

PECULIARITIES OF THE *DECRETUM BURCHARDI WORMATIENSIS* ESPECIALLY REGARDING THE DISCIPLINE ABOUT BISHOPS AND THEIR DUTIES

RESUMEN

Tras la desintegración del imperio carolingio, entre el 1008 y el 1022, el *Decretum Burchardi Wormatiensis* alcanzó una importancia singular. El presente análisis pone de manifiesto que se trata de una colección universal y sistemática más perfecta que cualquiera de sus predecesores. La colección era especialmente apropiada para la enseñanza del Derecho canónico en muchas regiones, al tiempo que podía servir para la administración eclesiástica cotidiana, el servicio pastoral de los clérigos y también para la legislación canónica. En este último campo, hay que destacar la legislación conciliar, uno de cuyos ejemplos más relevante son los decretos de los concilios húngaros de los siglos XI y XII. La disciplina episcopal del *Decretum Burchardi* se puede organizar en cinco grupos diferentes: selección y consagración de los candidatos al episcopado; personalidad de los obispos; obligaciones de los obispos; obispos metropolitanos y sus relaciones, así como los concilios provinciales; y, por último, la protección jurídica de la autoridad particular de los metropolitanos y del primado. La colección de Burcardo es un ejemplo extraordinario de cuál era la intención de los compiladores al intentar reunir la legislación eclesiástica de la manera más completa posible: su pretensión no era únicamente la de promover el conocimiento del Derecho canónico, sino también el de facilitar la administración regular de sacramentos y sacramentales a partir de unas reglas canónicas claras.

*Palabras clave:* *Decretum Burchardi Wormatiensis*, colecciones penitenciales, colecciones pre-gracianeanas, obligaciones y derechos episcopales, eclesiología patristica.

SUMMARY

When the Caroling World had disintegrated, between 1008 and 1022 the *Decretum Burchardi Wormatiensis* canon law collection got a distinguished importance, especially in the Low Countries. Based on our above explained analysis clearly stands out a much more universal systematic canonical collection than before. This new collection was perfectly suitable to be a canon law handbook at many territories, and it could serve profoundly the daily canonical administration, the pastoral service of

the clergy, but the canonical legislation too. Within this last one should be emphasized the conciliar legislation which can illustrate well by the decrees of Hungarian councils in the 11<sup>th</sup> – 12<sup>th</sup> century. We can organize into five different groups of the Episcopal discipline of the *Decretum Burchardi*: selection and consecration of the suitable persons a bishop; personality of the bishop; duties of the bishop; bishop, metropolitan, and their relations including the provincial council; finally, the juridical protection of the particular authority of metropolitan and primate. Burchard's Collection is an extraordinary example for that goal how compilers of the canonical collections were intended to collect all of the ecclesiastical discipline as complete as possible, in order to promote not only the canonical knowledge, but the day to day administration of sacraments and sacramentals based on the clear canonical regulations.

*Keywords:* *Decretum Burchardi Wormatiensis*, penitential collections, pre-Gratian collections, episcopal duties and rights, patristic ecclesiology.

## 1. BURCHARD OF WORMS AND HIS CANONICAL COLLECTION

The *Decretum Burchardi Wormatiensis* —composed between 1008 and 1022— played an important role after the time of dissolution of the Carolingian political system, particularly through forming of the canonical discipline of the Low Countries.<sup>1</sup> This canonical collection is distributed into twenty books which contain 1785 chapters. It is well known that Book 19 was copied independently at several places as a Penitential auxiliary book.<sup>2</sup> This function promoted the rapid wide spreading of this book. There is also example for insertion of this book into another canon law collection as supplement, because the composers of the concrete textual witness kept in mind the most complete summary of the canonical norms. For this form the Lat. O. v. II. 4 of the National Library of St. Petersburg is a very good example, which is a manuscript of the *Panormia* textual family of canonical work of Ivo of Chartres.<sup>3</sup> There is no doubt that the composition of canonical discipline by

1 This article was written in the Pontifical Institute of Medieval Studies (Toronto) and in the Saint Michael's Abbey of the Norbertine Fathers (Silverado, CA). Our research was supported by the TÁMOP 4.2.2 and the OTKA K 106300 projects.

