been taken either by Leo or by Maximus. Juvenal was left master of the situation, and the church of Jerusalem has from that epoch peaceably enjoyed the patriarchal dignity obtained for it by such base means.

Canon VIII.

CONCERNING those who call themselves Cathari, if they come over to the Catholic and Apostolic Church, the great and holy Synod decrees that they who are ordained shall continue as they are in the clergy. But it is before all things necessary that they should profess in writing that they will observe and follow the dogmas of the Catholic and Apostolic Church; in particular that they will communicate with persons who have been twice married, and with those who having lapsed in persecution have had a period [of penance] laid upon them, and a time [of restoration] fixed so that in all things they will follow the dogmas of the Catholic Church. Wheresoever, then, whether in villages or in cities, all of the ordained are found to be of these only, let them remain in the clergy, and in the same rank in which they are found. But if they come over where there is a bishop or presbyter of the Catholic Church, it is manifest that the Bishop of the Church must have the bishop's dignity; and he who was named bishop by those who are called Cathari shall have the rank of presbyter, unless it shall seem fit to the Bishop to admit him to partake in the honour of the title. Or, if this should not be satisfactory, then shall the bishop provide for him a place as Chorepiscopus, or presbyter, in order that he may be evidently seen to be of the clergy, and that there may not be two bishops in the city.

Notes.

ANCIENT EPITOME OF CANON VIII.

If those called Cathari come over, let them first make profession that they are willing to communicate with the twice married, and to grant pardon to the lapsed. And on this condition he who happens to be in orders, shall continue in the same order, so that a bishop shall still be bishop.

Whoever was a bishop among the Cathari let him, however, become a Chorepiscopus, or let him enjoy the honour of a presbyter or of a bishop. For in one church there shall not be two bishops.

The Cathari or Novatians were the followers of Novatian, a presbyter of Rome, who had been a Stoic philosopher and was delivered, according to his own story, from diabolical possession at his exorcising by the Church before his baptism, when becoming a Catechumen. Being in peril of death by illness he received clinical baptism, and was ordained priest without any further sacred rites being administered to him. During the persecution he constantly refused to assist his brethren, and afterwards raised his voice against what he considered their culpable laxity in admitting to penance the lapsed. Many agreed with him in this, especially of the clergy, and eventually, in A.D. 251, he induced three bishops to consecrate him, thus becoming, as Fleury remarks,⁶⁸ “the first Anti-Pope.” His indignation was principally spent upon Pope Cornelius, and to overthrow the prevailing discipline of the Church he ordained bishops and sent them to different parts of the empire as the disseminators of his error. It is well to remember that while beginning only as a schismatic, he soon fell into heresy, denying that the Church had the power to absolve the lapsed. Although condemned by several councils his sect continued on, and like the Montanists they rebaptized Catholics who apostatized to them, and absolutely rejected all second marriages. At the time of the Council of Nice the Novatian bishop at Constantinople, Acesius, was greatly esteemed, and although a schismatic, was invited to attend the council. After having in answer to the emperor’s enquiry whether he was willing to sign the Creed, assured him that he was, he went on to explain that his separation was because the Church no longer observed the ancient discipline which forbade that those who had committed mortal sin should ever be readmitted to communion. According to the Novatians he might be exhorted to repentance, but the Church had no power to assure him of forgiveness but must leave him to the judgment of God. It was then that Constantine said, “Acesius, take a ladder, and climb up to heaven alone.”⁶⁹

ARISTENUS.

If any of them be bishops or chorepiscopi they shall remain in the same rank, unless perchance in the same city there be found a bishop of the Catholic Church, ordained before their coming. For in this case he that was properly bishop from the first shall have the preference, and he alone shall retain the Episcopal throne. For it is not right that in the same city there should be two bishops. But he who by the Cathari was called bishop, shall be honoured as a presbyter, or (if it so please the bishop), he shall be sharer of the title bishop; but he shall exercise no episcopal jurisdiction.

Zonaras, Balsamon, Beveridge and Van Espen, are of opinion that χειροθετουμένους does not mean that they are to receive a new laying on of hands at their reception into the Church, but that

⁶⁸ Fleury, *Hist. Eccles.* liv. VI., liij.

⁶⁹ Socrates, *Hist. Eccl.*, i. 10. *Vide* also Tillemont, *Mémoires*, etc., tom. vi., art. 17, and Sozoman, *H. E.* i. 22.



it refers to their already condition of being ordained, the meaning being that as they have had Novatian ordination they must be reckoned among the clergy. Dionysius Exiguus takes a different view, as does also the *Prisca* version, according to which the clergy of the Novatians were to receive a laying on of hands, χειροθετουμένων, but that it was not to be a reordination. With this interpretation Hefele seems to agree, founding his opinion upon the fact that the article is wanting before χειροθετουμένων, and that αὐτοὺς is added. Gratian⁷⁰ supposes that this eighth canon orders a re-ordination.

Excursus on the Chorepiscopi.

There has been much difference of opinion among the learned touching the status of the Chorepiscopus in the early Church. The main question in dispute is as to whether they were always, sometimes, or never, in episcopal orders. Most Anglican writers, including Beveridge, Hammond, Cave, and Routh, have affirmed the first proposition, that they were true bishops, but that, out of respect to the bishop of the City they were forbidden the exercise of certain of their episcopal functions, except upon extraordinary occasions. With this view Binterim⁷¹ also agrees, and Augusti is of the same opinion.⁷² But Thomassinus is of a different mind, thinking, so says Hefele,⁷³ that there were “two classes of chorepiscopi, of whom the one were real bishops, while the other had only the title without consecration.”

The third opinion, that they were merely presbyters, is espoused by Morinus and Du Cange, and others who are named by Bingham.⁷⁴ This last opinion is now all but universally rejected, to the other two we shall now devote our attention.

For the first opinion no one can speak more learnedly nor more authoritatively than Arthur West Haddon, who writes as follows;

(Haddon, *Dict. Christ. Antiq. s.v. Chorepiscopus.*)

The chorepiscopus was called into existence in the latter part of the third century, and first in Asia Minor, in order to meet the want of episcopal supervision in the country parts of the now enlarged dioceses without subdivision. [They are] first mentioned in the Councils of Ancyra and Neo-Cæsarea A.D. 314, and again in the Council of Nice (which is subscribed by fifteen, all from

70 Gratian, *Decretum, Corp. Juris Canon*, Pars. II. Causa I. Quæst. 7, Can. viij.

71 Binterim, *Denkwürdigkeiten*, vol. i. part ii. pp. 386–414.

72 Augusti, *Denkwürdigkeiten*, vol. xi. p.159 *et seqq.*

73 Hefele, *Hist. of the Councils*, vol. ii. p. 322.

74 Bingham, *Antiquities*, ii. xiv. 2, 3.

Asia Minor or Syria). [They became] sufficiently important to require restriction by the time of the Council of Antioch, A.D. 341; and continued to exist in the East until at least the ninth century, when they were supplanted by ἑξάρχοι. [Chorepiscopi are] first mentioned in the West in the Council of Riez, A.D. 439 (the Epistles of Pope Damasus I. and of Leo. M. respecting them being forgeries), and continued there (but not in Africa, principally in France) until about the tenth century, after which the name occurs (in a decree of Pope Damasus II. ap. Sigeb. *in an.* 1048) as equivalent to archdeacon, an office from which the Arabic Nicene canons expressly distinguish it. The functions of chorepiscopi, as well as their name, were of an episcopal, not of a presbyterial kind, although limited to minor offices. They overlooked the country district committed to them, “*loco episcopi*,” ordaining readers, exorcists, subdeacons, but, as a rule, not deacons or presbyters (and of course not bishops), unless by express permission of their diocesan bishop. They confirmed in their own districts, and (in Gaul) are mentioned as consecrating churches (*vide* Du Cange). They granted εἰρενικὰ, or letters dimissory, which country presbyters were forbidden to do. They had also the honorary privilege (τιμώμενοι) of assisting at the celebration of the Holy Eucharist in the mother city church, which country presbyters had not (*Conc. Ancyra. can. xiii.; Neo-Cæsaria. can. xiv.; Antioch, can. x.; St. Basil M. Epist. 181; Rab. Maur. De Instit. Cler. i. 5, etc. etc.*). They were held therefore to have power of ordination, but to lack jurisdiction, save subordinately. And the actual ordination of a presbyter by Timotheus, a chorepiscopus, is recorded (Pallad., *Hist. Lausiaca.* 106).

22

In the West, i.e. chiefly in Gaul, the order appears to have prevailed more widely, to have usurped episcopal functions without due subordination to the diocesans, and to have been also taken advantage of by idle or worldly diocesans. In consequence it seems to have aroused a strong feeling of hostility, which showed itself, first in a series of papal bulls, condemning them; headed, it is true, by two forged letters respectively of Damasus I. and Leo. M. (of which the latter is merely an interpolated version of *Conc. Hispal. II. A.D. 619, can. 7*, adding *chorepiscopi* to *presbyteri*, of which latter the council really treats), but continuing in a more genuine form, from Leo III. down to Pope Nicholas I. (to Rodolph, Archbishop of Bourges, A.D. 864); the last of whom, however, takes the more moderate line of affirming chorepiscopi to be really bishops, and consequently refusing to annul their ordinations of presbyters and deacons (as previous popes had done), but orders them to keep within canonical limits; and secondly, in a series of conciliar decrees, *Conc. Ratispon. A.D. 800, in Capit. lib. iv. c. 1, Paris. A.D. 829, lib. i. c. 27; Meld. A.D. 845, can. 44; Metens. A.D. 888, can. 8, and Capitul. v. 168, vi. 119, vii. 187, 310, 323, 324*, annulling all episcopal acts of chorepiscopi, and ordering them to be repeated by “true” bishops; and finally forbidding all further appointments of chorepiscopi at all.

That chorepiscopi as such—i.e. omitting the cases of reconciled or vacant bishops above mentioned, of whose episcopate of course no question is made—were at first truly bishops both in East and West, appears almost certain, both from their name and functions, and even from the arguments of their strong opponents just spoken of. If nothing more could be urged against them, than that the Council of Neo-Cæsarea compared them to the Seventy disciples, that the Council of

Antioch authorises their consecration by a single bishop, and that they actually were so consecrated (the Antiochene decree *might* mean merely nomination by the word γίνεσθαι, but the actual history seems to rule the term to intend consecration, and the [one] exceptional case of a chorepiscopus recorded [*Actt. Episc. Cenoman. ap. Du Cange*] in late times to have been ordained by three bishops [in order that he *might* be a full bishop] merely proves the general rule to the contrary)—and that they were consecrated for “villages,” contrary to canon,—then they certainly were bishops. And Pope Nicholas expressly says that they were so. Undoubtedly they ceased to be so in the East, and were practically merged in archdeacons in the West.

For the second opinion, its great champion, Thomassinus shall speak.

(Thomassin, *Ancienne et Nouvelle Discipline de l'Église*, Tom. I. Livre II. chap 1. § iii.)

The chorepiscopi were not duly consecrated bishops, unless some bishop had consecrated a bishop for a town and the bishop thus ordained contrary to the canons was tolerated on condition of his submitting himself to the diocesan as though he were only a chorepiscopus. This may be gathered from the fifty-seventh canon of Laodicea.

From this canon two conclusions may be drawn, 1st. That bishops ought not to be ordained for villages, and that as Chorepiscopi could only be placed in villages they could not be bishops. 2d. That sometimes by accident a chorepiscopus might be a bishop, but only through having been canonically lowered to that rank.

The Council of Nice furnishes another example of a bishop lowered to the rank of a chorepiscopus in Canon viii. This canon shows that they should not have been bishops, for two bishops could never be in a diocese, although this might accidentally be the case when a chorepiscopus happened to be a bishop.

This is the meaning which must be given to the tenth canon of Antioch, which directs that chorepiscopi, even if they have received episcopal orders, and have been consecrated bishops, shall keep within the limits prescribed by the canon; that in cases of necessity, they ordain the lower clergy; but that they be careful not to ordain priests or deacons, because this power is absolutely reserved to the Diocesan. It must be added that as the council of Antioch commands that the Diocesan without any other bishop can ordain the chorepiscopus, the position can no longer be sustained that the chorepiscopi were bishops, such a method of consecrating a bishop being contrary to canon xix. of the same council, moreover the canon does not say the chorepiscopus is to be ordained, but uses the word γίνεσθαι by the bishop of the city (canon x.). The Council of Neocæsarea by referring them to the seventy disciples (in Canon XIV.) has shown the chorepiscopi to be only priests.

But the Council of Ancyra does furnish a difficulty, for the text seems to permit chorepiscopi to ordain priests. But the Greek text must be corrected by the ancient Latin versions. The letter attributed to pope Nicholas, A.D. 864, must be considered a forgery since he recognises the chorepiscopi as real bishops.

If Harmenopulus, Aristenus, Balsamon, and Zonaras seem to accord to the chorepiscopi the power to ordain priests and deacons with the permission of the Diocesan, it is because they are explaining the meaning and setting forth the practice of the ancient councils and not the practice of their own times. But at all events it is past all doubt that before the seventh century there were, by different accidents, chorepiscopi who were really bishops and that these could, with the consent of the diocesan, ordain priests. But at the time these authors wrote, there was not a single chorepiscopus in the entire East, as Balsamon frankly admits in commenting on Canon xiii. of Ancyra.

Whether in the foregoing the reader will think Thomassinus has proved his point, I do not know, but so far as the position of the chorepiscopi in synods is concerned there can be no doubt whatever, and I shall allow Hefele to speak on this point.

