

12-1-1932

The Legislative Sphere of the Fourth Lateran Council

H. O. Keinath

Concordia Seminary, St. Louis

Follow this and additional works at: <https://scholar.csl.edu/ctm>



Part of the [History of Christianity Commons](#)

Recommended Citation

Keinath, H. O. (1932) "The Legislative Sphere of the Fourth Lateran Council," *Concordia Theological Monthly*. Vol. 3 , Article 122.

Available at: <https://scholar.csl.edu/ctm/vol3/iss1/122>

This Article is brought to you for free and open access by the Print Publications at Scholarly Resources from Concordia Seminary. It has been accepted for inclusion in Concordia Theological Monthly by an authorized editor of Scholarly Resources from Concordia Seminary. For more information, please contact seitzw@csl.edu.

900 The Legislative Sphere of the Fourth Lateran Council.

Deutsches Lehrerseminar. Nachdem man zweimal vergeblich versucht hatte, ein Lehrerseminar zu gründen (in Sao Lourenço und in Nhl Bella), schritt man zur Bildung einer Lehrerbildungsanstalt in Santa Cruz. Vor einigen Jahren ist dies Seminar nach Sao Leopoldo verlegt worden. 1924 waren 37 Kolonielehrer daraus hervorgegangen.

Evangelisches Stift in Hamburgerberg. Dies Töchterinstitut entstand im Jahre 1886 als Privatpensionat der beiden Fräulein Engel, ging aber 1895 an die Miograndenser Synode über. Bis jetzt hat diese Anstalt an die 600 Schülerinnen ausgebildet.

Altenheim und Waisenhaus. Als in den neunziger Jahren des vorigen Jahrhunderts eine ziemlich große Einwanderung von Deutschen in diese Gegend einsetzte, wurde Pfarrer Gättinger als Reiseprediger angestellt. Auf diesen Reisen fand er überall Waisenkinder, die ihre Eltern auf der Reise oder gleich nach der Ankunft in Brasilien verloren hatten. Dies führte zu der Gründung der Liebesanstalten der Miograndenser Synode. Am 31. Dezember 1892 wurde das erste Waisenmädchen angenommen. Der Nhlverein hat jetzt ein ansehnliches Eigentum am Taquaryfluß, eine halbtägige Fahrt per Flußdampfer von Porto Alegre, und hat laut eines Berichts vom Mai 1932 etwa 1,000 Pflöglinge (Alte, Heimatlose und erziehungsbedürftige Kinder) aufnehmen können.

D. Rotermund hat für den Schulunterricht im eigenen Verlage folgende Bücher herausgegeben: „Katechismus der christlichen Religion“, „Religionsbuch“, Bibel, Lesebücher, Sprachlehre. Ferner hat er in seinem Verlage vierundzwanzig Bände „Südamerikanische Literatur“ herausgegeben. Er selbst hat drei dieser Bände verfaßt: Band 8, 15 und 24. Zweck der Herausgabe ist die Pflege deutscher Sprache und deutschen Wesens.

Porto Alegre, Brasilien.

Paul Schelp.

The Legislative Sphere of the Fourth Lateran Council.

“With desire have I desired to eat this passover with you before I suffer,” Luke 22, 15, that was the text of the sermon with which Innocent III opened the sessions of the Fourth Lateran Council, 1215. Employing the allegorical method of Scripture interpretation, which was his favorite method, he found no difficulty in applying the “passover” to the great council now assembled before him. And it was very true that he had desired this council “with desire.” For, in a measure, this council and its activity was the great climax of his papal policy, a policy which had made and unmade kings, had reduced kingdoms to fiefs of the Roman See, had divided lands, had driven multitudes into a crusade, and had reduced great church dignitaries to the position of dutiful and obedient servants of the *Servus Servorum Dei*.

The Legislative Sphere of the Fourth Lateran Council. 901

It was this council which largely codified the great papal principles that had been evolved since the great claims of Gregory VII and were developed to their highest degree by Innocent. The decrees of this council represent the aims and principles of the man who is generally regarded as the greatest Pope of the Medieval Age; these decrees will show us the vast legislative and administrative sphere in which the Papacy of the early thirteenth century together with an obedient council could move.

A proper understanding of the acts of this council requires a knowledge of its historical background. At this time (1215) Innocent had been in office seventeen years. During these seventeen years great political maneuvers had been guided by his hand. Due to his efforts the fourth crusade had been undertaken by the French nobles; and although this crusade never reached the Holy Land, but was diverted to Constantinople, yet its gains were as efficient in enhancing the prestige of the Papacy as a conquest of Jerusalem could have been. For it was due to this crusade that the Greek Church was temporarily united with the Roman Church to some extent, and Innocent had had the satisfaction of performing an act which many of his predecessors had longed to perform: he had ordained an archbishop in the rival city of Constantinople. During that same period of seventeen years various crowned heads of Europe had bowed before the triple crown in Rome. In Germany the strife for the crown between Philip of Swabia and Otto IV had been in progress. After favoring one and then the other at various times, Innocent finally had managed to see his own favorite, Frederick II, in the imperial chair. In England, Innocent had won the great contest with John Lackland. This king had attempted to hinder the appointee of Innocent, Stephen Langton, from occupying the archbishopric of Canterbury. In the ensuing struggle between king and Pope the former saw his land placed under the interdict, observed how his own vassals were ready to revolt against him, was aware that his neighbor Philip IV of France was getting ready to invade England, and at last signed the dominions over to Innocent to receive them back again as a fief of the Pope. Innocent had also separated a king, Alfonso IX of Leon, from his spouse, had annulled the marriage of the crown prince Alfonso of Portugal, and had forced Pedro II of Aragon to hold his kingdom only as a papal fief. All these events were history when the Fourth Lateran Council met in Rome, and they all presaged a similar daring and energetic policy in the canons which this council was about to sanction.