Edition: PL CXL. 949-1018; and FRANSEN, G.-KÖLZER, TH. (ed.), *Burchard von Worms, Decretorum Libri XX*, Aalen 1992. Cf. FRANSEN, G., *Le Décret de Burchard de Worms. Valeur du texte de l'édition. Essai de classement des manuscrits*, in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung* 63 (1977) 1-19. HOFFMANN, H.-POKORNY, R., *Das Dekret des Bischofs Burchard von Worms. Textstufen-Frühe Verbreitung-Vorlagen*, (MGH Hilfsmittel 12), München 1991. WILL, L., *Die Rechtsverhältnisse zwischen Bischof und Klerus im Dekret des Bischofs Burchard von Worms. Eine kanonistische Untersuchung* (Forschungen zur Kirchenrechtswissenschaft 12), Würzburg 1992. HARTMANN, W. (ed.), *Bischof Burchard von Worms 1000-1025* (Quellen und Abhandlungen zur Mittelrheinischen Kirchengeschichte 100), Mainz 2000. AUSTIN, G., *Shaping church law around the year 1000. The Decretum of Worms* (Church, Faith and Culture in the Medieval West), Aldershot 2009.

2 Cf. e.g., KÖRNTGEN, L., *Canon law and the practice of penance: Burchard of Worms's penance*, in *Early Medieval Europe* 14 (2006) 103-117.

3 St. Petersburg, Lat. O. v. II. 4, foll. 187v-227v.

Bishop Burchard contains significant novelty as compared with the most used previous universal canonical collections of the Latin Church. These novelties are the numerous patristic texts, canons of the regional councils of the Low Countries, and the material of many penitential collections. Based on the text of *Vita Burchardi* is clear, that Burchard's primary goal was promoting the institutional and disciplinary work of the Church through his collection.<sup>4</sup>

Burchard had inserted almost the entire material of the *Statuta Ecclesiae antiqua* (between 476 and 485) into his collection<sup>5</sup> and also nineteen of those fifty canons of the *Canones apostolici* (the end of the 4<sup>th</sup> century) which were translated to Latin.<sup>6</sup> He had used the *Collectio Dionysio-Hadriana* (774)<sup>7</sup>, the *Capitula Angilramni* (the end of the 8<sup>th</sup> century)<sup>8</sup>, the *Capitularia Benedictae Levitae* (later than April 847)<sup>9</sup>, the *Decretales Pseudo-Isidorianae* (847-852)<sup>10</sup>, the *Collectio Anselmo dedicata* (about 882)<sup>11</sup>, and the *Collectio Reginonis Prumiensis*<sup>12</sup> (about 906).<sup>13</sup> Moreover, Burchard cites many penitential collections (i.e. *libri penitentiales*)<sup>14</sup>, nevertheless, he takes several canons—exactly forty-eight canons<sup>15</sup>— from the *Collectio Hibernensis*: the famous

4 (...) Ergo cunctis quae ad canonicam regulam pertinebant rationabiliter ibi compositis, viginti fratres, qui cursum certis temporibus ac signis conservarent, ibidem instituit. His modis vir Dei domum belligeram mutaverat in Christi ecclesiam, et quae erat domus contentionis, facta est domus reconciliationis, in qua Deo nostro laudes et gratiarum actiones die noctuque solvuntur (...). PERTZ, G.H. (ed.), *Vita Burchardi* (MGH Scriptorum IV), Hannoverae 1841 (repr. Leipzig 1925) 837.

5 MUNIER, CH. (ed.), *Concilia Galliae a. 314 — a. 506* (Corpus Christianorum. Series Latina 148), Turnholti 1963. 135-158.