(Hefele, *History of the Councils*, Vol. I. pp. 17, 18.)

The *Chorepiscopi* (χωρεπίσκοποι), or bishops of country places, seem to have been considered in ancient times as quite on a par with the other bishops, as far as their position in synod was concerned. We meet with them at the Councils of Neocæsarea in the year 314, of Nicæa in 325, of Ephesus in 431. On the other hand, among the 600 bishops of the fourth Ecumenical Council at Chalcedon in 451, there is no chorepiscopus present, for by this time the office had been abolished; but in the Middle Ages we again meet with chorepiscopi of a new kind at Western councils, particularly at those of the French Church, at Langres in 830, at Mayence in 847, at Pontion in 876, at Lyons in 886, at Douzy in 871.

Canon IX.

If any presbyters have been advanced without examination, or if upon examination they have made confession of crime, and men acting in violation of the canon have laid hands upon them, notwithstanding their confession, such the canon does not admit; for the Catholic Church requires that [only] which is blameless.

Notes.

ANCIENT EPITOME OF CANON IX.

Whoever are ordained without examination, shall be deposed if it be found out afterwards that they had been guilty.

HEFELE.



The crimes in question are those which were a bar to the priesthood—such as blasphemy, bigamy, heresy, idolatry, magic, etc.—as the Arabic paraphrase of Joseph explains. It is clear that these faults are punishable in the bishop no less than in the priest, and that consequently our canon refers to the bishops as well as to the *πρεσβύτεροι* in the more restricted sense. These words of the Greek text, “In the case in which any one might be induced, in opposition to the canon, to ordain such persons,” allude to the ninth canon of the Synod of Neocæsarea. It was necessary to pass such ordinances; for even in the fifth century, as the twenty-second letter to Pope Innocent the First testifies, some held that as baptism effaces all former sins, so it takes away all the *impedimenta ordinationis* which are the results of those sins.

BALSAMON.

Some say that as baptism makes the baptized person a new man, so ordination takes away the sins committed before ordination, which opinion does not seem to agree with the canons.

This canon occurs twice in the *Corpus Juris Canonici*. *Decretum* Pars I. Dist. xxiv. c. vij., and Dist. lxxxj., c. iv.

Canon X.

IF any who have lapsed have been ordained through the ignorance, or even with the previous knowledge of the ordainers, this shall not prejudice the canon of the Church; for when they are discovered they shall be deposed.

Notes.

ANCIENT EPITOME OF CANON X.

Whoso had lapsed are to be deposed whether those who ordained and promoted them did so conscious of their guilt or unknowing of it.

HEFELE.

The tenth canon differs from the ninth, inasmuch as it concerns only the *lapsi* and their elevation, not only to the priesthood, but to any other ecclesiastical preferment as well, and requires their deposition. The punishment of a bishop who should consciously perform such an ordination is not mentioned; but it is incontestable that the *lapsi* could not be ordained, even after having performed penance; for, as the preceding canon states, the Church requires those who were faultless. It is to be observed that the word *προχειρίζειν* is evidently employed here in the sense of “ordain,” and is used without any distinction from *χειρίζειν*, whilst in the synodal letter of the Council of Nicæa

on the subject of the Meletians, there is a distinction between these two words, and προχειρίζειν is used to signify *eligere*.

This canon is found in *Corpus Juris Canonici. Decretum. Pars I. Dist. lxxxii. c.v.*

Canon XI.

CONCERNING those who have fallen without compulsion, without the spoiling of their property, without danger or the like, as happened during the tyranny of Licinius, the Synod declares that, though they have deserved no clemency, they shall be dealt with mercifully. As many as were communicants, if they heartily repent, shall pass three years among the hearers; for seven years they shall be prostrators; and for two years they shall communicate with the people in prayers, but without oblation.

Notes.

ANCIENT EPITOME OF CANON XI.

As many as fell without necessity, even if therefore undeserving of indulgence, yet some indulgence shall be shown them and they shall be prostrators for twelve years.

On the expression “without oblation” (χωρίς προσφορᾶς) see the notes to Ancyra, Canon V. where the matter is treated at some length.

LAMBERT.

The usual position of the hearers was just inside the church door. But Zonaras (and Balsamon agrees with him), in his comment on this canon, says, “they are ordered for three years to be hearers, or to stand without the church in the narthex.”

I have read “as many as were communicants” (οἱ πιστοὶ) thus following Dr. Routh. *Vide* his *Opuscula*. Caranza translates in his *Summary of the Councils* “if they were faithful” and seems to have read εἰ πιστοὶ, which is much simpler and makes better sense.

ZONARAS.

The prostrators stood within the body of the church behind the ambo [*i.e.* the reading desk] and went out with the catechumens.

Excursus on the Public Discipline or Exomologesis of the Early Church.

(Taken chiefly from Morinus, *De Disciplina in Administratione Sacramenti Pœnitentiæ*; Bingham, *Antiquities*; and Hammond, *The Definitions of Faith, etc.* Note to Canon XI. of Nice.)

“In the Primitive Church there was a godly discipline, that at the beginning of Lent, such persons as stood convicted of notorious sin were put to open penance, and punished in this world that their souls might be saved in the day of the Lord; and that others, admonished by their example, might be the more afraid to offend.”

The foregoing words from the Communion Service of the Church of England may serve well to introduce this subject. In the history of the public administration of discipline in the Church, there are three periods sufficiently distinctly marked. The first of these ends at the rise of Novatianism in the middle of the second century; the second stretches down to about the eighth century; and the third period shews its gradual decline to its practical abandonment in the eleventh century. The period with which we are concerned is the second, when it was in full force.

In the first period it would seem that public penance was required only of those convicted of what then were called by pre-eminence “mortal sins” (*crimena mortalia*⁷⁵), viz: idolatry, murder, and adultery. But in the second period the list of mortal sins was greatly enlarged, and Morinus says that “Many Fathers who wrote after Augustine’s time, extended the necessity of public penance to all crimes which the civil law punished with death, exile, or other grave corporal penalty.”⁷⁶ In the penitential canons ascribed to St. Basil and those which pass by the name of St. Gregory Nyssen, this increase of offences requiring public penance will be found intimated.

From the fourth century the penitents of the Church were divided into four classes. Three of these are mentioned in the eleventh canon, the fourth, which is not here referred to, was composed of those styled *συγκλαίοντες*, flentes or weepers. These were not allowed to enter into the body of the church at all, but stood or lay outside the gates, sometimes covered with sackcloth and ashes. This is the class which is sometimes styled *χειμοζομένοι*, hybernantes, on account of their being obliged to endure the inclemency of the weather.

It may help to the better understanding of this and other canons which notice the different orders of penitents, to give a brief account of the usual form and arrangement of the ancient churches as well as of the different orders of the penitents.

Before the church there was commonly either an open area surrounded with porticoes, called *μεσάυλιον* or atrium, with a font of water in the centre, styled a cantharus or phiala, or sometimes only an open portico, or *προπύλαιον*. The first variety may still be seen at S. Ambrogio’s in Milan, and the latter in Rome at S. Lorenzo’s, and in Ravenna at the two S. Apollinares. This was the place at which the first and lowest order of penitents, the weepers, already referred to, stood exposed

⁷⁵ Cyprian. *De Bono Patient.*, cap. xiv.

⁷⁶ Morinus, *De Pœnitent.*, lib. v., cap. 5.

to the weather. Of these, St. Gregory Thaumaturgus says: “Weeping takes place outside the door of the church, where the sinner must stand and beg the prayers of the faithful as they go in.”

The church itself usually consisted of three divisions within, besides these exterior courts and porch. The first part after passing through “the great gates,” or doors of the building, was called the Narthex in Greek, and *Færula* in Latin, and was a narrow vestibule extending the whole width of the church. In this part, to which Jews and Gentiles, and in most places even heretics and schismatics were admitted, stood the Catechumens, and the *Energumens* or those afflicted with evil spirits, and the second class of penitents (the first mentioned in the Canon), who were called the ἀκοῶμενοι, *audientes*, or hearers. These were allowed to hear the Scriptures read, and the Sermon preached, but were obliged to depart before the celebration of the Divine Mysteries, with the Catechumens, and the others who went by the general name of hearers only.

The second division, or main body of the church, was called the Naos or Nave. This was separated from the Narthex by rails of wood, with gates in the centre, which were called “the beautiful or royal gates.” In the middle of the Nave, but rather toward the lower or entrance part of it, stood the Ambo, or reading-desk, the place for the readers and singers, to which they went up by steps, whence the name, Ambo. Before coming to the Ambo, in the lowest part of the Nave, and just after passing the royal gates, was the place for the third order of penitents, called in Greek γονυκλίνοντες, or ὑποπίπτοντες, and in Latin *Genuflectentes* or *Prostrati*, i.e., kneelers or prostrators, because they were allowed to remain and join in certain prayers particularly made for them. Before going out they prostrated themselves to receive the imposition of the bishop’s hands with prayer. This class of penitents left with the Catechumens.

In the other parts of the Nave stood the believers or faithful, i.e., those persons who were in full communion with the Church, the men and women generally on opposite sides, though in some places the men were below, and the women in galleries above. Amongst these were the fourth class of penitents, who were called συνεστῶτες, *consistentes*, i.e., co-standers, because they were allowed to stand with the faithful, and to remain and hear the prayers of the Church, after the Catechumens and the other penitents were dismissed, and to be present while the faithful offered and communicated, though they might not themselves make their offerings, nor partake of the Holy Communion. This class of penitents are frequently mentioned in the canons, as “communicating in prayers,” or “without the oblation;” and it was the last grade to be passed through previous to the being admitted again to full communion. The practice of “hearing mass” or “non-communicating attendance” clearly had its origin in this stage of discipline. At the upper end of the body of the church, and divided from it by rails which were called *Cancelli*, was that part which we now call the Chancel. This was anciently called by several names, as *Bema* or tribunal, from its being raised above the body of the church, and *Sacrarium* or Sanctuary. It was also called *Apsis* and *Concha Bematis*, from its semicircular end. In this part stood the Altar, or Holy Table (which names were indifferently used in the primitive Church), behind which, and against the wall of the chancel, was the Bishop’s throne, with the seats of the Presbyters on each side of it, called *synthronus*. On one side of the chancel was the repository for the sacred utensils and vestments, called the *Diaconicum*,

and answering to our Vestry; and on the other the Prothesis, a side-table, or place, where the bread and wine were deposited before they were offered on the Altar. The gates in the chancel rail were called the holy gates, and none but the higher orders of the clergy, i.e., Bishops, Priests, and Deacons, were allowed to enter within them. The Emperor indeed was permitted to do so for the purpose of making his offering at the Altar, but then he was obliged to retire immediately, and to receive the communion without.

(Thomassin. *Ancienne et Nouvelle Discipline de l'Eglise*. Tom. I. Livre II. chap. xvj. somewhat abridged.)



In the West there existed always many cases of public penance, but in the East it is more difficult to find any traces of it, after it was abolished by the Patriarch Nectarius in the person of the Grand Penitentiary.

However, the Emperor Alexis Comnenus, who took the empire in the year 1080, did a penance like that of older days, and one which may well pass for miraculous. He called together a large number of bishops with the patriarch, and some holy religious; he presented himself before them in the garb of a criminal; he confessed to them his crime of usurpation with all its circumstances. They condemned the Emperor and all his accomplices to fasting, to lying prostrate upon the earth, to wearing haircloth, and to all the other ordinary austerities of penance. Their wives desired to share their griefs and their sufferings, although they had had no share in their crime. The whole palace became a theatre of sorrow and public penance. The emperor wore the hairshirt under the purple, and lay upon the earth for forty days, having only a stone for a pillow.

To all practical purposes Public Penance was a general institution but for a short while in the Church. But the reader must be careful to distinguish between this Public Penance and the private confession which in the Catholic Church both East and West is universally practised. What Nectarius did was to abolish the office of Penitentiary, whose duty it had been to assign *public* penance for *secret* sin;⁷⁷ a thing wholly different from what Catholics understand by the "Sacrament of Penance." It would be out of place to do more in this place than to call the reader's attention to the bare fact, and to supply him, from a Roman Catholic point of view, with an explanation of why Public Penance died out. "It came to an end because it was of human institution. But sacramental confession, being of divine origin, lasted when the penitential discipline had been changed, and continues to this day among the Greeks and Oriental sects."⁷⁸ That the reader may judge of the absolute candour of the writer just quoted, I give a few sentences from the same article: "An opinion, however, did prevail to some extent in the middle ages, even among Catholics, that confession to God alone sufficed. The Council of Châlons in 813 (canon xxxiiij.), says: 'Some assert that we should confess our sins to God alone, but some think that they should be confessed to the priest, each of which

⁷⁷ Vide, Thomassin. *Lib. cit.* Livre II. Chapitre vii. § xiii. where the whole matter of Nectarius's action is discussed.

⁷⁸ Addis and Arnold. *A Catholic Dictionary*; *sub voce* Penance, Sacrament of.

practices is followed not without great fruit in Holy Church...Confession made to God purges sins, but that made to the priest teaches how they are to be purged.' This former opinion is also mentioned without reprobation by Peter Lombard (*In Sentent. Lib. iv. dist. xvij.*)”

Canon XII.