The call for the council was issued April 19, 1213, fully two and a half years before the date which was set for the meeting of the assembly, November 1, 1215. The citations were sent throughout all the provinces of the Church, and they urged archbishops and bishops

902 The Legislative Sphere of the Fourth Lateran Council.

to come; priors and abbots of all territories were to be represented. Also the patriarchs of Alexandria and Jerusalem received letters from Innocent, not to mention various kings who were urged to help in the matters to be treated by the coming council.

The chief aims of this council were clear to the Pope. These were twofold, and they are expressed by Innocent in the letter to the archbishops and bishops in the province of Vienna as follows: "*Inter omnia desiderabilia cordis nostri duo in hoc saeculo principaliter affectamus: ut ad recuperationem videlicet terrae sanctae ac reformationem universalis ecclesiae valeamus intendere cum effectu.*"¹⁾ The reformation of the Church, then, was one of the great purposes of this council. We shall not go amiss if we understand Innocent to refer the reformation mainly to a reformation of the clergy; it was the clerical body which received an unsparing castigation in many of the council's decrees, and, as will be shown later, the clergy was indeed in need of reformation. It must have been somewhat humiliating for many an archbishop or bishop to be welcomed to the council by the following scathing denunciation: "*Omnis in populo corruptela principaliter procedit a clero: Qua si sacerdos, qui est unctus, peccaverit, facit delinquere populum. . . . Hinc [from clergy] etiam mala provenerunt in populo Christiano. Perit fides, religio deformatur, libertas confunditur, iustitia conculcatur, haeretici pullulant, insolescunt schismatici, perfidi saeviunt, praevalent Agareni.*"²⁾ The various canons prepared against this evil were dictated by such convictions.

The other great aim of Innocent expressed in his call to the council was the organization of another crusade. The recovery of the Holy Land from the Saracens had been nothing less than a passion with him ever since he had been placed in the papal chair in 1198. His fond hopes seemed about to be realized in 1202, when the French nobles took the cross in great numbers. But these plans of Innocent had not materialized, for the host of crusaders was diverted from its real purpose; they had captured Constantinople (1204), but had left the Saracens in possession of the Holy Land. Innocent had drawn up his regulations for a fifth crusade long before the council met and had transmitted them to the various addresses of the papal citations to the council. The regulations were subsequently sanctioned by the council and will be discussed in the proper place. In addition to this effort, Innocent had tried diplomacy as a means of getting the Holy Land back into Christian possession. He had sent letters to the Sultan of Damascus, humbly beseeching him to quit the Holy Land and expressing the hope: "*Fortasse omnipotens Deus suum in eum*

1) Mansi, XXII, 960. (Note: All subsequent references to Mansi will be merely by column number. All the canons of the Fourth Lateran are contained in Vol. XXII of this collection.)

2) Col. 972.

terrorem immittet et benigne rogatus ostendet facere se spontaneum, quod dure compulsus facturum se putaret invitum."³⁾ To this end the patriarch of Jerusalem was urged to send men to the Sultan with this petition.

When the council met on November 11, 1215, Innocent saw a noble gathering before him. There were 71 patriarchs and metropolitans, including the patriarchs of Constantinople and Jerusalem, 412 bishops, and 900 priors and abbots; in addition to these, envoys had appeared from Emperor Frederick II, from Henry, the Latin Emperor of Constantinople, and from the kings of France, England, Aragon, Hungary, Cyprus, Jerusalem, and others. The council met in three official sessions, November 11, 20, and 30. The unusually short term of this council can partly be accounted for by the fact that it was hardly a deliberative body; its canons had all been prepared before the meeting, and there was very little for it to do but to approve what had already been prepared. With this historical background we can proceed to observe the various spheres of legislation in which the council was active.

Legislation Concerning Reformation of the Clergy.

Since one of the two great aims of the Fourth Lateran Council was the correction of abuses among the clergy, a large number of regulations in this sphere was to be expected. The canons present a veritable array of sins, abuses, threats, and punishments in dealing with the clergy, both regular and secular. In many cases the wrongs committed by them are enumerated; in others we gain a knowledge of them by prohibitions alone. These canons portray the fact that every type of corruption had crept into the clerical body, among both its lower and its higher members. The many laws argue so many sins, and the many regulations adopted argue the prevalence of the numerous clerical misdeeds to which Innocent ascribed all the trouble in the Church.

The sins of greed and extortion appeared in various phases of clerical activity. Some bishops evidently used the demise of a rector as a means of getting some extra money; for they placed a church which had lost its official under the interdict and did not permit a successor to the dead man to take office until the church had paid a sum of money to the bishop.⁴⁾ Some of the regular clergy had a different mode of extorting money from the people. It was the practise of some non-clerical people to seek burial within the precincts of a cloister; this practise was used by the clerics as an occasion for extorting money from the ones desiring such favors.⁵⁾ A graver form of extortion was the following: According to custom a church or

3) 968.

