THE *COLLECTIO DERTUSENSIS TERTIA* AND TORTOSA MS 269

During a routine survey of manuscripts microfilmed by the Hill Manuscript Project (St. John's University), Professor Robert Somerville discovered a new collection of twelfth-century decretals in Tortosa, Archive of the Cathedral 269. He very kindly notified Professor Stephan Kuttner of the find, and I undertook a study of the collection in connection with work on the *Regesta decretalium saeculi XII.*

Tortosa 269 is unusual in that it is a paper manuscript of the early thirteenth century. It is missing its first page (the first extant folio is poorly preserved), but the folios have been numbered 1-101 since this loss occurred. The codex contains Bernard of Pavia's *Compilatio prima* (fols. 1r-93r) followed immediately by the new collection, which shall be called *Collectio Dertusensis tertia* (fols. 93r-101r; fol. 101v contains unrelated texts. See note 7 below). The dimensions of the codex are irregular, 160-218 × 100-115 mm[1]. The text is written in long lines, thirty-three lines to the page, and the scribes left margins unsuitable for glosses; the only marginal notations are the result of a corrector's activity.

The new codex seems to be connected with the three twelfth-century canonical works previously found in the manuscripts of the cathedral of Tortosa, although two of those three probably came from the abbey of Ripoll[2]. These books consist of a primitive, i.e. unsystematic, collection of seventy-three letters of Alexander III (Tortosa, Chapter Libr. 144, fols. 1-29= *Dertusensis prima*)[3]; two copies of the *Collectio Bambergensis* (Tortosa,

1. Since I am working from a microfilm, supplied by the Hill Manuscript Project, the physical description is based upon the modern catalogue of the cathedral libraries. See Bayerri Bertomeu, *Los Códices Medievales de la Catedral de Tortosa* (Barcelona 1962) 439.

2. On the provenance of Tortosa, Chapter Libr. 40 and 160, see W. Deeters, *Die Bambergensisgruppe der Dekretalensammlungen des 12. Jhdts.* (phil. diss. Bonn 1956) 30-31. Codex 40 may have been written at St. Victor of Marseilles, on which Ripoll, in the diocese of Vich, was dependent. The cathedral of Tortosa did not have a scriptorium until about 1200 (see Deeters 31 and note 209). It is not known when the books were deposited in Tortosa.

3. See W. Holtzmann, 'Beiträge zu den Dekretalensammlungen des zwölften Jahrhunderts', *ZRG Kan. Abt.* 16 (1927) 37-77. This collection was apparently the basis of the future canon law library at Tortosa. There is no indication that it was in any way connected with the canon law codices that appear to have come to Tortosa from the abbey of Ripoll. Holtzmann did not discuss the provenance of the codex. The date of Dert. 1 is not certain. It may be a Spanish reworking of an Italian collec-

Chapter Libr. 40 and 160; the latter is a fragmentary copy of the former)[4]; a second primitive collection, *Dertusensis secunda,* which follows the Bamb. fragment in Tortosa 160, but which is apparently connected with the fragment of *Gilbertus* that follows it in the codex, since Dert. 2 contains only one letter which duplicates those in the Gilb. fragment[5]; and now this copy of Comp. 1 and its appendix.

The copy of Comp. 1 is densely written, apparently by a single scribe. New canons begin where previous ones end, rather than at the left margin, which was normal. This compact style of presentation together with the economical margins give the reader a sense of the value of paper in the early thirteenth century. The rubrics are not very neatly written, and, at various places, a hand that looks similar to the rubricator's has entered corrections. It appears that one or more readers also made emendations. There are no erasures and very little expunction. In general, it appears that the collection was used, but not nearly so much as were many other collections.

The text of Comp. 1 is the classical version, edited by Friedberg (class Λ in Fransen's taxonomy)[6]. The beginning of the codex, probably only the first folio, is missing, and the collection begins with the explicit of 1.2.3. In addition, an error in binding has caused the replacement of a lost folio which contained the chapters from the end of 1.21.10 to the middle of 1.21.20. The page, folio 11, contains nine chapters, written in two hands, neither of them the same as that of the Comp. 1. It will be analyzed below.

Like many of the Comp. 1 MSS Fransen studied, the new copy is not a perfect Λ: It omits Fransen nos. 21 (with Bea Pre of Λ) and 22 (with Bea Pre Prf). It adds Fransen nos. 36 (a doublet of 2.20.45; here inserted twice,

tion, which itself may have been compiled in the curia before 1179 (see S. Kuttner, *Repertorium der Kanonistik* 279). A series, although incomplete and in a unique order, of the decrees of the lateran council follows the collection in the codex, Bishop Pontius of Tortosa (1165-93), the builder of the cathedral, is listed as a participant in the council (see Mansi 22.216), and Dert. 1 must have been a product of the entourage which accompanied him or some other bishop of his province. Bishop Peter of Vich (Ausona) was also at the council, and a member of the house of Ripoll might have accompanied him.