As many as were called by grace, and displayed the first zeal, having cast aside their military girdles, but afterwards returned, like dogs, to their own vomit, (so that some spent money and by means of gifts regained their military stations); let these, after they have passed the space of three years as hearers, be for ten years prostrators. But in all these cases it is necessary to examine well into their purpose and what their repentance appears to be like. For as many as give evidence of their conversions by deeds, and not pretence, with fear, and tears, and perseverance, and good works, when they have fulfilled their appointed time as hearers, may properly communicate in prayers; and after that the bishop may determine yet more favourably concerning them. But those who take [the matter] with indifference, and who think the form of [not] entering the Church is sufficient for their conversion, must fulfil the whole time.



Notes.

ANCIENT EPITOME OF CANON XII.

Those who endured violence and were seen to have resisted, but who afterwards yielded to wickedness, and returned to the army, shall be excommunicated for ten years. But in every case the way in which they do their penance must be scrutinized. And if anyone who is doing penance shews himself zealous in its performance, the bishop shall treat him more leniently than had he been cold and indifferent.

LAMBERT.

The abuse of this power, namely, of granting under certain circumstances a relaxation in the penitential exercises enjoined by the canons—led, in later times, to the practice of commuting such exercises for money payments, etc.

HEFELE.

In his last contests with Constantine, Licinius had made himself the representative of heathenism; so that the final issue of the war would not be the mere triumph of one of the two competitors, but the triumph or fall of Christianity or heathenism. Accordingly, a Christian who had in this war supported the cause of Licinius and of heathenism might be considered as a *lapsus*, even if he did not formally fall away. With much more reason might those Christians be treated as *lapsi* who,

having conscientiously given up military service (this is meant by the soldier's belt), afterwards retracted their resolution, and went so far as to give money and presents for the sake of readmission, on account of the numerous advantages which military service then afforded. It must not be forgotten that Licinius, as Zonaras and Eusebius relate, required from his soldiers a formal apostasy; compelled them, for example, to take part in the heathen sacrifices which were held in the camps, and dismissed from his service those who would not apostatize.

BRIGHT.

This canon (which in the Prisca and the Isidorian version stands as part of canon 11) deals, like it, with cases which had arisen under the Eastern reign of Licinius, who having resolved to “purge his army of all ardent Christians” (Mason, *Persec. of Diocl.* p. 308), ordered his Christian officers to sacrifice to the gods on pain of being cashiered (compare Euseb. *H. E.* x. 8; *Vit. Con.* i. 54). It is to be observed here that military life as such was not deemed unchristian. The case of Cornelius was borne in mind. “We serve in your armies,” says Tertullian, *Apol.* 42 (although later, as a Montanist, he took a rigorist and fanatical view, *De Cor.* 11), and compare the fact which underlies the tale of the “Thundering Legion,”—the presence of Christians in the army of Marcus Aurelius. It was the heathenish adjuncts to their calling which often brought Christian soldiers to a stand (see Routh. *Scr. Opusc.* i. 410), as when Marinus' succession to a centurionship was challenged on the ground that he could not sacrifice to the gods (Euseb. *H. E.* vii. 15). Sometimes, indeed, individual Christians thought like Maximilian in the Martyrology, who absolutely refused to enlist, and on being told by the proconsul that there were Christian soldiers in the imperial service, answered, “Ipsi sciunt quod ipsis expediat” (Ruinart, *Act. Sanc.* p. 341). But, says Bingham (*Antiq.* xi. 5, 10), “the ancient canons did not condemn the military life as a vocation simply unlawful...I believe there is no instance of any man being refused baptism merely because he was a soldier, unless some unlawful circumstance, such as idolatry, or the like, made the vocation sinful.” After the victory of Constantine in the West, the Council of Arles excommunicated those who in time of peace “threw away their arms” (can. 2). In the case before us, some Christian officers had at first stood firm under the trial imposed on them by Licinius. They had been “called by grace” to an act of self-sacrifice (the phrase is one which St. Augustine might have used); and had shown “their eagerness at the outset” (“primum suum ardorem,” Dionysius; Philo and Evarestus more laxly, “primordia bona;” compare τὴν ἀγάπην σου τὴν πρώτην, Rev. ii. 4). Observe here how beautifully the ideas of grace and free will are harmonized. These men had responded to a Divine impulse: it might seem that they had committed themselves to a noble course: they had cast aside the “belts” which were their badge of office (compare the cases of Valentinian and Valens, Soc. iii. 13, and of Benevolus throwing down his belt at the feet of Justina, Soz. vii. 13). They had done, in fact, just what Auxentius, one of Licinius' notaries, had done when, according to the graphic anecdote of Philostorgius (*Fragm.* 5), his master bade him place a bunch of grapes before a statue of Bacchus in the palace-court; but their zeal, unlike his, proved to be too impulsive—they reconsidered their



position, and illustrated the maxim that in morals second thoughts are *not* best (Butler, *Serm.* 7), by making unworthy attempts—in some cases by bribery—to recover what they had worthily resigned. (Observe the Grecised Latinism βενεφικίους and compare the Latinisms of St. Mark, and others in Euseb. iii. 20, vi. 40, x. 5.) This the Council describes in proverbial language, probably borrowed from 2 Pet. ii. 22, but, it is needless to say, without intending to censure enlistment as such. They now desired to be received to penance: accordingly they were ordered to spend three years as Hearers, during which time “their purpose, and the nature (εἶδος) of their repentance” were to be carefully “examined.” Again we see the earnest resolution of the Council to make discipline a moral reality, and to prevent it from being turned into a formal routine; to secure, as Rufinus’ abridgment expresses it, a repentance “fructuosam et attentam.” If the penitents were found to have “manifested their conversion by deeds, and not in outward show (σχήματι), by awe, and tears, and patience, and good works” (such, for instance, Zonaras comments, as almsgiving according to ability), “it would be then reasonable to admit them to a participation in the prayers,” to the position of Consistentes, “with permission also to the bishop to come to a yet more indulgent resolution concerning them,” by admitting them to full communion. This discretionary power of the bishop to dispense with part of a penance-time is recognized in the fifth canon of Ancyra and the sixteenth of Chalcedon, and mentioned by Basil, *Epist.* 217, c. 74. It was the basis of “indulgences” in their original form (Bingham, xviii. 4, 9). But it was too possible that some at least of these *lapsi* might take the whole affair lightly, “with indifference” ἀδιαφόρως —not seriously enough, as Hervetas renders—just as if, in common parlance, it did not signify: the fourth Ancyrene canon speaks of *lapsi* who partook of the idol-feast ἀδιαφόρως as if it involved them in no sin (see below on Eph. 5, Chalc. 4). It was possible that they might “deem” the outward form of “entering the church” to stand in the narthex among the Hearers (here, as in c. 8, 19, σχῆμα denotes an external visible fact) sufficient to entitle them to the character of converted penitents, while their conduct out of church was utterly lacking in seriousness and self-humiliation. In that case there could be no question of shortening their penance time, for they were not in a state to benefit by indulgence: it would be, as the Roman Presbyters wrote to Cyprian, and as he himself wrote to his own church, a “mere covering over of the wound” (*Epist.* 30, 3), an “injury” rather than “a kindness” (*De Lapsis*, 16); they must therefore “by all means” go through ten years as Kneelers, before they can become Consistentes.

There is great difficulty about the last phrase and Gelasius of Cyzicus, the *Prisca*, Dionysius Exiguus, the pseudo-Isidore, Zonaras and most others have considered the “not” an interpolation. I do not see how dropping the “not” makes the meaning materially clearer.

Canon XIII.

CONCERNING the departing, the ancient canonical law is still to be maintained, to wit, that, if any man be at the point of death, he must not be deprived of the last and most indispensable Viaticum. But, if any one should be restored to health again who has received the communion when his life was despaired of, let him remain among those who communicate in prayers only. But in general, and in the case of any dying person whatsoever asking to receive the Eucharist, let the Bishop, after examination made, give it him.

Notes.

ANCIENT EPITOME OF CANON XIII.

The dying are to be communicated. But if any such get well, he must be placed in the number of those who share in the prayers, and with these only.

VAN ESPEN.

It cannot be denied that antiquity used the name "Viaticum" not only to denote the Eucharist which was given to the dying, but also to denote the reconciliation, and imposition of penance, and in general, everything that could be conducive to the happy death of the person concerned, and this has been shown by Aubespine (*lib. 1, Obs. cap. ii.*). But while this is so, the more usual sense of the word is the Eucharist. For this cannot be denied that the faithful of the first ages of the Church looked upon the Eucharist as the complement of Christian perfection, and as the last seal of hope and salvation. It was for this reason that at the beginning of life, after baptism and confirmation, the Eucharist was given even to infants, and at the close of life the Eucharist followed reconciliation and extreme unction, so that properly and literally it could be styled "the last Viaticum." Moreover for penitents it was considered especially necessary that through it they might return to the *peace* of the Church; for perfect peace is given by that very communion of the Eucharist. [A number of instances are then cited, and various ancient versions of the canon.] Balsamon and Zonaras also understand the canon as I have done, as is evident from their commentaries, and so did Josephus Ægyptius, who in his Arabic Paraphrase gives the canon this title: "Concerning him who is excommunicated and has committed some deadly sin, and desires the Eucharist to be granted to him."

This canon is found in the *Corpus Juris Canonici*, Gratian, *Decretum* Pars. II. causa xxvi, Quæ. VI., c. ix.

Excursus on the Communion of the Sick.

There is nothing upon which the ancient church more strenuously insisted than the oral reception of the Holy Communion. What in later times was known as “Spiritual Communion” was outside of the view of those early days; and to them the issues of eternity were considered often to rest upon the sick man’s receiving with his mouth “his food for the journey,” the Viaticum, before he died. No greater proof of how important this matter was deemed could be found than the present canon, which provides that even the stern and invariable canons of the public penance are to give way before the awful necessity of fortifying the soul in the last hour of its earthly sojourn.

Possibly at first the holy Sacrament may have been consecrated in the presence of the sick person, but of this in early times the instances are rare and by no means clear. In fact it was considered a marked favour that such a thing should be allowed, and the saying of mass in private houses was prohibited (as it is in the Eastern and Latin churches still to-day) with the greatest rigour.

The necessity of having the consecrated bread and wine for the sick led to their reservation, a practice which has existed in the Church from the very beginning, so far as any records of which we are in possession shew.

St. Justin Martyr, writing less than a half century after St. John’s death, mentions that “the deacons communicate each of those present, and carry away to the absent the blest bread, and wine and water.”⁷⁹ It was evidently a long established custom in his day.

Tertullian tells us of a woman whose husband was a heathen and who was allowed to keep the Holy Sacrament in her house that she might receive every morning before other food. St. Cyprian also gives a most interesting example of reservation. In his treatise “On the Lapsed” written in A.D. 251, (chapter xxvi), he says: “Another woman, when she tried with unworthy hands to open her box, in which was the Holy of the Lord, was deterred from daring to touch it by fire rising from it.”

It is impossible with any accuracy to fix the date, but certainly before the year four hundred, a perpetual reservation for the sick was made in the churches. A most interesting incidental proof of this is found in the thrilling description given by St. Chrysostom of the great riot in Constantinople in the year 403, when the soldiers “burst into the place where the Holy Things were stored, and saw all things therein,” and “the most holy blood of Christ was spilled upon their clothes.”⁸⁰ From this incident it is evident that in that church the Holy Sacrament was reserved in both kinds, and separately.

Whether this at the time was usual it is hard to say, but there can be no doubt that even in the earliest times the Sacrament was given, on rare occasions at least, in one kind, sometimes under the form of bread alone, and when the sick persons could not swallow under the form of wine alone. The practice called “intinction,” that is the dipping of the bread into the wine and administering the two species together, was of very early introduction and still is universal in the

⁷⁹ Just. M. *Apol.* I. cap. lxxv.

⁸⁰ Chrys. *Ep. ad Innoc.* Sec. 3.

East, not only when Communion is given with the reserved Sacrament, but also when the people are communicated in the Liturgy from the newly consecrated species. The first mention of intinction in the West, is at Carthage in the fifth century.⁸¹ We know it was practised in the seventh century and by the twelfth it had become general, to give place to the withdrawal of the chalice altogether in the West.⁸² “Regino (*De Eccles. Discip. Lib. I. c. lxx.*) in 906, Burchard (*Decr. Lib. V. cap. ix. fol. 95. colon. 1560.*) in 996, and Ivo (*Decr. Pars. II. cap. xix. p. 56, Paris 1647*) in 1092 all cite a Canon, which they ascribe to a council of Tours ordering ‘every presbyter to have a pyx or vessel meet for so great a sacrament, in which the Body of the Lord may be carefully laid up for the Viaticum to those departing from this world, which sacred oblation ought to be steeped in the Blood of Christ that the presbyter may be able to say truthfully to the sick man, The Body and Blood of the Lord avail thee, etc.’”⁸³

The reservation of the Holy Sacrament was usually made in the church itself, and the learned W. E. Scudamore is of opinion that this was the case in Africa as early as the fourth century.⁸⁴

It will not be uninteresting to quote in this connection the “Apostolic Constitutions,” for while indeed there is much doubt of the date of the Eighth Book, yet it is certainly of great antiquity. Here we read, “and after the communion of both men and women, the deacons take what remains and place it in the tabernacle.”⁸⁵

Perhaps it may not be amiss before closing the remark that so far as we are aware the reservation of the Holy Sacrament in the early church was only for the purposes of communion, and that the churches of the East reserve it to the present day only for this purpose.

Those who wish to read the matter treated of more at length, can do so in Muratorius’s learned “Dissertations” which are prefixed to his edition of the Roman Sacramentaries (chapter XXIV) and in Scudamore’s *Notitia Eucharistica*, a work which can be absolutely relied upon for the accuracy of its facts, however little one may feel constrained to accept the logical justness of its conclusions.