6 METZGER, M. (ed.), *Les constitutions apostoliques*, III (Sources chrétiennes 336), Paris 1987. 274-309; Latin translation: PL LXVII. 141-148. Cf. SZUROMI, SZ.A., *The Canones apostolici as a common disciplinary source for the Eastern and Western Church*, in *Rivista internazionale di diritto comune* 19 (2008) 269-279.

7 PL LXVII. 139-230.

8 HINSCHIUS, P. (ed.), *Decretales Pseudo-Isidorianae et Capitula Angilramni*, Lipsiae 1863 (repr. Aalen 1963) 755-769.

9 PERTZ, G.H. (ed.), *Benedicti capitularia* (MGH Leges II/2), Hannoverae 1837 (repr. Leipzig 1925) 17-158.

10 HINSCHIUS, P., *Decretales Pseudo-Isidorianae*, 1-754.

11 FOWLER-MAGERL, L., *Clavis Canonum. Selected Canon Law Collections Before 1140. Access with data processing* (Monumenta Germaniae Historica, Hilfsmittel 21), Hannover 2005. 70-74.

12 WASSERSCHLEBEN, F.W.H. (ed.), *Regino von Prüm: Libri duo de synodalibus causis et disciplinis ecclesiasticis*, Lepzig 1840 (repr. Graz 1960).

13 About the collections which were used by the *Decretum Burchardi*, Cf. KERNER, M.-KERFF, F.-POKORNY, R.-SCHON, K.-G. TILLS, H., *Textidentifikation und Provenienzanalyse im Decretum Burchardi*, in *Melanges G. Fransen* (Studia Gratiana 20 [1976]) 19-63.

14 Excarpus Bedae-Egberti, Excarpus Cummeani, Paenitentiale Bedae, Paenitentiale Egberti, Paenitentiale Hubertense, Paenitentiale Martenianum, Paenitentiale Remense, Paenitentiale Theodori; vö. HOFFMANN, H. - POKORNY, R., *Das Dekret des Bischofs Burchard von Worms*, 173-244.

15 BW 1. 12, 13, 14, 104, 203, 204, 205, 206, 207, 208, 209; BW 2. 233; BW 3. 90, 91, 92, 93, 141, 160, 161, 162, 163; BW 8. 68; BW 9. 16, 61; BW 12. 22, 23, 24, 25, 26, 27; BW 13. 22, 23, 24, 25, 26; BW 15. 14; BW 18. 15; BW 19. 77, 78, 79, 80, 81, 82, 109, 112, 113, 114, 155. Vö. POKORNY, R., *Das Dekret des Bischofs Burchard von Worms*, 173-239.

insular canonical collection which was composed around 700<sup>16</sup>. The influence of Council of Toledo I-IV and VI-XII; Council of Orléans I and III-V; Council of Mainz I-III and the Council of Worms (868) must be considered essential. The effect of letters of Pope Gregory the Great (590-604) is also very important. There are 119 canons from his writings within the whole collection. However, we would like to emphasize in general —beside the influence of texts of Pope St. Leo the Great (440-461) and Pope St. Gregory the Great— the high number of patristic texts. Those 247 canons which take place in Burchard's Collection are remarkable, not only as compared with the pseudo-isidorian collection and the canonical work of Regino of Prüm<sup>17</sup>, but also with the best Gregorian canon law collection, i.e. the *Collectio Canonum Anselmi Lucensis*<sup>18</sup>. St. Augustine is the most significant among the authors of patristic texts. Further elements of the sources have Roman law or imperial decree origin.

The above listed facts give a clear picture on a more «universal» systematic canon law collection than any which was composed before. This reason made Burchard's Collection suitable to be canonical handbook at many places, helping the jurisprudence, the day-to-day pastoral service of priests, but the legislation too. A particular field of the last one is the conciliar legislation. The Hungarian councils can be considerable examples for this activity. Our textual-critical analyses which were done on the texts of the late 11<sup>th</sup> and early 12<sup>th</sup> century Hungarian councils —as we have already explained those at several places— support the very possible influence of the *Decretum Burchardi*, based on the peculiarities of contents and structure of the canons.<sup>19</sup> This canon law collection —or some version of that— could become ideal for the clergy in order to know the «sacred canons» as so called «liber canonum»<sup>20</sup>.