4. See now W. Deeters, *op. cit.*, 4-7, which supersedes Holtzmann, *art. cit.*, 39, n. 2. On the provenance of these codices, see note 1 above.

5. Dert. 2 is now analyzed in W. Holtzmann, *Studies in the collections of the twelfth-century decretals* edited and translated by C. R. and M. G. Cheney (Monumenta iuris canonici, Corpus collectionum 3; Vatican City 1979) 291-96. In their introduction to the analysis, the editors explain the history of the names that have been applied to all these collections from Tortosa. The Gilb. fragment contains 1.1.1-1.7.1, and one wonders whether Dert. 2 was added to the Bamb. (it begins on the last line of the folio on which that collection ends) after this fragment came into the library. Another interesting question remains unanswered: Why were only the first seven titles of Gilb. copied for the library? Possible answers cannot be suggested until the study of the filiation of the Tortosa fragment has been undertaken.

6. E. Friedberg, *Quinque Compilationes antiquae* (Leipzig 1882; repr. Graz 1956) 1-65. G. Fransen, 'Les diverses formes de la «Compilatio prima»', *Mélanges historiques Etienne van Cauwenbergh* (Scrinium Lovaniense; Louvain 1961) 235-53.

in the lower margin under 1.21.20-22, and *post* 1.21.23, not *post* 1.21.21 as was normal), 37 (also a doublet=2.20.30), 49 (at 3.33.11*bis*), 68 (at 2.14.15*bis*: with inscr. and date=Gre and Kra of group Σ), 71 (at 2.20.39*bis*). Tortosa also has the addition of JL 13903 (=WH 1013c) which Fransen records in some manuscripts (apparently as a replacement of 4.1.11; see p. 244, section C. [*k*]). Here, it is at 4.11.1*bis*. And finally, Tortosa has the transposition of 5.37.8 to a position after 5.37.3 (see p. 247 under E.).

The inserted page, folio 11 in the present numbering, is damaged by loss of the upper outside corner, unlike its neighbors in the codex. In fact, the pages are largely intact throughout, until the final segment of the codex which contains the new decretal collection, where the upper outside corners are missing from folios 92 to the end. Thus one might suspect that the inserted folio 11 was misplaced from the appendix. But there are two reasons for rejecting this supposition. First, the appendix collection does not appear to be missing any pages, and the odd page cannot be fit in. Since folio 101, which is not so wide as the rest, has some unrelated texts written on its verso [7], it does not seem that the insert could have followed the appendix collection. Nonetheless, we have here a page of paper, of the same size and texture as the others in the book, so far as one can tell on the film. Second, analysis of the fragment indicates that it belongs to a collection that was made without reference to Comp. 1, since it contains two texts used by Bernard of Pavia. By contrast, Dert. 3 is definitely an appendix to the classical form of Comp. 1.

The page contains nine decretals, with one doublet, of a sort. The earliest possible date of the collection represented by the series is the second half of the pontificate of Celestine III (1191-98); the latest letter is 'Prudentiam tuam' (nos. 1 and 9), dated 17 July 1193, and time must be allowed for the process of canonistic editing, which is evident here. The copyist entered an inscription in the lower margin of the recto, which turns out to belong to the text, no. 4, entered at the top of the verso. The incipit of that text is damaged [8]. The analysis and commentary that follow will show the peculiar character of the fragment.

1. Prudentiam tuam debita *(suprascr. cod.)* — respondere. JL 17019 WH 754(a).

2. Querelam A. clerici — differatis. JL 14196 WH 779.

3. Idem.
Abbas sancti Facundi — mandamus... [*expl.* restituas]. JL 14131 WH 6 (recto ends).

7. 'Non enim auribus corporis — preceptum. Preceptum Dei — de grauibus. Psalterium decem — cupiditatis'. Scribes also used the bottom of the page for testing nibs.
8. Professor Stephan Kuttner discovered the identity of the text.

4. Celestinus III preposito et clericis sancti Nazarii Mediol///
<Quia requisiti a nobis> fili preposite — competentis. JL 17613 WH 809.

5. Celestinus Acon. episcopo. Pars c. Laudabile *(sic)* pontifi<calis>.
Ceterum si de criminibus — uidetur. JL 17469 WH 609(h[iii]) [9].