81 I give the reference as in Scudamore’s *Not. Euch.* from which I have taken it. *De Prom. et Præd. Dei*; Dimid. Temp. c. 6; inter Opp. Prosperi, p. 161. ed. 1609.

82 Cf. Scudamore, *Not. Euch.* p. 705.

83 Cf. Scudamore, *Notit. Euch.* p. 707.

84 W. E. Scudamore, *Notitia Eucharistica* [2d. Ed.] p. 1025.

85 *Apost. Const. Lib. viii. cap. xiiij.* The word used is *παστοφόρια*, this may possibly mean a side chapel, and does occur in the Book of Maccabees in this sense; but its classical use is to signify the shrine of a god, and while so distinguished a writer as Pierre Le Brun adopts the later meaning, the no less famous Durant, together with most commentators, translate as I have done above. In either case for the present purpose, the quotation is conclusive of the practice of the primitive church in regard to this matter. Liddell and Scott give “*παστοφόρος*, one carrying the image of a god in a shrine.”

Canon XIV.

CONCERNING catechumens who have lapsed, the holy and great Synod has decreed that, after they have passed three years only as hearers, they shall pray with the catechumens.

Notes.

ANCIENT EPITOME OF CANON XIV.

If any of the catechumens shall have fallen for three years he shall be a hearer only, and then let him pray with the catechumens.

JUSTELLUS.

The people formerly were divided into three classes in the church, for there were catechumens, faithful, and penitents; but it is clear from the present canon there were two kinds of catechumens: one consisting of those who heard the Word of God, and wished to become Christians, but had not yet desired baptism; these were called “hearers.” Others who were of long standing, and were properly trained in the faith, and desired baptism—these were called “competentes.”

There is difference of opinion among the learned as to whether there was not a third or even a fourth class of catechumens. Bingham and Card. Bona, while not agreeing in particular points, agree in affirming that there were more than two classes. Bingham’s first class are those not allowed to enter the church, the ἐξωθούμενοι, but the affirmation of the existence of such a class rests only on a very forced explanation of canon five of Neocæsarea. The second class, the hearers, audientes, rests on better evidence. These were not allowed to stay while the Holy Mysteries were celebrated, and their expulsion gave rise to the distinction between the “Mass of the Catechumens” (*Missa Catechumenorum*) and the “Mass of the Faithful” (*Missa Fidelium*). Nor were they suffered to hear the Creed or the Our Father. Writers who multiply the classes insert here some who knelt and prayed, called *Prostrati* or *Genuflectentes* (the same name as was given to one of the grades of penitence).

(Edw. H. Plumptre in *Dict. Christ. Antiq. s.v. Catechumens.*)

After these stages had been traversed each with its appropriate instruction, the catechumens gave in their names as applicants for baptism, and were known accordingly as *Competentes* (συναίτουντες). This was done commonly at the beginning of the Quadragesimal fast, and the instruction, carried on through the whole of that period, was fuller and more public in its nature (Cyril Hieros. *Catech.* i. 5; Hieron. *Ep.* 61, *ad Pammach.* c. 4). To catechumens in this stage the great articles of the Creed, the nature of the Sacraments, the penitential discipline of the Church, were explained, as in the Catechetical Lectures of Cyril of Jerusalem, with dogmatic precision. Special examinations and inquiries into character were made at intervals during the forty days. It was a time for fasting and watching and prayer (*Const. Apost.* viii. 5; 4 *C. Carth.* c. 85; Tertull. *De*

Bapt. c. 20; Cyril. l. c.) and, in the case of those who were married, of the strictest continence (August. *De fide et oper.* v. 8). Those who passed through the ordeal were known as the *perfectiores* (τελειώτεροι), the *electi*, or in the nomenclature of the Eastern Church as βαπτιζόμενοι or φωτιζόμενοι, the present participle being used of course with a future or gerundial sense. Their names were inscribed as such in the *album* or register of the church. They were taught, but not till a few days before their baptism, the Creed and the Lord's Prayer which they were to use after it. The periods for this registration varied, naturally enough, in different churches. At Jerusalem it was done on the second (Cyril. *Catech.* iii.), in Africa on the fourth Sunday in Lent (August. *Serm.* 213), and this was the time at which the candidate, if so disposed, might lay aside his old heathen or Jewish name and take one more specifically Christian (Socrat. *H. E.* vii. 21)... It is only necessary to notice here that the *Sacramentum Catechumenorum* of which Augustine speaks (*De Peccat. Merit.* ii. 26) as given apparently at or about the time of their first admission by imposition of hands, was probably the εὐλογία or *panis benedictus*, and not, as Bingham and Augusti maintain, the *salt* which was given with milk and honey after baptism.

Canon XV.

ON account of the great disturbance and discords that occur, it is decreed that the custom prevailing in certain places contrary to the Canon, must wholly be done away; so that neither bishop, presbyter, nor deacon shall pass from city to city. And if any one, after this decree of the holy and great Synod, shall attempt any such thing, or continue in any such course, his proceedings shall be utterly void, and he shall be restored to the Church for which he was ordained bishop or presbyter.

Notes.

ANCIENT EPITOME OF CANON XV.

Neither bishop, presbyter, nor deacon shall pass from city to city. But they shall be sent back, should they attempt to do so, to the Churches in which they were ordained.

HEFELE.

The translation of a bishop, priest, or deacon from one church to another, had already been forbidden in the primitive Church. Nevertheless, several translations had taken place, and even at the Council of Nice several eminent men were present who had left their first bishoprics to take others: thus Eusebius, Bishop of Nicomedia, had been before Bishop of Berytus; Eustathius, Bishop of Antioch, had been before Bishop of Berrhœa in Syria. The Council of Nice thought it necessary



to forbid in future these translations, and to declare them invalid. The chief reason of this prohibition was found in the irregularities and disputes occasioned by such change of sees; but even if such practical difficulties had not arisen, the whole doctrinal idea, so to speak, of the relationship between a cleric and the church to which he had been ordained, namely, the contracting of a mystical marriage between them, would be opposed to any translation or change. In 341 the Synod of Antioch renewed, in its twenty-first canon, the prohibition passed by the Council of Nice; but the interest of the Church often rendered it necessary to make exceptions, as happened in the case of St. Chrysostom. These exceptional cases increased almost immediately after the holding of the Council of Nice, so that in 382, St. Gregory of Nazianzum considered this law among those which had long been abrogated by custom. It was more strictly observed in the Latin Church; and even Gregory's contemporary, Pope Damasus, declared himself decidedly in favour of the rule of Nice.

This canon is found in the *Corpus Juris Canonici. Decretum*, Pars II. Causa VII, Q. 1, c. xix.

Excursus on the Translation of Bishops.

There are few points upon which the discipline of the Church has so completely changed as that which regulated, or rather which forbade, the translation of a bishop from the see for which he was consecrated to some other diocese. The grounds on which such prohibition rested were usually that such changes were the outcome of ambition, and that if tolerated the result would be that smaller and less important sees would be despised, and that there would be a constant temptation to the bishops of such sees to make themselves popular with the important persons in other dioceses with the hope of promotion. Besides this objection to translation, St. Athanasius mentions a spiritual one, that the diocese was the bishop's bride, and that to desert it and take another was an act of unjustifiable divorce, and subsequent adultery.⁸⁶ Canon XIV. of the Apostolic Canons does not forbid the practice absolutely, but allows it for just cause, and although the Council of Nice is more stringent so far as its words are concerned, apparently forbidding translation under any circumstances, yet, as a matter of fact, that very council did allow and approve a translation.⁸⁷ The general feeling, however, of the early Church was certainly very strong against all such changes of Episcopal cure, and there can be no doubt that the chief reason why St. Gregory Nazianzen resigned the Presidency

⁸⁶ Athanas. *Apol.* ij.

⁸⁷ Sozom. *H. E.* I. 2.

of the First Council of Constantinople, was because he had been translated from his obscure see Sasima (not Nazianzum as Socrates and Jerome say) to the Imperial City.⁸⁸

From the canons of some provincial councils, and especially from those of the Third and of the Fourth Council of Carthage, it is evident that despite the conciliar and papal prohibitions, translations did take place, being made by the authority of the provincial Synods, and without the consent of the pope,⁸⁹ but it is also evident that this authority was too weak, and that the aid of the secular power had often to be invoked.

This course, of having the matter decided by the synod, was exactly in accordance with the Apostolic Canon (no. xiv.). In this manner, for example, Alexander was translated from Cappadocia to Jerusalem, a translation made, so it is narrated, in obedience to heavenly revelation.

It will be noticed that the Nicene Canon does not forbid Provincial Councils to translate bishops, but forbids bishops to translate themselves, and the author of the tract *De Translationibus* in the *Jus Orient.* (i. 293, *Cit.* Haddon. Art. "Bishop," Smith and Cheetham, *Dict. Chr. Antiq.*) sums up the matter tersely in the statement that ἡ μετάβασις κεκώλυται, οὐ μὴν ἢ μετάθεσις: i.e., the thing prohibited is "transmigration" (which arises from the bishop himself, from selfish motives) not "translation" (wherein the will of God and the good of the Church is the ruling cause); the "going," not the "being taken" to another see. And this was the practice both of East and West, for many centuries. Roman Catholic writers have tried to prove that translations, at least to the chief sees, required the papal consent, but Thomassinus, considering the case of St. Meletius having translated St. Gregory of Nazianzum to Constantinople, admits that in so doing he "would only have followed the example of many great bishops of the first ages, when usage had not yet reserved translations to the first see of the Church."⁹⁰

But the same learned author frankly confesses that in France, Spain, and England, translations were made until the ninth century without consulting the pope at all, by bishops and kings. When, however, from grounds of simple ambition, Anthimus was translated from Trebizonde to

34

88 By no one has this whole matter of the translation of bishops been more carefully and thoroughly treated than by Thomassinus, and in what follows I shall use his discussion as a thesaurus of facts. The title of his book is *Ancienne et Nouvelle Discipline de l'Église* (there is also an edition in Latin). In the Third Part, and the Second Book,

Chapter LX. treats of "Translations of bishops in the Latin Church during the first five centuries."

Chapter LXI. "Translations in the Eastern Church, during the first five centuries."

Chapter LXII. "Translation of bishops and bishoprics between the years five hundred and eight hundred."

Chapter LXIII. "Translation under the empire of Charlemagne and his descendants."

Chapter LXIV. "Translation of bishops after the year one thousand."

Of all this I can in the text give but a brief *resumé*.

89 Thomassin. *l. c.* lx. viij.

90 Thomassin, *l. cit.*, Chap. LI., § xij.

Constantinople, the religious of the city wrote to the pope, as also did the patriarchs of Antioch and Jerusalem, and as a result the Emperor Justinian allowed Anthimus to be deposed.⁹¹

Balsamon distinguishes three kinds of translations. The first, when a bishop of marked learning and of equal piety is forced by a council to pass from a small diocese to one far greater where he will be able to do the Church the most important services, as was the case when St. Gregory of Nazianzum was transferred from Sasima to Constantinople, *μετάθεσις*; the second when a bishop, whose see has been laid low by the barbarians, is transferred to another see which is vacant, *μετάβασις*; and the third when a bishop, either having or lacking a see, seizes on a bishopric which is vacant, on his own proper authority *ἀνάβασις*. It is this last which the Council of Sardica punishes so severely. In all these remarks of Balsamon there is no mention of the imperial power.

Demetrius Chomatenus, however, who was Archbishop of Thessalonica, and wrote a series of answers to Cabasilas, Archbishop of Durazzo, says that by the command of the Emperor a bishop, elected and confirmed, and even ready to be ordained for a diocese, may be forced to take the charge of another one which is more important, and where his services will be incomparably more useful to the public. Thus we read in the Book of Eastern Law that “If a Metropolitan with his synod, moved by a praiseworthy cause and probable pretext, shall give his approbation to the translation of a bishop, this can, without doubt, be done, for the good of souls and for the better administration of the church’s affairs, etc.”⁹² This was adopted at a synod held by the patriarch Manuel at Constantinople, in the presence of the imperial commissioners.

The same thing appears also in the synodal response of the patriarch Michael, which only demands for translation the authority of the Metropolitan and “the greatest authority of the Church.”⁹³ But, soon after this, translation became the rule, and not the exception both in East and West.

It was in vain that Simeon, Archbishop of Thessalonica, in the East raised his voice against the constant translations made by the secular power, and the Emperors of Constantinople were often absolute masters of the choice and translations of bishops; and Thomassinus sums up the matter, “At the least we are forced to the conclusion that no translations could be made without the consent of the Emperor, especially when it was the See of Constantinople that was to be filled.”

The same learned writer continues: “It was usually the bishop or archbishop of another church that was chosen to ascend the patriarchal throne of the imperial city. The Kings of England often used this same power to appoint to the Primatial See of Canterbury a bishop already approved in the government of another diocese.”⁹⁴

In the West, Cardinal Bellarmine disapproved the prevailing custom of translations and protested against it to his master, Pope Clement VIII., reminding him that they were contrary to the canons

35

91 This is Thomassinus’s version of the matter, in fact the charge of heresy was also made against Anthimus, but his uncanonical translation was a real count in the accusation.

92 *Juris. Orient.* tom. I. p. 240, 241.

93 *Ibid.* p. 5. I am not at all clear as to what this last phrase means.