16 WASSERSCHLEBEN, H. (ed.), *Die irische Kanonessammlung*, Leipzig 1885.<sup>2</sup> (repr. Aalen 1966).

17 MUNIER, CH., *Les sources patristiques du droit de l'Église du VIII<sup>e</sup> au XIII<sup>e</sup> siècle*, Mulhouse 1957. 30-40; cf. REYNOLDS, R.E., *Basil and the Early Medieval Latin Canonical Collections*, in FEDWICK, P. J. (ed.), *Basil of Caesarea: Christian, Humanist, Ascetic* (A Sixteen-Hundredth Anniversary Symposium), II. Toronto 1981. 513-532, especially 513.

18 SZUROMI, SZ.A., *Patristic texts in the Collectio Canonum Anselmi Lucensis (recension ‚A‘) and their correspondence with the Decretum Gratiani*, in *Folia Canonica* 7 (2004) 71-108.

19 Cf. SZUROMI, SZ.A., *Törekvés a régi egyházi kánonok összegyűjtésére, mint a középkori egyetemes kánonjoggyűjtemények sajátossága (8-12. század)* [Bibliotheca Instituti Postgradualis Iuris Canonici Universitatis Catholicae de Petro Pázmány nominatae III/11], Budapest 2009. 151. SZUROMI, SZ.A., *Les sources et l'effjet des deux premiers Synodes d'Esztergom (1100-1112)*, in *Rivista internazionale di diritto comune* 21 (2010) 93-104.

20 Cf. *Conc. Strig. I*, Can. 66: Ut omnes archidiaconi breviarium canonum habeant. ZÁVODSZKY, L., *Szent István, Szent László és Kálmán korabeli törvények és zsinati határozatok forrásai*, Budapest 1904. 205.

## 2. RULES CONCERNING BISHOPS IN THE COLLECTION OF BURCHARD OF WORMS

Within the *Decretum Burchardi* are forty-six canons which deal with the ecclesiastical discipline regarding bishops.<sup>21</sup> The most important part concerning this theme is Book I (*De Ecclesia Romana, de hierarchia superiore ecclesiastica, de conciliis, de iudiciis*), however Book II (*De presbyteris, diaconibus, et ministris inferioribus*), Book XVI (*De accusatione, iudicio, de advocatis et testibus*) and Book XVIII (*De visitatione, poenitentia, reconciliatione infirmorum*) are fundamental too<sup>22</sup>. We would like to underline here that Hartmut Hoffmann and Rudolf Pokorny have organized the textual-witnesses and the sources of every canon of *Decretum Burchardi Wormatiensis* in 1991<sup>23</sup>. This detailed description—even so new critical edition has not published yet—gives basic effort to define the original context of the canons.

Canons which contain regulations concerning bishops can be classify into five groups: 1) selection of suitable person for episcopal service and his consecration; 2) peculiarities of bishop; 3) duties of bishop; 4) relation of bishop, metropolitan and provincial council; and finally 4) those rules which define and defend the jurisdiction of metropolitans and primates.

### 2.1. Selection of Suitable Person for Episcopal Service and his Consecration

The BW 1. 8—citing the introduction of the *Statuta Ecclesiae antiqua*—lists among those personal peculiarities which are important for the episcopal consecration the wise nature; the erudition; the moderate moral life; the sanity; the humility; the charity; moreover, to be literate, especially of the Bible, the dogmatic teaching of the Church and the canonical norms. These virtues and knowledge have to be considered before the consecration<sup>24</sup>. The basis for the well deliberated judgment about the indispensable peculiarities

21 BW 1. 8, 9, 11, 14, 15, 16, 21, 24, 27, 37, 45, 51, 53, 54, 55, 56, 59, 66, 70, 71, 72, 73, 74, 75, 76, 77, 83, 85, 86, 87, 125, 144, 155, 157, 167, 168, 169, 170, 175, 195, 197; BW 2. 1; BW 16. 21, 22, 33, 35.