6. Alexander. Pars c. Ad petitionem.
Si hospitalem domum — seruata. JL 14190 WH 84(e).

7. Consuluit nos uestra dilectio — promoueri. JL 14119 WH 198[i].

8. Si quis episcopus heredes — recitetur. (= 1 Comp. 5.6.8; 'Ex concilio Africano').

9. Celestinus III Iohanni Rotomagensi decano.
Prudentiam tuam debita — positis... [*expl.* contingat]. JL 17019 WH 754(a[i-v, vii]b...).

This series contains three texts transmitted in unique form. 'Ceterum si de criminibus' (no. 5) is the last section of part (h) of the famous 'Laudabilem pontificalis officii', and it occurs nowhere else by itself. 'Consuluit nos' (no. 7) is also well enough known, but here it is missing its final sentence, a unique omission. The last text, a piece of Celestine's famous 'Prudentiam tuam', is in a new hand and transmits a unique edition of part (a). It breaks off in the first line of part (b), *incipit* 'Secundo queris', and, therefore, it is not certain how much of the letter was originally copied.

Surveying the contents of the fragment, it should be noted that only three of the letters occur in Dert. 2, which, as we shall see, is a close relative of Dert. 3. None of these chapters-no. 2=2 Dert. 26, no. 4=2 Dert. 21, and no. 6=2 Dert. 17-occur in Dert. 3, but, as will be seen, the reversal of order between the two collections, which is evident here, also marks the relationship between Dert. 2 and Dert. 3. Two of the letters in the fragment occur in Comp. 1: no. 3=1.31.2 and no. 8 (pre-Gratian)=5.6.8. Notwithstanding these correspondences, the fragment is apparently unrelated to any known collection.

In sum, the fragment, which will be added to the list of like documents under the name *Fragmentum Dertusense* (=Fragm. O, reminds one of the second half of Dert. 3, since it contains a mixture of Alexandrine and later

9. In numbeering the decretals in the Holtzmann *regesta*, letters in parentheses indicate parts that are transmitted separately in some of the collections. Roman numerals in square brackets indicate sections of the main text defined by the editing activities of the canonists. Here, 'Ceterum — uidetur' is section [iii] of part (h) of WH 609.

decretals, with one pre-Gratian text. But the relationship evident between it and Dert. 2 recalls the first half of the new collection. It is possible that the folio was part of a collection used in the making of Dert. 3, or that it derived from materials similar to or associated with those used for that purpose.

To take up the main discovery from Tortosa 269, *Dertusensis tertia* (fols. 93r-101v) is a collection of forty-two texts (among which there are two doublets-one a simple scribal error when a new scribe took over the copying of the material; the other caused by reliance on two separate traditions). The twenty-seventh letter was unknown till now and concerns affairs of the church of Pamplona. It is edited in the analysis that follows a study of the place of the new collection in the canonical tradition.

The most recent datable letter is 'Nobis ex tuarum' (no. 24), 14 August 1193-13 April 1194, which places the collection in the same period as the fragment on folio 11 of the codex. But the work actually has, like Dert. 2, two distinct sections, although in neither collection did the scribe mark the division. The latest letter of the first part, cc. 2-23, is 'A nobis fuit' (no. 9), 14 August 1193; so that the two parts appear to be roughly contemporaneous. The collection can be dated to the second half of the pontificate of Celestine III (1191-98). Unlike Dert. 2, it contains no letter of Innocent III (2 Dert. 1=Po. 1326).

The first section of Dert. 3 is closely related to the first part of Dert. 2, which consists of cc. 2-30, while the second part of Dert. 3 is an orphan. This is also true of the second part of Dert. 2 [10], which, however, has no chapters in common with the new collection. As in Dert. 2, the opening letter of Dert. 3, does not fit into the series called the first section. This suggests that the extant copies of both collections do not represent the first stage of their redaction.

Considering the possibility that Dert. 2 originated in Ripoll, it might be that the first stages in the development of the two collections took place there and that the sources from which they were created were thus available there and not in the cathedral at Tortosa. It is possible to imagine a process by which the first sections of Dert. 2 and Dert. 3 (together with the collection represented by folio 11 of the codex?) were brought to Tortosa and there enlarged into their present forms. Thus the sources for the two sections of each collection might have been utilized in different places. More can be said of the character of the sources for the first sections of the collections than about where they were available.

The parallels between the first parts of Dert. 2 and Dert. 3 are obvious from the following table.