4) 1054.

5) *Ibid.*

904 The Legislative Sphere of the Fourth Lateran Council.

diocese was to pay the expenses of any legate who might be sent there in the performance of his duties. The prelates of the visited district were required to raise the amount from their charges. This led to the practise of collecting more than was needed for the expenses of the legate and to keep the balance. Evidently some legates also proceeded to collect expenses for visitations which were never held; for the council found it necessary to warn against this dishonesty.⁶⁾ Still another dishonest scheme of some clergy was exercised in performing marriage rites; unless a proper sum was forthcoming, they raised the claim of an impediment to the marriage about to be contracted, and the marriage could therefore be prevented until a "proper" payment had been made. Even excommunication and absolution were used as a means of extorting money.⁷⁾

The Fourth Lateran Council found it necessary also to regulate the private lives and activities of the clergy. The canons present abundant evidence that the clergy were rapidly becoming worldly, played the parts of great lords wherever they could, and looked upon their office as a mere source of income rather than as service to the souls entrusted to them. Innocent wails that both major and minor clergy spend half the night in superfluous banqueting and then sleep in the morning; some celebrate Mass not even four times a year and do not attend; and when they do attend, they gather in a place where they can conduct a conversation with the laymen during the Mass;⁸⁾ the clerics indulge in carousals, even conducting drinking-bouts, in which the greatest honor is given to him who outdrinks the others and empties the deepest cups; they imitate the lords by indulging in hunting and fowling with dogs and falcons.⁹⁾ Some have secular offices and trades, others mingle with jesters and fools, visit taverns unnecessarily, play dice, appear in gaudy green and red clothes, wear stitched gloves, gold and silver buckles, and adorn their horses with fancy harness and gilded bits.¹⁰⁾ In addition to this, unchastity and incontinence are found among the clergy, even among those who on account of some local custom (Greeks) have not renounced marriage.¹¹⁾

To what extent could and did Innocent and his council legislate in this sphere of improving clerical life and activity? One means of effecting a reformation might be called a fixing of responsibility. Innocent's conception of the clergy was that this body constituted a vast army, subdivided into many smaller jurisdictions of well-defined ranks, with papal authority extending down through the superior clergy even to every local parish priest. In agreement with this theory the council demanded a closer supervision on the part of such clergy as had others under their control.¹²⁾ An obvious method of improving this situation and effecting control from above was to keep out the

6) 1022.

7) 1035.

8) 1006.

9) 1003.

10) 1006.

11) 1003.

12) 993.

unfit or at least to prevent them from being promoted to important positions. The provincial synods therefore were to watch over the promotion of the clergy and the conferring of benefices. A metropolitan guilty of promoting the unfit to higher positions should be indicted before his superiors, and his ensuing suspension should not be removed by any one except the Pope or by one of the four patriarchs. This same fixing of responsibility on superiors is evident in the matter of confirming elections. If one has been promoted to a "*regimen animarum*," he who is to confirm the election shall first make a diligent inquiry both as to the fitness of the candidate and as to the process by which he has been promoted. If there is any irregularity in these matters, the superior shall have power to inflict due punishment upon the guilty. In addition, those clerics who are under the immediate jurisdiction of the Roman See shall be required to present themselves in Rome personally to receive confirmation in their office, or they must send a proper person who can give information about their election.¹³⁾

In addition to fixing responsibility as a means of clerical control the council sought to curb evils among the clergy by a great number of regulations concerning penalties of the transgressors. In fact, the reading of the various canons creates the impression that the chief means upon which the council relied in its reformation of the clergy was the threats and warnings which are attached to so many of the reformatory canons. The penalties vary in severity, from mere censure by words to permanent deposition from office and even to lifelong penance in a strict monastery. A superior guilty of improper conduct in office shall be liable to suspension, which only the Pope or one of the four patriarchs shall be able to lift.¹⁴⁾ A prelate guilty of extortion in any matter is to be punished by the exacting of restitution of twice the amount involved. A simoniac is to be "*damnatus*" with Gehazi and Simon.¹⁵⁾ Any one who is careless in the handling of sacred vessels shall be suspended for three months.¹⁶⁾ A most severe punishment was meted out to the confessors who revealed what had been entrusted to them in the confessional; they were to be deposed from office and condemned to perpetual penance in a strict convent. In this respect a priest might become guilty if only by a sign he revealed confessions; if the priest asked another for advice in a confessional matter, the mentioning of a name was strictly prohibited.¹⁷⁾ A further very effective and very common method of controlling clerics was to deprive them of their benefices. A cleric convicted of unchaste living who still dared to officiate was thus to be punished. The effectiveness of this mode of punishment can readily be seen; a bishop, for instance, who had been accustomed to rather high living could thus

13) 1014. 14) 1018. 15) 1051. 16) 1007. 17) 1010.

quickly be reduced to poverty; and the fact that there were always other prelates who were glad to obtain any vacant benefice only made the threat of the council more effective.