22 Cf. WILL, L., *Die Rechtsverhältnisse zwischen Bischof und Klerus im Dekret des Bischof Burchard von Worms. Eine kanonistische Untersuchung* (Forschungen zur Kirchenrechtswissenschaft 12), Würzburg 1992.

23 HOFFMANN, H.-POKORNY, R., *Das Dekret des Bischofs Burchard von Worms. Textstufen-Frühe Verbreitung-Vorlagen*, (MGH Hilfsmittel 12), München 1991.

24 BW 1.8: Qui episcopus ordinandus est, antea examinetur, si natura prudens est, si docibilis, moribus temperatus, vita castus, si sobrius, si semper sui negotii cavens, si humilis, si affabilis, si misericors, si litteratus, in lege Domini instructus, si in Scripturarum sensibus cautus, si in dogmatibus ecclesiasticis exercitatus. Et ante omnia, si fidei documenta verbis simplicibus asserat, id est, Patrem, et Filium, et Spiritum sanctum, unum Dominum esse confirmans, totamque in Trinitate Deitatem, coessentialem, et consubstantialem, et coaeternalem, et coomnipotentem praedicans, singulamque in Trinitate personam plenum Deum, et totas tres personas, unum Deum. (...) Cum in his omnibus examinatus, pleniterque instructus repertus fuerit, tunc ordinetur episcopus. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, foll.1va-2rb.

of suitability, is the long term custom, actions and assertions of the applicant, as this is laid down by the Council of Laodicea (second part of the 4<sup>th</sup> century) canon 12 (BW 1. 9).<sup>25</sup> The applicant should be at least thirty years old, but if he is a convert the consecration cannot be happened within one year after his conversion. This principle of the Council of Arles IV (524) canons 1-2<sup>26</sup> is much lighter than the later Gregorian discipline which forbids in general the episcopal consecration of new converted men<sup>27</sup>.

The episcopal election needs the consensus of the electors therefore any form of simony makes it invalid. BW 1. 21 explains this rule —citing canon 43 of the Council Meaux-Paris (845/846)— emphasizes loftily the episcopal mission which cannot be in relation with abuse of simony<sup>28</sup>. The metropolitan has an eminent function within this process, because without his previous permission the episcopal consecration is not allowed. Burchard's concept by the insertion of this canon was very probably the defending of the Church's independence against the influence of secular authorities. This indicated canon springs from canon 5 of the Council of Arles II (442/506) which clarifies the necessity of episcopal consecration for the administration of bishop's jurisdiction. The consecration usually was done by the metropolitan himself together with the other bishops of the province<sup>29</sup>. At least three bishops must participate in the administration of episcopal consecration. This ancient rule appears firstly in canon 4 of the Council of Nicea I (325)<sup>30</sup> then it

25 BW 1. 9: FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, foll.2rb-2va.

26 BW 1.16: *Episcopatus vero vel presbyterii honorem, nullus lacus ante anni conuersionem, vel ante triginta annos accipiat.* FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 2vb.

27 Ans. 6. 25, Ans. 6. 73; cf. SZUROMI, SZ.A., *A püspökökre vonatkozó egyházfegyelmi szabályok az Anselmi Collectio Canonumban* (Bibliotheca Institutii Postgradualis Iuris Canonici Universitatis Catholicae de Petro Pázmány nominatae IV/1), Budapest 2000. 90.

28 BW 1. 21: *Cauendum et summopere praecavendum ac per virtutem Christi sanguinis interdicendum episcopis et regibus et omnibus sublimioribus potestatibus, atque cunctis fautibus et electoribus, quorumcumque, atque consensoribus, seu ordinatoribus in gradu ecclesiastico, ut nemo per symoniacam haeresim, regiminis locum obtineat quacumque factione, calliditate, promissione, seu commoditate, aut dationem per se, aut per emissam personam, cum spiritus sanctus inter caetera documenta per os dicat Gregorii: Cur non perpendit quia benedictio illi in maledictionem convertitur? Et alibi: Dolens, inquit, dico, gemens denuntio, quia sacerdotium quod apud vos intus cecidit, foris diu stare non poterit.* FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 3rb.