10. See Holtzmann-Cheney, *op. cit.*, 292.

3 Dert.	2 Dert.	3 Dert.	2 Dert.
2	28	8	27
3	29	11	25
		13	15
5	6	14	14
6	7	15	13
		17	10
7	2		
9	4	[18]	[23]
10	5	[19]	[19]
20	8		
21	9		
22	22		
23	24		

The bracketed numbers indicate questionable parallels (see below). As can be seen, the first parts of the two collections appear to be made up of two series, one represented on the left by the parallel series in which the texts occur in the same order, and the other by that on the right, in which the texts occur in opposite order. The discovery of these two series, which are coupled, so to speak, at cc. 7-11, resulted from an observance of the inscriptions. Among the texts from Dert. 3 in the lefthand pair of columns, only 20 and 23 have inscriptions, while all the chapters in the righthand columns have inscriptions. It appears that these texts in Dert. 3 derived from the same source as 2 Dert. 27, 25, 15, 14, 13, 10 and that this source was a dossier of texts which could be used front-to-back and vice versa.

It should also be noted that the three texts in Frag. O that also occur in Dert. 2 fit neatly into the righthand parallels of the two collections, but not in such a way as to suggest that Fragm. O is the source of or is based upon Dert. 3: Fragm. O 2=2 Dert. 26, Frag. O 4=2 Dert. 21, and Fragm. O 6=2 Dert. 17. This short series is interrupted by 3 Dert. 11, without, however, disturbing the whole line of the collectors' looseleaf sources. It appears, therefore, that the fragment represents another member of the family of primitive collections of Tortosa.

The other series, that on the left, causes some problems. This series may be divided so: [2-3], [5-6], [7, 9-10, 20-23]. It is possible that all these texts

came from another dossier of loose pages which became somewhat disordered between the times it was used by the two collectors, but it is also possible that we have to do here with separate sources.

Besides these sources, the author of Dert. 3 seems to have used another, in which he found cc. 4, 12, 16, and perhaps 18-19. The first three of these texts do not occur in Dert. 2, and since they are not in the section of Gilb. to which this latter collection appears to have been an appendix of sorts, it seems that the source from which the compiler of Dert. 3 took them was unknown to the maker of Dert. 2. 3 Dert. 18-19 appear on textual grounds to be related to their counterparts in Dert. 2: No. 18 shares the inscription with 2 Dert. 23, and no. 19 shares many variants, particularly in part (c) of the text, with 2 Dert. 19. But there are grounds also for supposing that these texts derived from separate traditions, and their order does not correspond in the two collections (see further in the commentary below).

In addition to the close relationship with Dert. 2, the new collection has affinities with materials available to the canonist of Rouen whose work is preserved in Paris, B.N. lat. 3922A [11]. Nineteen of the decretals of the first section of Dert. 3 are also in the suppementary material used by the Rouen canonist. Eleven of the texts of the second section also occur there. Since the Rouen canonist constantly made additions to his basic reference collection, it is not profitable to compare the order of texts in the two codices. It will also be seen that many of the letters in Dert. 3 represent a unique tradition; so that the sources used by the men in Rouen and Tortosa were significantly different.

The same can be said of the sources used by the canonist of the *Collectio Lambethana.* He shared nine texts with the first part of Dert. 3 and ten with the second part, but there are no correspondences in the order of the texts, and few indications of common tradition.

Among the group of primitive collections between Comp. 1 and Comp. 2 called the *Lucensis* group, *Lucensis* itself and *Monacensis* share the most texts with the new collection. But again, there are usually significant differences of textual tradition, and the order of texts is not parallel in the collections. It is worth noting, however, that 3 Dert. 29-42 occur in an order similar to that in Mon. The following tables show the correspondences among all these collections.

11. See the analysis of the collections in this codex in Holtzmann-Cheney, *op. cit.*, 133-207.

3 Dert.	1 Rot. / 2 Rot.	Gilb. (R)	Lamb.	Luc.	Mon.
1	1 Rot. 4.2	6			52
2	1 Rot. 20.8			37	
3	.			36	
4	1 Rot. 18.1		29	41	21
5	2 Rot. 2.9.10				
6	1 Rot. 22.7 = 2 Rot. 2.1.10	72		23	60
7	1 Rot. 25.5		37	30	6
8	1 Rot. 17.12				76
9	1 Rot. 24.3 + 31.32			53	77
10	1 Rot. 31.16		10	39	9
11	1 Rot. 31.31		10	21	2
12	1 Rot. 1.29		22	68	30
13				74	69
14		14			
15	1 Rot. 14.1		27	60	17
16	1 Rot. 1.55		18	31	14
17				51	45
18				98	
19	1 Rot. 10.20	76		83	44
20		77	36	25	19
21	1 Rot. 25.7	35	28	13	
22		12		42	50
23	1 Rot. 1.16	29		46	
24		39			93
25					
26	1 Rot. 24.2		10	21	2
27					
28	2 Rot. 5.38.un	54		49	71
29	1 Rot. 12.17 + 14.6		12	44	11
30					
31					
32					
33	1 Rot. 22.3		8	2	5
34=35	1 Rot. 22.4		1	58	12
36	1 Rot. 1.56		19	12	15
37		60	28	61	18
38		77	36	25	19
39	1 Rot. 17.10		34	29	31
40	1 Rot. 1.12		24	70	33
41				26	
42			4	71	34