A more promising regulation of the council in its efforts to improve the morals of the clergy is to be found in the attempt to provide more adequate facilities for the schooling and training of the clergy. The Third Lateran Council (1179) had already decreed that at each cathedral there be an instructor to teach the clerics of that church and other poor scholars. The Fourth Lateran Council reiterated this measure, with the additional provision that also other churches, such as were not of cathedral rank, should have a teacher to teach the clergy in "*grammaticae facultate et aliis*" without expecting remuneration from them. The metropolitan churches are to do still more: they are to have a theologian to teach the priests and others in "*sacra pagina*" and especially in the "*cura animarum.*" We have here, then, a cathedral school of higher rank, a kind of theological seminary, a most promising institution for the improvement of the clerical state.¹⁸⁾

In this manner the Fourth Lateran Council attacked the problem of a reformation among the clergy. As might be expected, it extended its regulations not only to a certain phase of clerical activity, but it proposed to make regulations for the superiors in their exercise of office, to look into the secret, private lives of the priests, to keep a watchful eye on the prelate in the exercise of the details of his office, to punish in various ways any infraction of discipline, and to demand a certain standard of education from those who intended to be leaders of the flock. The medieval cleric therefore constantly moved in a sphere which was touched at a great number of points by regulations of the Fourth Lateran Council.

Legislation in the Sphere of Church Administration.

We now come to a sphere of the council's activity which concerned itself with various phases of church administration. Here a great variety of regulations presents itself, intended either for the correction of certain abuses or for the expediting of certain activities in the Church. While the acts concerning the clergy were largely negative or prohibitory, the acts which are to be listed here are of a more positive character.

Here again there are a number of regulations concerning the principles which are to govern the clergy in the future. The election of clerical dignitaries by a chapter is guided by the following regulation: When an election by a chapter is to take place, three men are to be chosen for the purpose of gathering and announcing the votes. There is to be no appeal against an election so conducted. It is legitimate also to commit such an election to a few to be chosen for

18) 999.

the purpose; but under no circumstance may an election be secret, and the result of an election of a pastor is to be made public at once. The possibility is left open that in an unusual case there may be an election by divine inspiration.¹⁹⁾ No one is to have more than one "*dignitas ecclesiastica*"; if he attempts to acquire a second one, he is to lose his original benefice, and in case he tries to hold this, he shall lose both.²⁰⁾ An election to a spiritual office by secular help is always void.²¹⁾ No church should be allowed to exist without a pastor for more than three months; if those who are primarily responsible for electing one fail to act, it shall be the duty of the next higher authority to bring about an election.²²⁾ Preaching without license is prohibited and subjects the guilty one to excommunication.²³⁾ Thus the entrance into, and the promotion to, certain offices in the Church was carefully regulated.

Another means of clerical administration was the renewed provisions concerning provincial councils to be held every year. Such meetings were an old institution. The council urges that such meetings be held regularly and makes the following additional provision: A number of proper persons shall be elected who shall be engaged throughout the year in visiting the various dioceses, investigating what may be in need of correction and reporting on such matters in the ensuing provincial meeting. These men shall also be required to supervise the execution of various provincial and other regulations in their circuits.²⁴⁾ We have here, then, a system of visitation which has often been used in church-bodies.

Considerable thought was given by Innocent and his obedient council to matters arising from the ecclesiastical courts; a large number of regulations were made about details of appeals, competency of judges, and other legal matters, so that this part of the canons closely resembles some of the modern judiciary codes with their technical rules. It was the question of appeals from a decision of a judge which seemed most in need of regulation. A few of these judicial regulations follow: In a litigation before a judge an appeal may not be made to a superior judge before a judgment has actually been rendered. This was evidently intended to block what we call a change of venue in order to have the benefit of a more favorable court. Furthermore, if any complainant considers himself entitled to an appeal to a superior judge, he must first place the matter before the original judge.²⁵⁾ If the case reaches the appellate judge and he does not recognize the appeal, the matter, of course, reverts to the original judge. The occasion might also arise that the competency of a judge was questioned and an appeal was to be made to another judge on this account. Provisions for this eventuality were made as follows:

19) 1011.

21) 1014.

23) 990.

25) 1021.

20) 1018.

22) 1011.

24) 991.

If any one regards the judge who has his case with suspicion, he shall first indicate the cause thereof to this same judge. Thereupon the appellant, together with his adversary or with the judge, shall elect arbitrators; if they cannot agree on arbitrators, each of the litigants shall select one man to form a committee of arbitration. These two are to investigate the charge resting on suspicion. If in the opinion of these arbitrators no just cause for suspicion against the judge exists, this judge shall resume jurisdiction over the case; if the suspicion is justified, the case, of course, goes to another judge.²⁶⁾ If the guilt of an appellant is evident and the right of appeal is used merely to endanger innocence, no attention is to be paid to the appeal. An appeal from a decision must be forthcoming within a specified time after judgment has been rendered, the time to be fixed by the original judge; if it is not forthcoming during this time, the appeal is void.²⁷⁾

This judicial administration was regulated by a few more rules. It was evidently the practise in ecclesiastical litigation to appeal to the Pope in order to have a case tried in a special court. In these requests one of the litigants might possibly ask for a court so far removed from the place where the action was really to take place that the opponent dropped the matter rather than to incur the trouble and expense of going to a distant court. To avoid this, the rule is made that a matter cannot be taken before a judge who is distant more than two days' journey, unless both litigants consent to go farther. Clerics are also forbidden to condemn to death, to execute, to help in mutilating offenders; nor shall any one bless an ordeal in which hot or cold water or a red-hot iron is used.²⁸⁾

These phases of clerical activity were not the only spheres in which the canons of this council concerned themselves with ecclesiastical administration. In addition thereto we find a great variety of regulations touching various and unrelated activities of church polity. A very important canon made a far-reaching rule for the practise of confession: It was decreed that all people of proper age should confess all their sins to their own priest at least once a year and commune at least at Easter, on pain of being excluded from the Church and being denied a Christian burial.²⁹⁾ This canon was repeated in later councils, and its provision is official practise to this day.