29 BW 1. 27: *Nullus episcopus sine metropolitani permissu, nec episcopus metropolitanus sine tribus episcopis ecomprovincialibus, praesumat episcopum ordinare, ita ut alii comprovinciales epistolis admoneatur, ut se suo responso consensisse significant. Quod si inter partes aliqua fuerit dubitatio, maiori metropolitano in electione consentiat.* FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 3vb.

30 *Conc. Niceanum I* (325), Can. 4: *Episcopum convenit maxime quidem ab omnibus qui sunt in provincia episcopis ordinari. Si autem hoc difficile fuerit, aut propter instantem necessitatem aut propter itineris longitudinem: modis omnibus tamen tribus in id ipsum convenientibus et absentibus episcopis pariter decernentibus et per scripta consentientibus tunc ordinatio celebretur. Firmitas autem eorum, quae geruntur per unamquamque provinciam, metropolitano tribuatur episcopo.* COD 7. Cf. VANYÓ, L., *Bevezetés az ókeresztény kor dogmatörténetébe 787-ig*, Budapest 1998. 132-133.

takes place in the *Canones apostolici*.<sup>31</sup> BW 1. 24 cites canon 25 of the Council of Chalcedon (451)<sup>32</sup> which prescribes that the consecration —except among extraordinary circumstances— should take place within three months after the episcopal election. This strict time-limit shows well the importance of pastoral care of faithful.<sup>33</sup> We would like to notice here that the Church which does not have a bishop is called by this text «widow Church». This terminology clearly expresses the theological concept of spiritual marriage between the bishop and the entrusted Church<sup>34</sup>. Those ordinations which happen by the elected bishop before his consecration are null as it is described by BW 1. 11 based on a letter of Pope Leo the Great<sup>35</sup>. At the episcopal consecration —as we have already underlined it— the bishops of the concrete ecclesiastical province have to be present which emphasizes the apostolic authority of the newly consecrated bishop. This solemn liturgical action must take place on Sunday, at the time of the midmorning prayer (i.e. *tertia*) and it contains the anointing of the bishop's head —like the prophets and kings in the Old Testament— by sacred chrism, keeping the regulation of a fragmented letter, attributed to Pope Anacletus (80-92)<sup>36</sup>. However, before the entire liturgical process was necessary to make a final statement about the future bishop, whether he is worthy or not for the episcopal order<sup>37</sup>. That one who received validly —based on the prescriptions— the episcopal service through imposition of hands, must keep the community with the entrusted faithful —including the priestly college—, fulfilling his particular episcopal mission by the day-to-day exercise of his office, which has to be in harmony with the decrees of the competent provincial council<sup>38</sup>.

31 Cf. *Canones apostolici*, Can. 1: PL LXVII. 141.

32 *Conc. Chalcedonense* (451), Can. 25: COD 98.

33 BW 1. 24: Quoniam quidam metropolitanorum, quantum comperimus, negligunt commissos sibi greges, et ordinationes episcoporum facere differunt, placuit sanctae synodo intra tres menses ordinationes episcoporum celebrari, nisi forte necessitas inexcusabilis praepararet tempus dilationis extendi: quod si hoc minime fecerit, correptioni Ecclesiasticae subiacebit (...). FRANSEN, G. — KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 3va.

34 SZUROMI, SZ.A., *A püspökökre vonatkozó egyházfegyelmi szabályok*, 104-106.

35 BW 1. 11: JAFFÉ, P., *Regesta pontificum romanorum ab condita Ecclesia ad annum post Christum natum MCXCVIII*, ed. secundum curaverunt S. LOEWENFELD (JL: a. 882-1198), F. KALTENBRUNNER (JK: ?-590), P. EWALD (JE: a. 590-882), Lipsiae 1885 (repr. Graz 1956), JK 544.