ANALYSIS

1. Quesiuisti etiam quomodo intelligatur — debebis. JL 17049 WH 1045(d).
2. Quesitum est a nobis ex parte tua — competentem. JL 15185 WH 792(a).
3. Cum te consulente postules edoceri — confirmare. JL 13976 WH 315(a).
4. Ad soluendas (soluandas *cod.*) questiones que per fratres — uniri (*leg.* iniri). JL 16580 WH 85.
5. Grauis nos querela circumstrepit de Bituricensi archiepiscopo — infringi. JL 17652 WH 535.
6. Cum non ab homine etc. et infra. In prima igitur consultatione — deterrenda. JL 17639 WH 273(def[i]g).
   d. In prima igitur — inferatur.
   e. In secunda uero ita sentimus — compellatur.
   f[i]. In articulo uero questionis tertie — commisissent.
   g. Taliter in quarto themate — deterrenda.
7. Peruenit ad nos quod in episcopatu — relinquendam. Dat. Laterani v. nonas iulii, pontificatus nostri anno secundo. JL 16596 WH 722.
8. Celestinus III priori et canonicis de humitendone. Pars c. Bone memorie. Tertio quippe a nobis — censendum. JL 16628 WH 103(c).
9. <A> nobis fuit ex parte tua — impediri. JL 17053 WH 3.
10. Licet appellationis remedium ad leuamen — terminare. JL 17050 WH 612.
11. Celestinus III I. Rotomagensi decano. Pars c. Prudentiam.
    Secundo queris cum pluribus articulis — contingat. JL 17019 WH 754(b).
12. Super hoc quod a nobis tua sollicitudo — seruetur. JL 13907 WH 1013(a).
13. Celestinus III Accon. episcopo. Pars c. Laudabile<m> ponti. officii.
    Sollicite quoque ad ultimum requisisti — separatur. JL 17649 WH 609(g[i-ii]).
    i. Sollicite quoque — separentur.
    ii. Nos uero quamuis in antiquis — separatur.
14. Celestinus III episcopo et capitulo Heliensi.
    Intimatum est nobis ex parte uestra (tua *cod.*) — promoueri. JL 17665 WH 592.
15. Celestinus III Cesaraugustono episcopo.
    De regularibus canonicis seu monachis — collocare. JL 16562 WH 340.
16. Clemens III Ciuitatensi episcopo.
    Interrogatum est a nobis ex parte tua — reuelarent. JL 16595 WH 591.
17. Idem Coloniensi canonico.
    <Ad aure>s nostras te significante — ascendas. JL 16570 WH 58.

18. Clemens III Segobiensi episcopo.
Inspectis litteris quas bone memorie Urbano — uidetur. JL 16609 WH 576.

19. Tua (Qua *cod.*) nos duxit etc. et infra. Vnde fraternitati tue breuiter respondemus — habeatur. JL 16607 WH 1035(a[ii-iii]bc).
    a. [Tua nos duxit — laborare.] JL 16607.
       ii. Vnde fraternitati tue — destinandi,
       iii. et non nisi ad Romanum — laborare.
    b. De sacerdote uero qui (qui *suprascr.*) — ministrentur. JL 16607.
    c. Super mulieribus etiam quarum consortia — habeatur (*leg.* sciant). JL —