In the case of an existing interdict in a certain territory the clergy are granted certain privileges. Thus the bishop may perform divine offices in a church in the time of an interdict, but none of the excommunicated or those under the interdict may be present; the doors must remain closed, the voice suppressed, and the bells must not be rung. The regular clergy also, if they are not themselves under

26) 1034.

27) 1035.

28) 1007.

29) 1010.

the interdict, may use a church for burial of one of their brethren though their church may be under the interdict.³⁰⁾

The council was quite explicit in laying down rules concerning excommunication. These rules were all intended to curb abuses that had crept in in the handling of this dangerous weapon. Some of the more important provisions in this sphere were: No excommunication is to be pronounced without a previous warning, and such a warning shall always be given in the presence of witnesses who can testify in case of an appeal. The person excommunicated may enter his plea of unjust treatment with a superior; this superior may then send the plaintive back to the excommunicator with instructions for the lifting of the ban if there be cause, or he may, in the case of urgent necessity, lift the ban himself. These regulations offered at least some protection against an institution which was easily subject to wide-spread abuse.

In dioceses in which different languages are represented, there shall not be a separate bishop for each language, but only one. He shall appoint the proper men to carry out the service required under his control.³¹⁾

Church-buildings are not to be used for non-religious purposes. It had become the custom to place private property into the church-buildings when such property was in danger of being attacked by hostile forces; the church-building was considered hallowed ground. Such practise must not be continued except in case of most urgent necessity. At all times the church utensils are to be kept clean.³²⁾

The use of relics was also regulated. No relics of saints are to be exposed for sale, and no newly found relics shall be venerated unless these have previously been approved by authority of the Pope. The prelates shall not tolerate those who attempt to bring in spurious relics on the testimony of false documents. Neither should every seeker of alms be permitted to ply his trade in the dioceses. All those properly qualified to collect alms shall in the future be identified by a special form letter from the Pope.³³⁾

It must have been a source of special satisfaction to Innocent that the fifth canon could be adopted. This canon indicated the rank which the different patriarchs were to occupy. Rome was placed first; then came the patriarch of Constantinople, then those of Alexandria, Antioch, and Jerusalem, in the order mentioned. To place the patriarch at Constantinople in second place was a little more than a mere claim at that time; for the Greek Church was nominally united with the Roman Church due to the Fourth Crusade, and thus the ideal of many Popes had been reached.

30) 1046.

31) 998.

32) 1007.

33) 1050.

910 **The Legislative Sphere of the Fourth Lateran Council.**

In these various phases of legislation the council regulated the administration of the Church. The canons, of course, take countless existing administrative regulations for granted and merely add or define such as are necessary. It is remarkable, however, to what minute details of church administration these canons extend.

Regulations in Monastic Matters.

We now come to a sphere of administration which is related to the matters concerning monastic affairs. Monasticism was an old institution of the Church by this time, and it had long lost the sincerity and the self-denying character which had distinguished it in its purest state. Monasteries had become rich, monks had become idle, and abbots were often powerful personages. Various attempts at reformation of the monasteries had already been made, such as the plan of the Congregation of Cluny; the founding of the Dominican and Franciscan orders was also an attempt to place the monastic ideal back on a purer basis. The Fourth Lateran Council therefore quite properly set up regulations also for this field.

Some of the complaints against monastic discipline found their way into the canons of this council. The nunneries are described as admitting hardly any one without the payment of a price, and in defense of this extortion they plead their own poverty. This practise is to be stopped by a measure providing that both the one who accepts such money and the one who pays it are to be transferred to stricter convents and to be placed under perpetual penance. If this penalty cannot be carried out in a certain case, then by way of dispensation a guilty one may remain in the same convent, but he shall be reduced again to the rank of one just entering the convent. This regulation is to apply also to monks, and in order that all may become acquainted with this rule, the bishops are to publish it every year.³⁴⁾ Still other evils are prevalent among the inmates of convents. Complaint is made that some abbots encroach upon the privileges of bishops by interfering in matrimonial affairs, ordering public penances, and granting letters of indulgence, whereby the authority of the bishops suffers.³⁵⁾ The abbots are warned to remain in their spheres. A further regulation of the council is that none of the monks may without the consent of the abbot and the major portion of the chapter give security or borrow money beyond a fixed sum. The convent shall not be liable for such sums, unless the matter has evidently redounded to the benefit of the convent.³⁶⁾

This council also prohibited the founding of new religious orders with separate *regulae*. If any new religious houses are to be founded, the *regula* of one of the approved religious orders must be adopted.³⁷⁾

34) 1051.

35) 1047.

36) 1047.

37) 1003.