94 *Thomassin. lib cit.*, chap. LXIV. § x.

and contrary to the usage of the Ancient Church, except in cases of necessity and of great gain to the Church. The pope entirely agreed with these wise observations, and promised that he would himself make, and would urge princes to make, translations only “with difficulty.” But translations are made universally, all the world over, today, and no attention whatever is paid to the ancient canons and discipline of the Church.⁹⁵

Canon XVI.

NEITHER presbyters, nor deacons, nor any others enrolled among the clergy, who, not having the fear of God before their eyes, nor regarding the ecclesiastical Canon, shall recklessly remove from their own church, ought by any means to be received by another church; but every constraint should be applied to restore them to their own parishes; and, if they will not go, they must be excommunicated. And if anyone shall dare surreptitiously to carry off and in his own Church ordain a man belonging to another, without the consent of his own proper bishop, from whom although he was enrolled in the clergy list he has seceded, let the ordination be void.

Notes.

ANCIENT EPITOME OF CANON XVI.

Such presbyters or deacons as desert their own Church are not to be admitted into another, but are to be sent back to their own diocese. But if any bishop should ordain one who belongs to another Church without the consent of his own bishop, the ordination shall be cancelled.

“Parish” in this canon, as so often elsewhere, means “diocese.”

BALSAMON.

It seemed right that the clergy should have no power to move from city to city and to change their canonical residence without letters dimissory from the bishop who ordained them. But such clerics as are called by the bishops who ordained them and cannot be persuaded to return, are to be separated from communion, that is to say, not to be allowed to concelebrate (συνιερούργειν) with them, for this is the meaning of “excommunicated” in this place, and not that they should not enter the church nor receive the sacraments. This decree agrees with canon xv. of the Apostolical canons, which provides that such shall not celebrate the liturgy. Canon xvj. of the same Apostolical canons further provides that if a bishop receive a cleric coming to him from another diocese without

⁹⁵ I believe this is true of all churches, Catholic and Protestant, having an episcopal form of government (including the Protestant Church of Sweden, and the Methodist Episcopal Church), with the exception of the Protestant Episcopal Church in the United States, in which the ancient prohibition of the translation of diocesan bishops is observed in all its Nicene strictness.

his bishop's letters dimissory, and shall ordain him, such a bishop shall be separated. From all this it is evident that the Chartophylax of the Great Church for the time does rightly in refusing to allow priests ordained in other dioceses to offer the sacrifice unless they bring with them letters commendatory and dimissory from those who ordained them.

Zonaras had also in his Scholion given the same explanation of the canon.

This canon is found in the *Corpus Juris Canonici*, divided into two. *Decretum*. Pars II, Causa VII. Quæst. I. c. xxij.; and Pars I. Dist. LXXI., c. ij.



Canon XVII.

FORASMUCH as many enrolled among the Clergy, following covetousness and lust of gain, have forgotten the divine Scripture, which says, "He hath not given his money upon usury," and in lending money ask the hundredth of the sum [as monthly interest], the holy and great Synod thinks it just that if after this decree any one be found to receive usury, whether he accomplish it by secret transaction or otherwise, as by demanding the whole and one half, or by using any other contrivance whatever for filthy lucre's sake, he shall be deposed from the clergy and his name stricken from the list.

Notes.

ANCIENT EPITOME OF CANON XVII.

If anyone shall receive usury or 150 per cent, he shall be cast forth and deposed, according to this decree of the Church.

VAN ESPEN.

Although the canon expresses only these two species of usury, if we bear in mind the grounds on which the prohibition was made, it will be manifest that every kind of usury is forbidden to clerics and under any circumstances, and therefore the translation of this canon sent by the Orientals to the Sixth Council of Carthage is in no respect alien to the true intent of the canon; for in this version no mention is made of any particular kind of usury, but generally the penalty is assigned to any clerics who "shall be found after this decree taking usury" or thinking out any other scheme for the sake of filthy lucre.

This Canon is found in the *Corpus Juris Canonici*, in the first part of the *Decretum*, in Dionysius's version. *Dist.* xlviij, c. ii, and again in Isidore's version in Pars II, Causa xiv. Quæs. iv., c. viii.

Excursus on Usury.

The famous canonist Van Espen defines usury thus: “Usura definitur lucrum ex mutuo exactum aut speratum;”⁹⁶ and then goes on to defend the proposition that, “Usury is forbidden by natural, by divine, and by human law. The first is proved thus. Natural law, as far as its first principles are concerned, is contained in the decalogue; but usury is prohibited in the decalogue, inasmuch as theft is prohibited; and this is the opinion of the Master of the Sentences, of St. Bonaventura, of St. Thomas and of a host of others: for by the name of theft in the Law all unlawful taking of another’s goods is prohibited; but usury is an unlawful, etc.” For a proof of usury’s being contrary to divine law he cites Ex. xxii. 25, and Deut. xxiii. 29; and from the New Testament Luke vi. 34. “The third assertion is proved thus. Usury is forbidden by human law: The First Council of Nice in Canon VII. deposed from the clergy and from all ecclesiastical rank, clerics who took usury; and the same thing is the case with an infinite number of councils, in fact with nearly all *e.g.* Elvira, ij, Arles j, Carthage iij, Tours iij, etc. Nay, even the pagans themselves formerly forbid it by their laws.” He then quotes Tacitus (*Annal.* lib. v.), and adds, “with what severe laws the French Kings coerced usurers is evident from the edicts of St. Louis, Philip IV., Charles IX., Henry III., etc.”

There can be no doubt that Van Espen in the foregoing has accurately represented and without any exaggeration the universal opinion of all teachers of morals, theologians, doctors, Popes, and Councils of the Christian Church for the first fifteen hundred years. All interest exacted upon loans of money was looked upon as usury, and its reception was esteemed a form of theft and dishonesty. Those who wish to read the history of the matter in all its details are referred to Bossuet’s work on the subject, *Traité de l’Usure*,⁹⁷ where they will find the old, traditional view of the Christian religion defended by one thoroughly acquainted with all that could be said on the other side.

37

The glory of inventing the new moral code on the subject, by which that which before was looked upon as mortal sin has been transfigured into innocence, if not virtue, belongs to John Calvin! He made the modern distinction between “interest” and “usury,” and was the first to write in defence of this then new-fangled refinement of casuistry.⁹⁸ Luther violently opposed him, and Melancthon also kept to the old doctrine, though less violently (as was to be expected); today the whole Christian West, Protestant and Catholic alike, stake their salvation upon the truth of Calvin’s distinction! Among Roman Catholics the new doctrine began to be defended about the beginning of the eighteenth century, the work of Scipio Maffei, *Dell’ impiego dell danaro*, written on the laxer side, having attracted a widespread attention. The Ballerini affirm that the learned pope Benedict XIV. allowed books defending the new morals to be dedicated to him, and in 1830 the Congregation of the Holy Office with the approval of the reigning Pontiff, Pius VIII., decided that

⁹⁶ Van Espen, *Dissertatio de Usura*, Art. I.

⁹⁷ Bossuet, *Œuvres Comp.* xxxj.

⁹⁸ Funk (*Zins und Wucher*, p. 104) says that Eck and Hoogsträten had already verbally defended this distinction at Bologna.

those who considered the taking of interest allowed by the state law justifiable, were “not to be disturbed.” It is entirely disingenuous to attempt to reconcile the modern with the ancient doctrine; the Fathers expressly deny that the State has any power to make the receiving of interest just or to fix its rate, there is but one ground for those to take who accept the new teaching, viz. that all the ancients, while true on the moral principle that one must not defraud his neighbour nor take unjust advantage of his necessity, were in error concerning the facts, in that they supposed that money was barren, an opinion which the Schoolmen also held, following Aristotle. This we have found in modern times, and amid modern circumstances, to be an entire error, as Gury, the famous modern casuist, well says, “fructum producit et multiplicatur per se.”⁹⁹

That the student may have it in his power to read the Patristic view of the matter, I give a list of the passages most commonly cited, together with a review of the conciliar action, for all which I am indebted to a masterly article by Wharton B. Marriott in Smith and Cheetham’s *Dictionary of Christian Antiquities* (s.v. Usury).

Although the conditions of the mercantile community in the East and the West differed materially in some respects, the fathers of the two churches are equally explicit and systematic in their condemnation of the practice of usury. Among those belonging to the Greek church we find Athanasius (*Expos. in Ps. xiv*); Basil the Great (*Hom. in Ps. xiv*). Gregory of Nazianzum (*Orat. xiv. in Patrem tacentem*). Gregory of Nyssa (*Orat. cont. Usurarios*); Cyril of Jerusalem (*Catech. iv. c. 37*), Epiphanius (*adv. Hæres. Epilog. c. 24*), Chrysostom (*Hom. xli. in Genes*), and Theodoret (*Interpr. in Ps. xiv. 5, and liv. 11*). Among those belonging to the Latin church, Hilary of Poitiers (*in Ps. xiv*); Ambrose (*de Tobia liber unus*). Jerome (*in Ezech. vi. 18*); Augustine *de Baptismo contr. Donatistas*, iv. 19); Leo the Great (*Epist. iii. 4*), and Cassiodorus (*in Ps. xiv. 10*).

The canons of later councils differ materially in relation to this subject, and indicate a distinct tendency to mitigate the rigour of the Nicæan interdict. That of the council of Carthage of the year 348 enforces the original prohibition, but without the penalty, and grounds the veto on both Old and New Testament authority, “nemo contra prophetas, nemo contra evangelia facit sine periculo” (Mansi, iii. 158). The language, however, when compared with that of the council of Carthage of the year 419, serves to suggest that, in the interval, the lower clergy had occasionally been found having recourse to the forbidden practice, for the general terms of the earlier canon, “ut non liceat clericis fenerari,” are enforced with greater particularity in the latter, “Nec omnino cuiquam clericorum liceat de qualibet re fœnus accipere” (Mansi, iv. 423). This supposition is supported by the language of the council of Orleans (A.D. 538), which appears to imply that deacons were not prohibited from lending money at interest, “Et clericus a diaconatu, et supra, pecuniam non commodet ad usuras” (*ib. ix. 18*). Similarly, at the second council of Trullanum (A.D. 692) a like liberty would appear to have been recognised among the lower clergy (Hardouin, iii. 1663). While, again, the Nicæan canon requires the immediate deposition of the ecclesiastic found guilty of the

⁹⁹ Gury, *Comp. Theol. Moral* (Ed. Ballerini) vol. ii. p. 611.

practice, the Apostolical canon enjoins that such deposition is to take place only after he has been admonished and has disregarded the admonition.

Generally speaking, the evidence points to the conclusion that the Church imposed no penalty on the layman. St. Basil (*Epist.* clxxxviii. can. 12), says that a usurer may even be admitted to orders, provided he gives his acquired wealth to the poor and abstains for the future from the pursuit of gain (Migne, *Patrol. Græc.* xxxii. 275). Gregory of Nyssa says that usury, unlike theft, the desecration of tombs, and sacrilege (ἱεροσυλία), is allowed to pass unpunished, although among the things forbidden by Scripture, nor is a candidate at ordination ever asked whether or no he has been guilty of the practice (Migne, *ib.* xlv. 233). A letter of Sidonius Apollinaris (*Epist.* vi. 24) relating an experience of his friend Maximus, appears to imply that no blame attached to lending money at the legal rate of interest, and that even a bishop might be a creditor on those terms. We find also Desideratus, bishop of Verdun, when applying for a loan to king Theodebert, for the relief of his impoverished diocese, promising repayment, “cum usuris legitimis,” an expression which would seem to imply that in the Gallican church usury was recognised as lawful under certain conditions (Greg. Tur. *Hist. Franc.* iii. 34). So again a letter (*Epist.* ix. 38) of Gregory the Great seems to shew that he did not regard the payment of interest for money advanced by one layman to another as unlawful. But on the other hand, we find in what is known as archbishop Theodore’s “Penitential” (*circ.* A.D. 690) what appears to be a general law on the subject, enjoining “Sic quis usuras undecunque exegerit...tres annos in pane et aqua” (c. xxv. 3); a penance again enjoined in the Penitential of Egbert of York (c. ii. 30). In like manner, the legates, George and Theophylact, in reporting their proceedings in England to pope Adrian I. (A.D. 787), state that they have prohibited “usurers,” and cite the authority of the Psalmist and St. Augustine (Haddan and Stubbs, *Conc.* iii. 457). The councils of Mayence, Rheims, and Châlons, in the year 813, and that of Aix in the year 816, seem to have laid down the same prohibition as binding both on the clergy and the laity (Hardouin, *Conc.* iv. 1011, 1020, 1033, 1100).

Muratori, in his dissertation on the subject (*Antichità*, vol. i.), observes that “we do not know exactly how commerce was transacted in the five preceding centuries,” and consequently are ignorant as to the terms on which loans of money were effected.

Canon XVIII.

It has come to the knowledge of the holy and great Synod that, in some districts and cities, the deacons administer the Eucharist to the presbyters, whereas neither canon nor custom permits that they who have no right to offer should give the Body of Christ to them that do offer. And this also has been made known, that certain deacons now touch the Eucharist even before the bishops. Let all such practices be utterly done away, and let the deacons remain within their own bounds, knowing that they are the ministers of the bishop and the inferiors of the presbyters. Let them receive the

Eucharist according to their order, after the presbyters, and let either the bishop or the presbyter administer to them. Furthermore, let not the deacons sit among the presbyters, for that is contrary to canon and order. And if, after this decree, any one shall refuse to obey, let him be deposed from the diaconate.



Notes.

ANCIENT EPITOME OF CANON XVIII.