20. Idem capitulo Bisconensi.
Vniuersitatis uestre consultationem accepimus — euadunt. JL 17609 WH 1042.

21. In audientia nostra talis fuit consultatio — debent. JL 16574 WH 548.

22. Certificari a nobis uoluistis — attendatur. JL 16941 WH 129.

23. Vrbanus III priori sancte Crucis.
Ex parte dilecti filii nostri abbas sancti Petri — seruiturus. JL 15732 WH 453.

24. Celestinus III archiepiscopo de Colle.
Nobis ex tuarum innotuit continentia litterarum — immiscere. JL 16613 WH 662.

25. Celestinus III Rudensi episcopo.
Non sine prouide considerationis officio — potestatem. JL — WH 674 α.

26. Ad hec sexta nobis proposita — exercebunt. JL 17019 WH 754(f).

27. Intelleximus ex conquestione fratris nostris Panpilonensis episcopi quod cum in ecclesiis uestris capellanos uos (nos *cod.*) instituitis, ipsos ei iuxta canonica instituta minime presentatis, procurationes quoque debitas eidem exibere negligitis et sententia excommunicationis uel interdicti, si quando ab ipso in alios canonice lata fuerit, obseruare non uultis. Adiecit etiam quod interdictos et excommunicatos ad diuina recipientes sepulture tradere minime formidatis. Quoniam igitur eidem episcopo sua iura uolumus illibata seruari, per apostolica uobis scripta mandamus et districte precipimus quatinus in ecclesiis uestris presbyteros eligatis et episcopo presentetis ut ab ipso curam animarum recipiant, quos etiam ea recepta sine eius conuientia non presumatis ab ipsis ecclesiis remouere. Procurationes quoque eidem episcopo ecclesias uisitanti cum canonice debita ministretis, sicut antecessores uestri eius predecessoribus bone memorie Petro, W., Sancio et Lupo ministrare noscuntur. Sententiam etiam excommunicationis uel interdicti, si aliquando episcopus in ecclesias siue dioceses aut in alios canonice tulerit, eam precipimus inuiolabiliter obseruari. Cum autem generale interdictum terre fuerit sub pena uobis officii districti<u>s inibemus ut in

monasteriis uestris non nisi clausis iam<uis et cam>panis, exclusis excommunicatis et interdictis, diuina <celebretis> et <ne> interdictos aut excommunicatos in uita uel in morte ad <...sacram>enta (...ente *cod.*) recipere uel eos sine satisfactione congrua sepulture mandare aliquatinus presumatis. JL — WH 5763.

28. Plerumque accidit ut proponis — imponendum. JL 17052 WH 729.
29. Nobis fuit ex parte tua cum magna diligentia — debet. JL 16466 WH 663.
30. Si quis episcopus non susceperit — erat. *cap. incert.*
31. Porro quod episcopus non ab una — similiter. =1 Comp. 1.4.(6) 'Ex decretis Teodori'.
32. Placuit ut sicubi contigerit duos — seruentur. =1 Comp. 1.4.(7) 'Item ex concilio Arelatensi'.
33. Celestinus III.
Veritatis amica simplicitas nullis — immunem. JL 16375 WH 1079.
34. Idem Claromentensi episcopo.
Cum te audiremus ante consecrationem tuam — indulgendas. JL 16568 WH 314.
35. Idem Claromentensi episcopo. (A nobis etc. *add. cod.*[ac]).
Cum te audiremus ante consecrationem tuam — indulgendas. JL 16568 WH 314.
36. Idem. A nobis etc.
Preterea quia et hoc tue consultationi — cognouisse. JL 16646 WH 2[ii].
37. Alexander III.
Ex tue fraternitatis litteris et ex confessione — postponas. JL 13914 WH 516.
38. Celestinus III.
Vniuersitatis uestre consultationem accepimus — euadunt. JL 17609 WH 1042 (=no. 20 above).
39. Alexander III.
Ex litteris quas tua fraternitas nobis destinauit — incunctanter. JL 14142 WH 425([i, iii]).
40. Idem episcopo Nemonensi (*leg.* Norwicensi).
Veniens ad nos G. lator presentium — adherere. JL 13902=14159 WH 1071.
41. Alexander III.
Si quis sane puerum ter immergendo — baptizmus. JL 14200 WH 915(a).
42. Idem Carnotensi episcopo.
Cum te consulente etc. et infra. Super causa que tibi ex nostra — teneris. JL 13796 WH 315(b) [WH 315(a) at no. 3 above].