The number of orders had been continually on the increase and was generally harmful to monastic life and discipline; hence the prohibition.

An outstanding regulation concerning monastic affairs was the provision that the various abbots of certain orders should all meet at intervals of three years. This had become a standing practise among the Cistercian monks and was evidently considered highly beneficial to the order. The council therefore decrees that the abbots of every province meet every three years. At their meetings they are to invite two Cistercian monks from the neighborhood, under whose leadership the meeting is to be held. The main purpose of these meetings shall be the reformation of the orders.³⁸⁾

These regulations in the monastic field are interesting because of the great amount of detail contained therein. Just as in the case of the clergy, the details of the monks' private lives are within the sphere of conciliar legislation, while the whole monastic system is subject to change in administration due to the decrees of this council.

Legislation Concerning Heresy.

When the Fourth Lateran Council met in 1215, the Papacy had just passed through a great struggle with the Albigensian heresy. This struggle had caused Innocent considerable annoyance, and he had finally settled the matter by the cruel and inhuman crusade against the Albigenses. The bloodthirstiness which had come to the surface in the treatment of the unfortunates was still evident in the canons which Innocent caused the council to sanction. Due to his instigation the council did not confine its legislation to those who were actually guilty or suspected of heresy, but it attacked rulers who tolerated heretics, it condemned clerics not sufficiently eager in ferreting them out, and it outlawed and ostracized even those who were only humanly decent to a heretic.

To effect an extirpation of heresy, the second council first made regulations for the archbishops and bishops. Once or twice every year these officials are to go through a district in which there are persons suspected of heresy. They shall require a number of honest men in a community to swear that they will inform the bishop in the event that a heretic is known to exist or if there are any who hold secret meetings or differ from the common manner of living.³⁹⁾ The secular authorities are coerced as follows: All secular officials must give an oath that they will exterminate those whom the Church designates as heretics. The condemned are to be handed over to secular authorities with instructions for proper punishment. If a ruler fails to act, he is to be ruined. If after due admonition he refuses to purge his land

38) 1001.

39) 990.

of heresy, he is first to be excommunicated; if he does not make satisfaction within one year, the matter is to be referred to the Pope, who will release the ruler's subjects of fealty and open the recalcitrant's lands to any one who will occupy them and extirpate the heretics found therein.

The council goes to still wider spheres in the heresy hunt and attacks also those who *help* the heretics. They shall be excommunicated, and if they have not made satisfaction within a year, they shall be "*infames*," not permitted to hold any office nor to help in electing others. Such a one shall not be entitled to will property or to inherit any; no action can be taken by him in court, but he shall be subject to every court action; if he is a judge, his judgment shall have no effect, and no matters are to be brought to him; if he is a lawyer, his pleading shall not be admitted; if he is a notary, his documents shall not be valid. Even those who merely fail to avoid heretics shall be struck by the fury of the Church. They shall be excommunicated; they shall not receive the Sacraments nor a Christian burial nor any alms, and not even their own offerings shall be accepted.

Thus Innocent used his council to enter into all the relations of mankind and to control them, whenever he considered it necessary, for the sake of exterminating those whose religious convictions differed from the Pope's. No relation was too sacred, no oath so binding, that the obedient council was not willing to step in with its decrees and legislate away all human considerations for the sake of destroying heretics. Here the mark of the Antichrist is very evident.

Social Legislation.

A number of the canons of the Fourth Lateran Council refer to matters regulating the conduct of man towards man and might therefore be called social legislation. Such provisions are indeed always made with a religious interest and with a view to fostering the Church in some way, but they are yet not directly a part of church administration.

The outstanding regulations in this sphere pertain to matrimonial matters. It is significant, if not surprising, that this council, whose general tone was increasing strictness in determining clerical conduct, should make a noteworthy concession to the laity. This concession was that marriage between those of the second and third degrees of affinity (not consanguinity) and marriage between the children of a woman's second marriage with the relatives of her first husband should be permitted. Innocent justifies this change by referring to the great difficulty encountered in observing the former prohibition and by the consideration that God had also changed many regulations of Old Testament times upon the advent of the New

Testament.⁴⁰⁾ Most of the matrimonial regulations, however, are of the restrictive type, intended to correct certain abuses which had crept in. Some of these regulations are the following: Secret marriages are prohibited as always, and no cleric should dare to solemnize such; an intended marriage shall be announced in the churches for a specific time, so that, if any one knows of an impediment, it may be made known; the presbyters shall investigate a proposed marriage, whether there is any matter of impediment, and if there is any possibility of irregularity, the matter must first be cleared. If any one enters a marriage within prohibited degrees, knowingly or otherwise, the children shall be declared illegitimate; also the children of those parents who married knowing that some other impediment to marriage existed shall be called illegitimate. But if any one out of malice prefers charges of an impediment against a proposed marriage, he shall be subject to ecclesiastical censure.⁴¹⁾