Deacons must abide within their own bounds. They shall not administer the Eucharist to presbyters, nor touch it before them, nor sit among the presbyters. For all this is contrary to canon, and to decent order.

VAN ESPEN.

Four excesses of deacons this canon condemns, at least indirectly. The first was that they gave the holy Communion to presbyters. To understand more easily the meaning of the canon it must be remembered that the reference here is not to the presbyters who were sacrificing at the altar but to those who were offering together with the bishop who was sacrificing; by a rite not unlike that which to-day takes place, when the newly ordained presbyters or bishops celebrate mass with the ordaining bishop; and this rite in old times was of daily occurrence, for a full account of which see Morinus *De SS. Ordinat.* P. III. Exercit. viij.... The present canon does not take away from deacons the authority to distribute the Eucharist to laymen, or to the minor clergy, but only reproves their insolence and audacity in presuming to administer to presbyters who were concelebrating with the bishop or another presbyter....

The second abuse was that certain deacons touched the sacred gifts before the bishop. The vulgar version of Isidore reads for "touched" "received," a meaning which Balsamon and Zonaras also adopt, and unless the Greek word, which signifies "to touch," is contrary to this translation, it seems by no means to be alien to the context of the canon.

"Let them receive the Eucharist according to their order, after the presbyters, and let the bishop or the presbyter administer to them." In these words it is implied that some deacons had presumed to receive Holy Communion before the presbyters, and this is the third excess of the deacon which is condemned by the Synod.

And lastly, the fourth excess was that they took a place among the presbyters at the very time of the sacrifice, or "at the holy altar," as Balsamon observes.

From this canon we see that the Nicene fathers entertained no doubt that the faithful in the holy Communion truly received "the body of Christ." Secondly, that that was "offered" in the church, which is the word by which sacrifice is designated in the New Testament, and therefore it was at that time a fixed tradition that there was a sacrifice in which the body of Christ was offered. Thirdly that not to all, nor even to deacons, but only to bishops and presbyters was given the power of

offering. And lastly, that there was recognized a fixed hierarchy in the Church, made up of bishops and presbyters and deacons in subordination to these.

Of course even at that early date there was nothing new in this doctrine of the Eucharist. St. Ignatius more than a century and a half before, wrote as follows: “But mark ye those who hold strange doctrine touching the grace of Jesus Christ which came to us, how that they are contrary to the mind of God. They have no care for love, none for the widow, none for the orphan, none for the afflicted, none for the prisoner, none for the hungry or thirsty. They abstain from eucharist (thanksgiving) and prayer, because they allow not that the Eucharist is the flesh of our Saviour Jesus Christ, which flesh suffered for our sins, and which the Father of his goodness raised up.”¹⁰⁰

In one point the learned scholiast just quoted has most seriously understated his case. He says that the wording of the canon shews “that the Nicene fathers entertained no doubt that the faithful in the holy Communion truly received ‘the body of Christ.’” Now this statement is of course true because it is included in what the canon says, but the doctrinal statement which is necessarily contained in the canon is that “the body of Christ is given” by the minister to the faithful. This doctrine is believed by all Catholics and by Lutherans, but is denied by all other Protestants; those Calvinists who kept most nearly to the ordinary Catholic phraseology only admitting that “the sacrament of the Body of Christ” was given in the supper by the minister, while “the body of Christ,” they taught, was present only in the soul of the worthy communicant (and in no way connected with the form of bread, which was but the divinely appointed sign and assurance of the heavenly gift), and therefore could not be “given” by the priest.¹⁰¹

This canon is found in the *Corpus Juris Canonici, Decretum*. Pars I. Dist. XCIII., c. xiv.



Canon XIX.

CONCERNING the Paulianists who have flown for refuge to the Catholic Church, it has been decreed that they must by all means be rebaptized; and if any of them who in past time have been numbered among their clergy should be found blameless and without reproach, let them be rebaptized and ordained by the Bishop of the Catholic Church; but if the examination should discover them to be unfit, they ought to be deposed. Likewise in the case of their deaconesses, and generally in the case of those who have been enrolled among their clergy, let the same form be observed. And we mean by deaconesses such as have assumed the habit, but who, since they have no imposition of hands, are to be numbered only among the laity.

¹⁰⁰ Ignat. *Ad Smyr.* § vi. Lightfoot's translation. *Apost. Fath.* Vol. II. Sec. I. p. 569.

¹⁰¹ Cf. Art. xxviii. of the “Articles of Religion” of the Church of England, which declares that “The Body of Christ is given, taken, and eaten in the Supper,” etc.

Notes.

ANCIENT EPITOME OF CANON XIX.

Paulianists must be rebaptised, and if such as are clergymen seem to be blameless let them be ordained. If they do not seem to be blameless, let them be deposed. Deaconesses who have been led astray, since they are not sharers of ordination, are to be reckoned among the laity.

FFOULKES.

(*Dict. Chr. Ant. s.v. Nicæa, Councils of.*)

That this is the true meaning of the phrase ὄρος ἐκτέθειται, viz. “a decree has now been made,” is clear from the application of the words ὄρος in Canon xvii., and ὠρίσεν, in Canon vi. It has been a pure mistake, therefore, which Bp. Hefele blindly follows, to understand it of some canon previously passed, whether at Arles or elsewhere.

JUSTELLUS.

Here χειροθεσία is taken for ordination or consecration, not for benediction,...for neither were deaconesses, sub-deacons, readers, and other ministers ordained, but a blessing was merely pronounced over them by prayer and imposition of hands.

ARISTENUS.

Their (the Paulicians’) deaconesses also, since they have no imposition of hands, if they come over to the Catholic Church and are baptized, are ranked among the laity.

With this Zonaras and Balsamon also agree.

HEFELE.

By Paulianists must be understood the followers of Paul of Samosata the anti-Trinitarian who, about the year 260, had been made bishop of Antioch, but had been deposed by a great Synod in 269. As Paul of Samosata was heretical in his teaching on the Holy Trinity the Synod of Nice applied to him the decree passed by the council of Arles in its eighth canon. “If anyone shall come from heresy to the Church, they shall ask him to say the creed; and if they shall perceive that he was baptized into the Father, and the Son, and the Holy Ghost,¹⁰² he shall have a hand laid on him only that he may receive the Holy Ghost. But if in answer to their questioning he shall not answer this Trinity, let him be baptized.”

¹⁰² In Patre et Filio et Spiritu Sancto esse baptizatum

The Samosatans, according to St. Athanasius, named the Father, Son and Holy Spirit in administering baptism (*Orat. ii, Contra Arian. No. xliii.*), but as they gave a false meaning to the baptismal formula and did not use the words Son and Holy Spirit in the usual sense, the Council of Nice, like St. Athanasius himself, considered their baptism as invalid.

There is great difficulty about the text of the clause beginning “Likewise in the case, etc.,” and Gelasius, the *Prisca*, Theilo and Thearistus, (who in 419 translated the canons of Nice for the African bishops), the Pseudo-Isidore, and Gratian have all followed a reading διακόνων, instead of διακονισσῶν. This change makes all clear, but many canonists keep the ordinary text, including Van Espen, with whose interpretation Hefele does not agree.

The clause I have rendered “And we mean by deaconesses” is most difficult of translation. I give the original, Ἐμνήσθημεν δὲ διακονισσῶν τῶν ἐν τῷ σχήματι ἐξετασθεισῶν, ἐπεὶ κ.τ.λ. Hefele’s translation seems to me impossible, by σχήματι he understands the list of the clergy just mentioned.



Excursus on the Deaconess of the Early Church.

It has been supposed by many that the deaconess of the Early Church had an Apostolic institution and that its existence may be referred to by St. Paul in his Epistle to the Romans (xvi. 1) where he speaks of Phœbe as being a διάκονος of the Church of Cenchrea. It moreover has been suggested that the “widows” of 1 Tim. v. 9 may have been deaconesses, and this seems not unlikely from the fact that the age for the admission of women to this ministry was fixed by Tertullian at sixty years (*De Vel. Virg. Cap. ix.*), and only changed to forty, two centuries later by the Council of Chalcedon, and from the further fact that these “widows” spoken of by St. Paul seem to have had a vow of chastity, for it is expressly said that if they marry they have “damnation, because they have cast off their first faith” (1 Tim. v. 12).

These women were called διακόνισσαι, πρεσβυτίδες (which must be distinguished from the πρεσβυτέραι, a poor class referred to in the *Apostolic Constitutions* (ii. 28) who are to be only invited frequently to the love-feasts, while the πρεσβυτίδες had a definite allotment of the offerings assigned to their support), χήραι, *diaconissæ*, *presbyteræ*, and *viduæ*.

The one great characteristic of the deaconess was that she was vowed to perpetual chastity.¹⁰³ The *Apostolical Constitutions* (vi. 17) say that she must be a chaste virgin (παρθένος ἀγνή) or else

¹⁰³ In 1836, the Lutheran Pastor Fliedner, of a little town on the Rhine, opened a parish hospital the nurses of which he called “Deaconesses.” This “Deaconess House” at Kaiserswerth, was the mother-house from which all the deaconess establishments of the present day have taken their origin. The Methodists have adopted the system successfully. Some efforts have been made

a widow. The writer of the article “Deaconess” in the *Dictionary of Christian Antiquities* says: “It is evident that the ordination of deaconesses included a vow of celibacy.” We have already seen the language used by St. Paul and of this the wording of the canon of Chalcedon is but an echo (Canon xv). “A woman shall not receive the laying on of hands as a deaconess under forty years of age, and then only after searching examination. And if, after she has had hands laid on her, and has continued for a time to minister, she shall despise the Grace of God and give herself in marriage, she shall be anathematized and the man who is united to her.” The civil law went still further, and by Justinian’s Sixth Novel (6) those who attempted to marry are subjected to forfeiture of property and capital punishment. In the collect in the ancient office there is a special petition that the newly admitted deaconess may have the gift of continence.

The principal work of the deaconess was to assist the female candidates for holy baptism. At that time the sacrament of baptism was always administered by immersion (except to those in extreme illness) and hence there was much that such an order of women could be useful in. Moreover they sometimes gave to the female catechumens preliminary instruction, but their work was wholly limited to women, and for a deaconess of the Early Church to teach a man or to nurse him in sickness would have been an impossibility. The duties of the deaconess are set forth in many ancient writings, I cite here what is commonly known as the XII Canon of the Fourth Council of Carthage, which met in the year 398:

“Widows and dedicated women (*sanctimoniales*) who are chosen to assist at the baptism of women, should be so well instructed in their office as to be able to teach aptly and properly unskilled and rustic women how to answer at the time of their baptism to the questions put to them, and also how to live godly after they have been baptized.” This whole matter is treated clearly by St. Epiphanius who, while indeed speaking of deaconesses as an order (τάγμα), asserts that “they were only women-elders, not priestesses in any sense, that their mission was not to interfere in any way with Sacerdotal functions, but simply to perform certain offices in the care of women” (*Hær.* lxxix., cap. iij). From all this it is evident that they are entirely in error who suppose that “the laying on of hands” which the deaconesses received corresponded to that by which persons were ordained to the diaconate, presbyterate, and episcopate at that period of the church’s history. It was merely a solemn dedication and blessing and was not looked upon as “an outward sign of an inward grace given.” For further proof of this I must refer to Morinus, who has treated the matter most admirably. (*De Ordinationibus*, Exercitatio X.)



to domesticate it, in a somewhat modified form, also in the Anglican Churches but thus far with but little success. Of course these “Deaconesses” resemble the Deaconesses of the Early Church only in name. The reader who may be interested in seeing an effort to connect the modern deaconess with the deaconess of antiquity is referred to *The Ministry of Deaconesses* by Deaconess Cecilia Robinson. This book, it should be said, contains much valuable and accurate information upon the subject, but accepts as proven facts the suppositions of the late Bishop Lightfoot upon the subject; who somewhat rashly asserted that “the female diaconate is as definite an institution as the male diaconate. Phœbe is as much a deacon as Stephen or Philip is a deacon!”

The deaconesses existed but a short while. The council of Laodicea as early as A.D. 343–381, forbade the appointment of any who were called *πρεσβύτερες* (*Vide Canon xi*); and the first council of Orange, A.D. 441, in its twenty-sixth canon forbids the appointment of deaconesses altogether, and the Second council of the same city in canons xvij and xviii, decrees that deaconesses who married were to be excommunicated unless they renounced the men they were living with, and that, on account of the weakness of the sex, none for the future were to be ordained.

Thomassinus, to whom I refer the reader for a very full treatment of the whole subject, is of opinion that the order was extinct in the West by the tenth or twelfth century, but that it lingered on a little later at Constantinople but only in conventual institutions. (Thomassin, *Ancienne et Nouvelle Discipline de l' Eglise*, I Partie, Livre III.)

Canon XX.

FORASMUCH as there are certain persons who kneel on the Lord's Day and in the days of Pentecost, therefore, to the intent that all things may be uniformly observed everywhere (in every parish), it seems good to the holy Synod that prayer be made to God standing.

Notes.

ANCIENT EPITOME OF CANON XX.

On Lord's days and at Pentecost all must pray standing and not kneeling.

HAMMOND.