COMMENTARY

1. This text occurs in much the same form in *Lucensis, Monacensis,* and *Cracoviensis,* but the Dert. 3 compiler omitted both the inscription and the reference to the main incipit, 'Vt (*var.* Cum) super aliqua re', found in all those collections. See the comments in the introduction to the analysis.
2. Variants virtually the same as in 2 Dert. 28.
3. Variants virtually the same as in 2 Dert. 29.
4. This tradition of the text is unique in several respects: transposition of 'soluendas questiones'; omission of the first words of section [iii]; and omission of the explicit of section [iv].
5. Variants are virtually same as in 2 Dert. 6.
6. This segment of the text occurs only here and at 2 Dert. 7.
7. Textually related to 2 Dert. 2, but it is also related to *Alcobacensis secunda* 1, which also has the date.
8. Among the primitive collections, this part of the letter is transmitted separately only here and at 2 Dert. 27. Dert. 3 also agrees with Dert. 2 on the inscription (both have 'Humitendone' for 'Huntendune') and on the reference to the main incipit, 'Bone memorie'.
9. Variants virtually the same as in 2 Dert. 4.
10. Variants virtually the same as in 2 Dert. 5.
11. This part of the letter is separately transmitted only here and at 2 Dert. 25. Variants also indicate the relationship between the texts.
12. Although this segment of the letter occurs in many collections, both pre- and post-Comp. 1, the new copy does not seem to be closely related to any of them. *Sangermanensis* 8.75 has 'Super hoc quod', but it ends 'obseruetur'.
13. The common inscription, reference to the main incipit ('Laudabile ponti. officii'), and variant in the explicit show that this tradition is closely related to 2 Dert. 15.
14. Relationship with 2 Dert. 14 indicated by common inscription.
15. Inscription and variant in the incipit indicate relationship with 2 Dert. 13.
16. This tradition is unique, although a distant relationship may exist with Sang. 8.92; cf. no. 12.
17. Inscription common with 2 Dert. 10 and *Claravallensis secunda* 11, but Clar. 2 has a variant explicit.
18. Inscription common with 2 Dert. 23. 2 Alc. 13 has the letter with full inscription.

19. Variants, particularly in part (c) of the letter, are the same as 2 Dert. 19, but this number does not fit into either of the two main series in Dert. 3.

20. Inscription common with 2 Dert. 8, and with Luc. 25, which also shares a variant explicit.

21. Inscription common with 2 Dert. 9.

22. The transposition 'a nobis uoluisti' is shared with both 2 Dert. 22 and Luc. 42.

23. Dert. 3 shares an important variant (de Calauenaillius) with 2 Dert. 24, but it has several other variants in common with Luc. 46, with which it also shares the date. Luc. and Dert. 2 are the only other primitive collections that transmit this text.

24. The tradition of this text is unique.

25. Few collections transmit this text; it was added to the Brussels and Uppsala codices of Gilb. at 4.7.4c. The inscription of Dert. 3 is unique.

26. The scribe left space for an inscription, but it was not supplied. This tradition may be related to Sang. 5.12.7, one of the few collections that transmit part (f) of the letter separately. Only Dert. 3 and Sang., among these collections, preserve the 'Ad hec' at the beginning of the section. Many complete copies of the letter omit the words. Nonetheless, there are significant differences in the variants of Dert. 3 and Sang. In the margin, a corrector supplied a clause, 'super illa pro qua excommunicatus est', which the scribe had omitted. I owe thanks to Professor Stephan Kuttner for discovering the placement of this marginal note.

27. Since it lacks any reference to a judicial dispute or an appeal, this letter appears to have been written in response to a direct, perhaps *viva voce*, complaint of the bishop. The list of the complainant's predecessors appears to be in order, Pedro de Roda (1084-1114), the first important bishop after the reconquest of Pamplona, was followed by William (1114-21), Sancho de Rosas (1121-42), and Lope (1142-59). After Lope's death there was a schism, which Alexander III referred to the judgment of the bishops of Saintes and Toulouse in a letter of 17 November 1160 (ed. Kehr, PU in Spanien 2.411 no. 91). The matter was not settled, however, until the council of Tours in May 1163, when the two claimants, who seem to have been associated with parties attached on the one side to Castile and on the other to Navarre or perhaps Aragon, were deposed. Alexander then ordered a new election, but had to repeat his order several times before it was obeyed in 1164 (JL 10913, dated 26 July 1163, is the second of these mandates; cf. Kehr, *op. cit.* 1.201). The electus was Vivianus, the former archdeacon of the see, but he effected little, since he died on 9 December 1166. In the next year, Pedro de Artajona, called 'Paris' because he had been a student there, was elected and began a long and distinguished pontificate (1167-93).

The list of the complainant's predecessors leads to the conclusion that Pope Alexander III wrote the letter from Montpellier in April of 1165, when Bishop Vivianus received, perhaps in person, the standard privilege confirming the possessions of Pamplona.