Innocent and his council also proposed to legislate regarding the troublesome social and commercial questions arising out of the presence of Jews among Christians. The Jewish practise of excessive usury was a constant source of irritation during the Middle Ages. The council decrees that, if the Jews under any pretext extort immoderate usury from the Christians, they shall be boycotted, and any Christian who disregards the order of a boycott shall be brought to obedience by ecclesiastical censure; the secular princes should help in this control of the Jews. If the Jews purchase property on which some income is due to the Church, the Jews are bound to pay this to the Church as before.⁴²⁾ Rather unique regulations are made concerning the conduct of the Jews. They and the Saracens are to wear clothes differing from those of the Christians to avoid great confusion. Since the Jews blasphemously make it a practise to appear in gaudy clothes during the Passion season, to the offense of the Christians, they are to appear in public as little as possible during this time, and the secular powers shall enforce this rule.⁴³⁾

A regulation of religious interest which peculiarly affected one class was an instruction to the physicians. Upon being called to a patient, they shall admonish him first of all to call a physician of the soul. The reasonableness of this command is justified by the consideration that, if a person's spiritual welfare has been secured, the cause of the disease has been removed, and therefore the physician's medicine is then more likely to be effective. Ecclesiastical censure shall follow a physician who disregards this rule; furthermore, a physician who prescribes a remedy which is harmful to the soul is to be subject to a perpetual anathema.⁴⁴⁾

40) 1035.

42) 1054.

44) 1010.

41) 1038.

43) 1055.

Concerning Doctrinal Matters.

The Fourth Lateran Council was not much concerned with matters of doctrine. Its emphasis was distinctly placed on conduct, especially the conduct of the clergy. It did find reasons, however, for giving a doctrinal summary in the first and second canons, the former bearing the heading *De Fide Catholica*; the latter, *De Erroribus Joachim*. The first canon is practically a restatement of the Apostolic and the Athanasian Creed, with a few significant additions. One important point therein is the fact that here we find the term *transsubstantiatio* used officially for the first time in speaking of the Real Presence in the Eucharist.⁴⁵⁾ This term remained a characteristic of Roman Catholic doctrine, and the grave error it represents was destined to be the cause of some of the most serious church dissensions in a later age. Another point confessed in this canon is the statement that not only those who abstain from marriage, but also the married may be saved. This was confessed in opposition to the heretical Cathari, who denied this.⁴⁶⁾ The second canon is a refutation of Abbot Joachim of Flore, in Calabria, who had attacked Petrus Lombardus's *De Unitate seu Essentia Trinitatis*. In this book the author had stated that Father, Son, and Spirit are *quadam summa res*. Joachim declared that with this interpretation God would not be a Trinity, but a "Quaternity," the *summa res* being a fourth factor. The council defended Peter and condemned Joachim.

Legislation in Political Matters.

In view of the many political triumphs which Innocent had to his credit when the Fourth Lateran Council met a large amount of extreme political legislation might be expected in order that conciliar authority might be given to the sweeping principles of universal papal control which Innocent had maintained. But this is not the case. None of the great victories of Innocent is mentioned in the seventy canons of the council; this is perhaps due to the fact that the principle of papal control over secular powers was such a well-established principle that it did not require the sanction of a council.

The council nevertheless adopted a few canons which, though usually dealing with minor details of secular affairs, show that the principle of the Church's being above the State was tacitly assumed. The complaint is made that in some love has waxed cold to such a degree that they have no respect for the immunities of the Church which have been guaranteed by the fathers and the secular princes; by fictitious claims they seek to alienate property of the Church and even of the dead. It is decreed therefore that any sale of church

45) Hefele, *Konziliengeschichte*, V. 878.

46) *Ibid.*

property without proper church authority is null and void, and those who attempt such things shall be subject to ecclesiastical censure.⁴⁷⁾

The oft-recurring question of taxing the clergy was treated also in this council. The Third Lateran Council had already urged excommunication of those secular rulers who would dare to tax the clergy. This council went a little farther by stating that the rules and declarations of any one who was excommunicated for taxing the clergy were null and void. It seems that some secular officials employed a rather clever scheme for taxing the clergy in spite of the ban of excommunication. They taxed the clergy while in office and calmly endured the sentence of excommunication for the term of their office. Having been relieved of their secular office, they were no longer in position to restore the ill-gotten tax. The Fourth Lateran Council decrees that such an ex-official be under the anathema until this tax has been returned, and the successor in office shall likewise be under the anathema if restitution is not effected within one month after he has taken office.⁴⁸⁾

A peculiar political provision is made concerning the Jews. They were barred from all public offices, since they abused their position to the detriment of Christians. The council said that it was absurd to have a blasphemer of Christ in a position of authority over Christians. The means of forcing Jews from office was the commercial boycott.⁴⁹⁾

At least two political regulations were sanctioned by the council. In the Albigensian Crusade, Simon of Montfort had driven Raymond of Toulouse from his possessions; despite the plea of penitent Raymond for a return of his property this remained permanently confiscated and by the consent of the council remained in the hands of Simon of Montfort.⁵⁰⁾ Likewise the ban on Otto IV was reiterated and the elevation of Innocent's *protégé* Frederick II to the imperial throne was sanctioned by the council.

Concerning a Crusade.

The crusade, as mentioned before, represented Innocent's one great passion, and he consequently planned its execution years before there was even a faint hope of setting it in motion. It was in this endeavor that Innocent worked out the minutest regulations; and these were sanctioned by the council. In these regulations cognizance was taken of the fact that a crusade is an unusual undertaking, and there was a kind of war-time legislation which made demands upon the people such as would likely have been resented at any other time. Even before the council met, Innocent had sent out men into the various provinces to make preparations for the crusade. The council sanctioned the inviting inducements held out to the crusaders. First

47) 1027.