Although kneeling was the common posture for prayer in the primitive Church, yet the custom had prevailed, even from the earliest times, of standing at prayer on the Lord's day, and during the fifty days between Easter and Pentecost. Tertullian, in a passage in his treatise *De Corona Militis*, which is often quoted, mentions it amongst other observances which, though not expressly commanded in Scripture, yet were universally practised upon the authority of tradition. "We consider it unlawful," he says, "to fast, or to pray kneeling, upon the Lord's day; we enjoy the same liberty from Easter-day to that of Pentecost." *De Cor. Mil.* s. 3, 4. Many other of the Fathers notice the same practice, the reason of which, as given by Augustine and others, was to commemorate the resurrection of our Lord, and to signify the rest and joy of our own resurrection, which that of our Lord assured. This canon, as Beveridge observes, is a proof of the importance formerly attached to an uniformity of sacred rites throughout the Church, which made the Nicene Fathers thus sanction and enforce by their authority a practice which in itself is indifferent, and not commanded directly or indirectly in Scripture, and assign this as their reason for doing so: "In order that all things may be observed in like manner in every parish" or diocese.

HEFELE.

All the churches did not, however, adopt this practice; for we see in the Acts of the Apostles (xx. 36 and xxi. 5) that St. Paul prayed kneeling during the time between Pentecost and Easter.

This canon is found in the *Corpus Juris Canonici. Decretum*, Pars III, *De Conc.* Dist. III. c. x.



Excursus on the Number of the Nicene Canons.

There has come down to us a Latin letter purporting to have been written by St. Athanasius to Pope Marcus. This letter is found in the Benedictine edition of St. Athanasius's works (ed. Patav. ii. 599) but rejected as spurious by Montfaucon the learned editor. In this letter is contained the marvellous assertion that the Council of Nice at first adopted forty canons, which were in Greek, that it subsequently added twenty Latin canons, and that afterwards the council reassembled and set forth seventy altogether. A tradition that something of the kind had taken place was prevalent in parts of the East, and some collections did contain seventy canons.

In the Vatican Library is a MS. which was bought for it by the famous Asseman, from the Coptic Patriarch, John, and which contains not only seventy, but eighty canons attributed to the council of Nice. The MS. is in Arabic, and was discovered by J. B. Romanus, S. J., who first made its contents known, and translated into Latin a copy he had made of it. Another Jesuit, Pisanus, was writing a history of the Nicene Council at the time and he received the eighty newly found canons into his book; but, out of respect to the pseudo-Athanasian letter, he at first cut down the number to seventy; but in later editions he followed the MS. All this was in the latter half of the sixteenth century; and in 1578 Turrianus, who had had Father Romanus's translation revised before it was first published, now issued an entirely new translation with a *Proëmium*¹⁰⁴ containing a vast amount of information upon the whole subject, and setting up an attempted proof that the number of the Nicene Canons exceeded twenty. His argument for the time being carried the day.

Hefele says, "it is certain that the Orientals¹⁰⁵ believed the Council of Nice to have promulgated more than twenty canons: the learned Anglican, Beveridge,¹⁰⁶ has proved this, reproducing an ancient Arabic paraphrase of the canons of the first four Ecumenical Councils. According to this Arabic paraphrase, found in a MS. in the Bodleian Library, the Council of Nice must have put forth

¹⁰⁴ Vide Labbe, *Conc.* ii. 287.

¹⁰⁵ Who exactly these *Orientalis* were Hefele does not specify, but Ffoulkes well points out (*Dict. Christ. Antiq. sub voce* Councils of Nicæa) that it is an entire mistake to suppose that the Greek Church "ever quoted other canons [than the xx] as Nicene 'by mistake,' which were not Nicene, as popes Zosimus, Innocent and Leo did."

¹⁰⁶ Beveridge, *Synod. sive Pand.* i. 686.

three books of canons....The Arabic paraphrase of which we are speaking gives a paraphrase of all these canons, but Beveridge took only the part referring to the second book—that is to say, the paraphrase of the twenty genuine canons; for, according to his view, which was perfectly correct, it was only these twenty canons which were really the work of the Council of Nice, and all the others were falsely attributed to it.”¹⁰⁷

Hefele goes on to prove that the canons he rejects must be of much later origin, some being laws of the times of Theodosius and Justinian according to the opinion of Renaudot.¹⁰⁸

Before leaving this point I should notice the profound research on these Arabic canons of the Maronite, Abraham Echellensis. He gives eighty-four canons in his Latin translation of 1645, and was of opinion that they had been collected from different Oriental sources, and sects; but that originally they had all been translated from the Greek, and were collected by James, the celebrated bishop of Nisibis, who was present at Nice. But this last supposition is utterly untenable.

Among the learned there have not been wanting some who have held that the Council of Nice passed more canons than the twenty we possess, and have arrived at the conclusion independently of the Arabic discovery, such are Baronius and Card. d’Aguirre, but their arguments have been sufficiently answered, and they cannot present anything able to weaken the conclusion that flows from the consideration of the following facts.

(Hefele: *History of the Councils*, Vol. I. pp. 355 *et seqq.* [2d ed.])



Let us see first what is the testimony of those Greek and Latin authors who lived about the time of the Council, concerning the number.

a. The first to be consulted among the Greek authors is the learned Theodoret, who lived about a century after the Council of Nicæa. He says, in his *History of the Church*: “After the condemnation of the Arians, the bishops assembled once more, and decreed twenty canons on ecclesiastical discipline.”

b. Twenty years later, Gelasius, Bishop of Cyzicus, after much research into the most ancient documents, wrote a history of the Nicene Council. Gelasius also says expressly that the Council decreed twenty canons; and, what is more important, he gives the original text of these canons exactly in the same order, and according to the tenor which we find elsewhere.

c. Rufinus is more ancient than these two historians. He was born near the period when the Council of Nicæa was held, and about half a century after he wrote his celebrated history of the Church, in which he inserted a Latin translation of the Nicene canons. Rufinus also knew only of these twenty canons; but as he has divided the sixth and the eighth into two parts, he has given twenty-two canons, which are exactly the same as the twenty furnished by the other historians.

d. The famous discussion between the African bishops and the Bishop of Rome, on the subject of appeals to Rome, gives us a very important testimony on the true number of the Nicene canons.

¹⁰⁷ Hefele: *Hist. Councils*, I. 362.

¹⁰⁸ Renaudot: *Hist. Patriarcharum Alexandrianorum Jacobitarum*. Paris, 1713, p. 75.

The presbyter Apiarius of Sicca in Africa, having been deposed for many crimes, appealed to Rome. Pope Zosimus (417–418) took the appeal into consideration, sent legates to Africa; and to prove that he had the right to act thus, he quoted a canon of the Council of Nicæa, containing these words: “When a bishop thinks he has been unjustly deposed by his colleagues he may appeal to Rome, and the Roman bishop shall have the business decided by *judices in partibus*.” The canon quoted by the Pope does not belong to the Council of Nicæa, as he affirmed; it was the fifth canon of the Council of Sardica (the seventh in the Latin version). What explains the error of Zosimus is that in the ancient copies the canons of Nicæa and Sardica are written consecutively, with the same figures, and under the common title of canons of the Council of Nicæa; and Zosimus might *optima fide* fall into an error—which he shared with Greek authors, his contemporaries, who also mixed the canons of Nicæa with those of Sardica. The African bishops, not finding the canon quoted by the Pope either in their Greek or in their Latin copies, in vain consulted also the copy which Bishop Cecilian, who had himself been present at the Council of Nicæa, had brought to Carthage. The legates of the Pope then declared that they did not rely upon these copies, and they agreed to send to Alexandria and to Constantinople to ask the patriarchs of these two cities for authentic copies of the canons of the Council of Nicæa. The African bishops desired in their turn that Pope Boniface should take the same step (Pope Zosimus had died meanwhile in 418)—that he should ask for copies from the Archbishops of Constantinople, Alexandria, and Antioch. Cyril of Alexandria and Atticus of Constantinople, indeed, sent exact and faithful copies of the Creed and canons of Nicæa; and two learned men of Constantinople, Theilo and Thearistus, even translated these canons into Latin. Their translation has been preserved to us in the acts of the sixth Council of Carthage, and it contains only the twenty ordinary canons. It might be thought at first sight that it contained twenty-one canons; but on closer consideration we see, as Hardouin has proved, that this twenty-first article is nothing but an historical notice appended to the Nicene canons by the Fathers of Carthage. It is conceived in these terms: “After the bishops had decreed these rules at Nicæa, and after the holy Council had decided what was the ancient rule for the celebration of Easter, peace and unity of faith were re-established between the East and the West. This is what we (the African bishops) have thought it right to add according to the history of the Church.”

The bishops of Africa despatched to Pope Boniface the copies which had been sent to them from Alexandria and Constantinople, in the month of November 419; and subsequently in their letters to Celestine I. (423–432), successor to Boniface, they appealed to the text of these documents.

e. All the ancient collections of canons, either in Latin or Greek, composed in the fourth, or quite certainly at least in the fifth century, agree in giving only these twenty canons to Nicæa. The most ancient of these collections were made in the Greek Church, and in the course of time a very great number of copies of them were written. Many of these copies have descended to us; many libraries possess copies; thus Montfaucon enumerates several in his *Bibliotheca Coisliniana*. Fabricius makes a similar catalogue of the copies in his *Bibliotheca Græca* to those found in the libraries of Turin, Florence, Venice, Oxford, Moscow, etc.; and he adds that these copies also contain the so-called apostolic canons, and those of the most ancient councils. The French bishop

John Tilius presented to Paris, in 1540, a ms. of one of these Greek collections as it existed in the ninth century. It contains exactly our twenty canons of Nicæa, besides the so-called apostolic canons, those of Ancyra, etc. Elias Ehmger published a new edition at Wittemberg in 1614, using a second ms. which was found at Augsburg; but the Roman collection of the Councils had before given in 1608, the Greek text of the twenty canons of Nicæa. This text of the Roman editors, with the exception of some insignificant variations, was exactly the same as that of the edition of Tilius. Neither the learned Jesuit Sirmond nor his coadjutors have mentioned what manuscripts were consulted in preparing this edition; probably they were manuscripts drawn from several libraries, and particularly from that of the Vatican. The text of this Roman edition passed into all the following collections, even into those of Hardouin and Mansi; while Justell in his *Bibliotheca juris Canonici* and Beveridge in his *Synodicon* (both of the eighteenth century), give a somewhat different text, also collated from MSS., and very similar to the text given by Tilius. Bruns, in his recent *Bibliotheca Ecclesiastica*, compares the two texts. Now all these Greek MSS., consulted at such different times, and by all these editors, acknowledge only twenty canons of Nicæa, and always the same twenty which we possess.

The Latin collections of the canons of the Councils also give the same result—for example, the most ancient and the most remarkable of all, the *Prisca*, and that of Dionysius the Less, which was collected about the year 500. The testimony of this latter collection is the more important for the number twenty, as Dionysius refers to the *Græca auctoritas*.

f. Among the later Eastern witnesses we may further mention Photius, Zonaras and Balsamon. Photius, in his *Collection of the Canons*, and in his *Nomocanon*, as well as the two other writers in their commentaries upon the canons of the ancient Councils, quote only and know only twenty canons of Nicæa, and always those which we possess.

g. The Latin canonists of the Middle Ages also acknowledge only these twenty canons of Nicæa. We have proof of this in the celebrated Spanish collection, which is generally but erroneously attributed to St. Isidore (it was composed at the commencement of the seventh century), and in that of Adrian (so called because it was offered to Charles the Great by Pope Adrian I). The celebrated Hincmar, Archbishop of Rheims, the first canonist of the ninth century, in his turn attributes only twenty canons to the Council of Nicæa, and even the pseudo-Isidore assigns it no more.

I add for the convenience of the reader the captions of the Eighty Canons as given by Turrianus, translating them from the reprint in Labbe and Cossart, *Concilia*, Tom. II. col. 291. The Eighty-four Canons as given by Echellensis together with numerous Constitutions and Decrees attributed to the Nicene Council are likewise to be found in Labbe (*ut supra*, col. 318).



The Captions of the Arabic Canons Attributed to the Council of Nice.

Canon I.¹⁰⁹

Insane persons and energumens should not be ordained.

Canon II.

Bond servants are not to be ordained.

Canon III.

Neophytes in the faith are not to be ordained to Holy Orders before they have a knowledge of Holy Scripture. And such, if convicted after their ordination of grave sin, are to be deposed with those who ordained them.

Canon IV.

The cohabitation of women with bishops, presbyters, and deacons prohibited on account of their celibacy.

We decree that bishops shall not live with women; nor shall a presbyter who is a widower; neither shall they escort them; nor be familiar with them, nor gaze upon them persistently. And the same decree is made with regard to every celibate priest, and the same concerning such deacons as have no wives. And this is to be the case whether the woman be beautiful or ugly, whether a young girl or beyond the age of puberty, whether great in birth, or an orphan taken out of charity under pretext of bringing her up. For the devil with such arms slays religious, bishops, presbyters, and deacons, and incites them to the fires of desire. But if she be an old woman, and of advanced age, or a sister, or mother, or aunt, or grandmother, it is permitted to live with these because such persons are free from all suspicion of scandal.¹¹⁰

Canon V.

Of the election of a bishop and of the confirmation of the election.

Canon VI.

That those excommunicated by one bishop are not to be received by another; and that those whose excommunication has been shown to have been unjust should be absolved by the archbishop or patriarch.

¹⁰⁹ Turrianus calls them "Chapters."

¹¹⁰ I have translated this canon in full because the caption did not seem to give fairly its meaning. In Labbe will be found a long and most curious note.

Canon VII.

That provincial Councils should be held twice a year, for the consideration of all things affecting the churches of the bishops of the province.

Canon VIII.

Of the patriarchs of Alexandria and Antioch, and of their jurisdiction.

Canon IX.

Of one who solicits the episcopate when the people do not wish him; or if they do desire him, but without the consent of the archbishop.