The addressees of the letter were apparently the abbot and brothers of a monastery. In correspondence transmitted to me by Professor A. García y García, Professor José Goñi Gaztambide suggests, by process of elimination, that the recipients were the brothers of the old Benedictine house of San Salvador de Leire. Leire was on the border between the kingdoms of Aragon and Navarre, divided in 1134, and, under the influence of the neighboring house of San Juan de la Peña, it took the opportunity provided by its position to seek exemption from episcopal authority. This campaign of the monks created a prolonged conflict with the bishop, and in June, 1155 the papal legate Cardinal Jacinctus (later Celestine III) ordered the abbot and monks of Leire to appear at a council to be held at Narbonne to answer charges that the privileges on which they supported their claims were forgeries (ed. Kehr 2.393-94 no. 78; the forgeries, based on authentic documents of San Juan de la Peña, are edited *ibid.* nos. 1-2, 6, 17-18. No. 17 is an authentic letter of Paschal II, into which some forged passages, marked by the editor, were interpolated). In the successive papal privileges confirming the possessions of Pamplona, Leire is listed first among the monasteries subject to the bishop (see *ibid.* nos. 16, 43, 45, 51, 81, 102; in general, see *ibid.* 2.33-40). As Professor Gaztambide points out, the new letter complains about actions by the monks that are consistent with Leire's struggle for exemption from the bishop.

28. This letter is transmitted in its complete form and with very few variants, although those are unique in the canonical tradition.

29. This tradition is unique. It omits the first section of part (b), 'in canonibus — constitutum', and it abbreviates, or paraphrases, part (c). It should also be noted that while the systematic collections transmit parts (a) and (c) together, and (b) separately, Dert. 3 and Rot. 1, which divides the text between 12.17 and 14.6, transmit the parts in the correct order.

30. Holtzmann's notes indicate that he found this chapter elsewhere in the decretal collections, but they do not specify the locations or identify it. I have not found or identified it.

31. This and the following text correspond to 1 Comp. 1.4.6-7 in Agustín's edition. Agustín found the texts in a Barcelona codex which has not been identified by modern researchers. The compiler of Dert. 3 may have found them in a source related to the one used by the redactor of the Barcelona Comp. 1 (=Φ in Fransen's catalogue [12]), but no other texts

12. Fransen, *art. cit.*, 238-39.

in this part of the new collection were incorporated in this version of Bernard of Pavia's work.

33. The inscription of this letter is unique in the tradition, and, although the Dert. 3 text shares some variants with Mon. 5, it contains other, unique ones.

34. The duplication of this letter at nos. 34 and 35 resulted from a change of scribes in the middle of no. 34. The new scribe, finishing 'Cum te audiremus' did not recognize that it was this letter he was copying and copied it again. Then he, it seems, added the incipit reference that belongs to the next letter, no. 36. Presumably the corrector or a later reader crossed this out, but did not erase or cross out the duplication.

36. Dert. 3 is the only collection to transmit section [ii] of this letter by itself. The primitive collections between Comp. 1 and Comp. 2 represent two traditions — some transmit the complete text, while others, such as Lamb. 19, contain sections [i-iii]. 1 Rot. 1.56 contains the complete text.

37. The scribe has divided this letter at 'Si uero ad religionis'. Raymond deleted the first section of this second part.

38. This is a doublet of no. 20, which is another indication that the new collection derives from two separate bodies of sources.

39. The text is in the same form as in the Luc. group and in Gilb., but its inscription is the same as the latter.

40. The corruption of the address, 'Nemonensi' for 'Norwicensi', is unique. The Luc. group has 'Rediens' for 'Veniens'; Dert. 3 agrees with Gilb. on the first word.

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LA *COLLECTIO DERTUSENSIS TERTIA* Y EL MS 269 DE TORTOSA

El MS 269 de la Catedral de Tortosa es un códice cartáceo, que consta de 101 folios. Contiene una copia de la *Compilatio prima* (fol. 1r-93r) y una colección primitiva hasta ahora no conocida (fol. 93r-101r). La Compilación primera es la versión clásica editada por Friedberg, y está afeada por la pérdida del primer folio y la substitución del fol. 11 (1 Comp. 1.21.10-20). El folio está reemplazado por uno que contiene un fragmento de 9 capítulos de una colección, tres de los cuales se transmiten en forma única. La

colección representada por este fragmento data probablemente de la segunda mitad del pontificado de Celestino III. La *Dertusensis tertia* proviene del mismo período. Es una colección en 42 capítulos (entre los cuales hay dos duplicados) que se divide en dos partes nada semejantes. La primera parte (c. 2-23) está estrechamente relacionada con la parte primera de la *Dertusensis secunda* (MS 160 de Tortosa), y el análisis de las relaciones entre ambas permite hacer algunas conjeturas acerca de las fuentes comunes. La segunda parte de la *Dertusensis tertia* es un huérfano. Esta parte contiene una carta previamente desconocida que se refiere a asuntos de la iglesia de Pamplona. La carta fue escrita por Alejandro III, a requerimiento del obispo Viviano (1164-66), para el monasterio de Leyre. Probablemente data del tiempo de la visita de Viviano al papa en Montpellier en abril de 1165. Se edita más abajo.