48) 1031.

49) 1059.

50) 1096—1170.

of all, the familiar promise was made that those who were truly penitent could use participation in a crusade as a short cut (*compendium*) to heaven. Plenary indulgence was promised to all who penitently would take part in the crusade at their own expense. But those who would send a proxy and pay his expenses should receive indulgence as well as their proxy. Those who would merely contribute according to their means should receive forgiveness *iuxta quantitatem subsidii et devotionis affectum*. To remove a crusader's concern for his relatives and property at home, these were placed under the special protection of Peter, the Pope and the church officials.⁵¹⁾ To help the crusaders still more, it was decreed that no one should be authorized to collect debts or interest for debts from one who participated in the crusade. The Jews, too, had to remit interest to debtors who took part in a crusade; if they failed to do so, they were to be boycotted.⁵²⁾

In order to foster the movement, the clergy must diligently work for the crusade. Any one who has taken the vow of the cross and fails to carry it out shall be excommunicated. Those princes who do not go personally must send a certain number of warriors in their stead. To avoid any aid's being given to the Saracens, a number of prohibitory acts were adopted. Thus any one who would sell weapons to the enemy or serve as a pilot on a Saracen ship was to be excommunicated. This decree was to be made known in all maritime cities. For the space of four years no one was to send even a ship to Saracen lands lest the enemy profit from commerce.⁵³⁾ Any one who would help the pirates or buy and sell in his dealings with them was to be excommunicated.

The clergy also felt the pressure of the crusade. The Pope himself promised to contribute liberally toward the cause; he gave one-tenth of his income. It was made the duty of the clergy everywhere to give one-twentieth.⁵⁴⁾ To the clergy who would take part in the crusade the concession was made that their incomes from their benefices would go on even during their absence.⁵⁵⁾

In another sphere these decrees directly affected the accustomed routine of life. Under pain of excommunication all tournaments were forbidden for a period of three years. And for four years all Christian princes were commanded to observe peace, either by concluding peace or making a truce. Any one despising this regulation was to be excommunicated and his land to be put under interdict.⁵⁶⁾ At the back of all these far-reaching decrees stood Innocent and his subservient council.

Thus the decisions of the council reached down into all phases of human activity and human endeavor. The child in the cradle might

51) 957. 958.

53) 1066.

55) 1059.

52) 1066.

54) 1063.

56) 1066.

be illegitimate as this council decreed; the old man seeking a burial-place might be affected by its decisions. The prelate was surrounded on all sides by conciliar resolutions, and the monk could not escape its many provisions. The ruler who engaged in a war, no less than the one who sued for peace, might endanger himself by transgressing a decree of the council. The sailor and the ship-owner, the tradesman and the artisan, might conflict with the council by indiscriminate activity. The Jew might offend by his attire and might find his business ruined because of the Fourth Lateran Council. Yet the unusual jurisdiction which this council claimed was not an illogical usurpation of power. It was rather the logical deduction from the great pretensions which the Papacy had made since the days of Gregory VII, pretensions which found their fullest expression in Innocent III. The theory of universal papal jurisdiction being accepted, the far-reaching regulations of this subservient council were but the conclusions from accepted premises.

Seward, Nebr.

H. O. A. KEINATH.

NOTE.—The interested student is referred to the following works, which give the sources or offer an extended treatment: Mansi, Johannes Dominicus: *Sacrorum Conciliorum Nova et Amplissima Collectio*. Florence and Venice, 1759—1798. (Vol. XXII contains the records of the Fourth Lateran Council. The MSS. on which this edition is based are in the Vatican Library.) — Labbe, Philip: *Sacrosancta Concilia ad Regum Editionem Exacta*. Venice, 1728—1733. (Contains the records of this council, Vol. XIII.) — Potthast, Augustus: *Regesta Pontificum Romanorum inde ab a. post Chr. n. MCXCVIII ad a. MCCCIV*. 2 vols. Berlin, 1874. (Contains lists of sources, but not the texts.) — Hefele, Carl, Joseph: *Konziliengeschichte*, Vol. 5. Freiburg, 1886. — Luchaire, Achille: *Innocent III. Le Concile de Latran et la Réforme de l'Eglise*. Paris, 1908. — Hurter, F. E. von: *Geschichte des Papstes Innozenz' III. und seiner Zeitgenossen*. 4 vols. Hamburg, 1841—1844. — Walch and Buddeus: *Commentatio Historico-theologica de Conciliis Lateranensibus Rei Christianae Noxiis*. Jena, 1725. — Lessius: *Discussio Decreti Magni Concilii Lateranensis*. — Widdringtonus: *Discussio Discussionis Decreti Lateranensis*. — A limited treatment of the council is found in various church histories, such as Schaff, Kurtz, Moeller, Alzog.

Is the New Science Hostile to Religion?

The question is raised in a letter which just comes to hand from Rev. H. J. S. Astrup of Zululand, South Africa, who calls himself "an unknown far-away man," but whose labors in the South Africa mission-field are not unknown to us. Rev. Astrup particularly refers to a recent book of Sir James Jeans, *The Mysterious Universe*, a book which in this reader's opinion "has upset many person's faith," particularly in its bearings on the Christian's belief in creation.