Canon X.

How the bishop of Jerusalem is to be honoured, the honour, however, of the metropolitan church of Cæsarea being preserved intact, to which he is subject.

Canon XI.

Of those who force themselves into the order of presbyters without election or examination.

Canon XII.

Of the bishop who ordains one whom he understands has denied the faith; also of one ordained who after that he had denied it, crept into orders.

Canon XIII.

Of one who of his own will goes to another church, having been chosen by it, and does not wish afterwards to stay there.

Of taking pains that he be transferred from his own church to another.

Canon XIV.

No one shall become a monk without the bishop's license, and why a license is required.

Canon XV.

That clerics or religious who lend on usury should be cast from their grade.

Canon XVI.

Of the honour to be paid to the bishop and to a presbyter by the deacons.

Canon XVII.

Of the system and of the manner of receiving those who are converted from the heresy of Paul of Samosata.



Canon XVIII.

Of the system and manner of receiving those who are converted from the heresy the Novatians.

Canon XIX.

Of the system and manner of receiving those who return after a lapse from the faith, and of receiving the relapsed, and of those brought into peril of death by sickness before their penance is finished, and concerning such as are convalescent.

Canon XX.

Of avoiding the conversation of evil workers and wizards, also of the penance of them that have not avoided such.

Canon XXI.

Of incestuous marriages contrary to the law of spiritual relationship, and of the penance of such as are in such marriages.

[The time of penance fixed is twenty years, only godfather and godmother are mentioned, and nothing is said of separation.]

Canon XXII.

Of sponsors in baptism.

Men shall not hold females at the font, neither women males; but women females, and men males.

Canon XXIII.

Of the prohibited marriages of spiritual brothers and sisters from receiving them in baptism.

Canon XXIV.

Of him who has married two wives at the same time, or who through lust has added another woman to his wife; and of his punishment.

Part of the canon. If he be a priest he is forbidden to sacrifice and is cut off from the communion of the faithful until he turn out of the house the second woman, and he ought to retain the first.

Canon XXV.

That no one should be forbidden Holy Communion unless such as are doing penance.

Canon XXVI.

Clerics are forbidden from suretyship or witness-giving in criminal causes.

Canon XXVII.

Of avoiding the excommunicate, and of not receiving the oblation from them; and of the excommunication of him who does not avoid the excommunicated.

Canon XXVIII.

How anger, indignation, and hatred should be avoided by the priest, especially because he has the power of excommunicating others.

Canon XXIX.

Of not kneeling in prayer.

Canon XXX.

Of giving [only] names of Christians in baptism, and of heretics who retain the faith in the Trinity and the perfect form of baptism; and of others not retaining it, worthy of a worse name, and of how such are to be received when they come to the faith.

Canon XXXI.

Of the system and manner of receiving converts to the Orthodox faith from the heresy of Arius and of other like.

Canon XXXII.

Of the system of receiving those who have kept the dogmas of the faith and the Church's laws, and yet have separated from us and afterwards come back.

Canon XXXIII.

Of the place of residence of the Patriarch, and of the honour which should be given to the bishop of Jerusalem and to the bishop of Seleucia.

Canon XXXIV.

Of the honour to be given to the Archbishop of Seleucia in the Synod of Greece.

Canon XXXV.

Of not holding a provincial synod in the province of Persia without the authority of the patriarch of Antioch, and how the bishops of Persia are subject to the metropolitans of Antioch.

Canon XXXVI.

Of the creation of a patriarch for Ethiopia, and of his power, and of the honour to be paid him in the Synod of Greece.

Canon XXXVII.

Of the election of the Archbishop of Cyprus, who is subject to the patriarch of Antioch.

Canon XXXVIII.

That the ordination of ministers of the Church by bishops in the dioceses of strangers is forbidden.

Canon XXXIX.

Of the care and power which a Patriarch has over the bishops and archbishops of his patriarchate; and of the primacy of the Bishop of Rome over all.

Let the patriarch consider what things are done by the archbishops and bishops in their provinces; and if he shall find anything done by them otherwise than it should be, let him change it, and order it, as seemeth him fit: for he is the father of all, and they are his sons. And although the archbishop be among the bishops as an elder brother, who hath the care of his brethren, and to whom they owe obedience because he is over them; yet the patriarch is to all those who are under his power, just as he who holds the seat of Rome, is the head and prince of all patriarchs; inasmuch as he is first, as was Peter, to whom power is given over all Christian princes, and over all their peoples, as he who is the Vicar of Christ our Lord over all peoples and over the whole Christian Church, and whoever shall contradict this, is excommunicated by the Synod.¹¹¹

[I add Canon XXXVII. of Echellensis's *Nova Versio LXXXIV. Arabic. Canonum Conc. Nicæni*, that the reader may compare it with the foregoing.]



¹¹¹ I have translated the whole canon literally; the reader will judge of its antiquity.

Let there be only four patriarchs in the whole world as there are four writers of the Gospel, and four rivers, etc. And let there be a prince and chief over them, the lord of the see of the Divine Peter at Rome, according as the Apostles commanded. And after him the lord of the great Alexandria, which is the see of Mark. And the third is the lord of Ephesus, which is the see of John the Divine who speaks divine things. And the fourth and last is my lord of Antioch, which is another see of Peter. And let all the bishops be divided under the hands of these four patriarchs; and the bishops of the little towns which are under the dominion of the great cities let them be under the authority of these metropolitans. But let every metropolitan of these great cities appoint the bishops of his province, but let none of the bishops appoint him, for he is greater than they. Therefore let every man know his own rank, and let him not usurp the rank of another. And whosoever shall contradict this law which we have established the Fathers of the Synod subject him to anathema.¹¹²

Canon XL.

Of the provincial synod which should be held twice every year, and of its utility; together with the excommunication of such as oppose the decree.

Canon XLI.

Of the synod of Archbishops, which meets once a year with the Patriarch, and of its utility; also of the collection to be made for the support of the patriarch throughout the provinces and places subject to the patriarch.

Canon XLII.

Of a cleric or monk who when fallen into sin, and summoned once, twice, and thrice, does not present himself for trial.

Canon XLIII.

What the patriarch should do in the case of a defendant set at liberty unpunished by the decision of the bishop, presbyter, or even of a deacon, as the case may be.

Canon XLIV.

How an archbishop ought to give trial to one of his suffragan bishops.

Canon XLV.

Of the receiving of complaints and condemnation of an archbishop against his patriarch.

¹¹² Canon XXXIX. of this series has nothing to do with the Patriarchs or with the see of Rome and its prerogatives.

Canon XLVI.

How a patriarch should admit a complaint; or judgment of an Archbishop against an Archbishop.

Canon XLVII.

Of those excommunicated by a certain one, when they can be and when they cannot be absolved by another.

Canon XLVIII.

No bishop shall choose his own successor.

Canon XLIX.

No simoniacal ordinations shall be made.

Canon L.

There shall be but one bishop of one city, and one parochus of one town; also the incumbent, whether bishop or parish priest, shall not be removed in favour of a successor desired by some of the people unless he has been convicted of manifest crime.

Canon LI.

Bishops shall not allow the separation of a wife from her husband on account of discord—[in American, “incompatibility of temper”].



Canon LII.

Usury and the base seeking of worldly gain is forbidden to the clergy, also conversation and fellowship with Jews.

Canon LIII.

Marriages with infidels to be avoided.

Canon LIV.

Of the election of a chorepiscopus, and of his duties in towns, and villages, and monasteries.

Canon LV.

How a chorepiscopus should visit the churches and monasteries which are under his jurisdiction.

Canon LVI.

Of how the presbyters of the towns and villages should go twice a year with their chorepiscopus to salute the bishop, and how religious should do so once a year from their monasteries, and how the new abbot of a monastery should go thrice.

Canon LVII.

Of the rank in sitting during the celebration of service in church by the bishop, the archdeacon and the chorepiscopus; and of the office of archdeacon, and of the honour due the archpresbyter.

Canon LVIII.

Of the honour due the archdeacon and the chorepiscopus when they sit in church during the absence of the bishop, and when they go about with the bishop.

Canon LIX.

How all the grades of the clergy and their duties should be publicly described and set forth.

Canon LX.

Of how men are to be chosen from the diocese for holy orders, and of how they should be examined.

Canon LXI.

Of the honour due to the deacons, and how the clerics must not put themselves in their way.

Canon LXII.

The number of presbyters and deacons is to be adapted to the work of the church and to its means.

Canon LXIII.

Of the Ecclesiastical Economist and of the others who with him care for the church's possessions.

Canon LXIV.

Of the offices said in the church, the night and day offices, and of the collect for all those who rule that church.

Canon LXV.

Of the order to be observed at the funeral of a bishop, of a chorepiscopus and of an archdeacon, and of the office of exequies.

Canon LXVI.

Of taking a second wife, after the former one has been disowned for any cause, or even not put away, and of him who falsely accuses his wife of adultery. If any priest or deacon shall put away his wife on account of her fornication, or for other cause, as aforesaid, or cast her out of doors for external good, or that he may change her for another more beautiful, or better, or richer, or does so out of his lust which is displeasing to God; and after she has been put away for any of these causes he shall contract matrimony with another, or without having put her away shall take another, whether free or bond; and shall have both equally, they living separately and he sleeping every night with one or other of them, or else keeping both in the same house and bed, let him be deposed. If he were a layman let him be deprived of communion. But if anyone falsely defames his wife charging her with adultery, so that he turns her out of doors, the matter must be diligently examined; and if the accusation was false, he shall be deposed if a cleric, but if a layman shall be prohibited from entering the church and from the communion of the faithful; and shall be compelled to live with her whom he has defamed, even though she be deformed, and poor, and insane; and whoever shall not obey is excommunicated by the Synod.

[*Note.*—The reader will notice that by this canon a husband is deposed or excommunicated, as the case may be, if he marry another woman, after putting away his wife on account of her adultery. It is curious that in the parallel canon in the collection of Echellensis, which is numbered LXXI., the reading is quite different, although it is very awkward and inconsequent as given. Moreover, it should be remembered that in some codices and editions this canon is lacking altogether, one on the right of the Pope to receive appeals taking its place. As this canon is of considerable length, I only quote the interesting parts.]

Whatever presbyter or deacon shall put away his wife without the offence of fornication, or for any other cause of which we have spoken above, and shall cast her out of doors...such a person shall be cast out of the clergy, if he were a clergyman; if a layman he shall be forbidden the communion of the faithful...But if that woman [untruly charged by her husband with adultery], that is to say his wife, spurns his society on account of the injury he has done her and the charge he has brought against her, of which she is innocent, let her freely be put away and let a bill of repudiation be written for her, noting the false accusation which had been brought against her. And then if she should wish to marry some other faithful man, it is right for her to do so, nor does the Church forbid it; and the same permission extends as well to men as to women, since there is equal reason for it for each. But if he shall return to better fruit which is of the same kind, and shall conciliate to himself the love and benevolence of his consort, and shall be willing to return to his

pristine friendship, his fault shall be condoned to him after he has done suitable and sufficient penance. And whoever shall speak against this decree the fathers of the synod excommunicate him.

Canon LXVII.

Of having two wives at the same time, and of a woman who is one of the faithful marrying an infidel; and of the form of receiving her to penance.

[Her reception back is conditioned upon her leaving the infidel man.]

Canon LXVIII.

Of giving in marriage to an infidel a daughter or sister without her knowledge and contrary to her wish.

Canon LXIX.

Of one of the faithful who departs from the faith through lust and love of an infidel; and of the form of receiving him back, or admitting him to penance.

Canon LXX.

Of the hospital to be established in every city, and of the choice of a superintendent and concerning his duties.

[It is interesting to note that one of the duties of the superintendent is—“That if the goods of the hospital are not sufficient for its expenses, he ought to collect all the time and from all Christians provision according to the ability of each.”]

Canon LXXI.

Of the placing a bishop or archbishop in his chair after ordination, which is enthronization.

Canon LXXII.

No one is allowed to transfer himself to another church [i.e., diocese] than that in which he was ordained; and what is to be done in the case of one cast out forcibly without any blame attaching to him.

Canon LXXIII.

The laity shall not choose for themselves priests in the towns and villages without the authority of the chorepiscopus; nor an abbot for a monastery; and that no one should give commands as to who should be elected his successor after his death, and when this is lawful for a superior.

Canon LXXIV.

How sisters, widows, and deaconesses should be made to keep their residence in their monasteries; and of the system of instructing them; and of the election of deaconesses, and of their duties and utility.

Canon LXXV.

How one seeking election should not be chosen, even if of conspicuous virtue; and how the election of a layman to the aforesaid grades is not prohibited, and that those chosen should not afterward be deprived before their deaths, except on account of crime.

Canon LXXVI.

Of the distinctive garb and distinctive names and conversation of monks and nuns.

Canon LXXVII.

That a bishop convicted of adultery or of other similar crime should be deposed without hope of restoration to the same grade; but shall not be excommunicated.

Canon LXXVIII.

Of presbyters and deacons who have fallen only once into adultery, if they have never been married; and of the same when fallen as widowers, and those who have fallen, all the while having their own wives. Also of those who return to the same sin as well widowers as those having living wives; and which of these ought not to be received to penance, and which once only, and which twice.

Canon LXXIX.

Each one of the faithful while his sin is yet not public should be mended by private exhortation and admonition; if he will not profit by this, he must be excommunicated.

Canon LXXX.

Of the election of a procurator of the poor, and of his duties.

Proposed Action on Clerical Celibacy.