36 BW 1. 15: JK †3.

37 BW 1. 15: Ordinationes episcoporum auctoritate apostolica ab omnibus qui in eadem fuerint provincia sunt celebrandae, qui simul convenientes, scrutinium diligenter agant, ieiuniumque, cum convenientibus precibus celebrent, et manus cum sanctis Euangeliis quae praedicaturi sunt imponentes, dominica die hora tertia orantes, sacraque unctione exemplo prophetarum et regum, capita eorum more apostolorum et Mosi ungentes, quia omnis sanctificatio constat in spiritu sancto, cuius virtus invisibilis, sancto est chrismate promulgata, hoc ritu solennem celebrent ordinationem (...). FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 2va.

38 *Conc. Antiochenum* (341), Can. 17=BW 1. 37: Si quis episcopus per manus impositionem episcopatum acceperit et sibi commissum ministerium subire neglexerit nec acquirerit ire ad Ecclesiam sibi commissam, hunc oportet communione privari, donec susceperit coactus officium, aut certe de eo

## 2.2. *The Bishop*

It is important to dedicate some sentences to those peculiarities and limits which arise during exercising the episcopal service by that one who already received the episcopal order. At the first place —as it has got eminent place within Burchard's Collection— we refer to BW 1. 14. This canon teaches that a bishop cannot be contemptuous because through his service he must be the most humble among those who are entrusted him.<sup>39</sup> The short textual fragment from the *Collectio Hibernensis* expressively refers here to St. Paul.<sup>40</sup> We have already indicated the close bond between the bishop and the Church —it means the diocese after the development of the diocese-system for the end of the 6<sup>th</sup> century— which is entrusted him. Therefore, it is not accidental that many canons in the *Decretum Burchardi* forbid the transition of bishops from one city to another, and for that even the request or will of the people cannot be sufficient reason (e.g., BW 1. 70)<sup>41</sup>. BW 1. 74 cites the rule of Pope Leo the Great to clarify that every bishop should exercise his jurisdiction and service within his own territory, not haughtily humiliate the entrusted faithful and transit to another place<sup>42</sup>. Moreover, there is a short canon from the *Capitularia Benedictae Levitae* which fixes as obligation of bishop to stay in his own diocese and his possible absence cannot be longer than three weeks<sup>43</sup>. That question belongs to an independent category that which type of activities can be exercised by the bishop at other territories, if he makes a visit without the intention of transition. However, there is no doubt that every ordinary has own and full jurisdiction only at his territory. If we analyze the disciplinary sources it becomes clear that the canons basically deal with ordinations at other territories. Regarding this theme canon 22 of the Council of Antioch (341) is really significant. This text gives the exceptional possibility for the ordinations by visiting bishop according to the agreement of the local

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aliquid integra decreverit eiusdem provinciae synodus sacerdotum. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 5vb.

39 BW 1. 14: Humilis debet esse episcopus. Gradum enim mansuetudinis accipit, non superbiae. Paulus dicit: Decet huiusmodi hominem mansuetum esse, non elatum, nec superbum. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 2va.

40 *Coll. Hibernensis*, XXXVII, 10.

41 BW 1. 70: Placuit ut quicunque episcopi plebes quas ad suam cathedram aestimant pertinere non ita repetunt, ut causas suas episcopis iudicantibus agant: sed alio retinente irruerint, sive nolentibus, sive volentibus plebibus causae suae detrimentum patiantur. (...) Si autem ille aliquam questionem retulerit, per episcopos iudices causa finiatur, sive quos eis primates dederint, sive quos ipsi vicinos ex consensu delegerint. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, foll. 8vb-9ra.

42 BW 1. 74: Si quis autem episcopus, civitatis suae mediocritate despecta, administrationem loci celebrioris ambierit, et ad maiorem se plebem quacumque ratione transtulerit, a cathedra quidem pellatur aliena, sed carebit et propria: ut nec illis praesideat quos per avaritiam concupivit, nec illis quos per superbiam sprexit. Suis igitur terminis quisque contentus sit, ne supra mensuram iuris sui affectet augeri. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 9rb; cf. JK 411.

43 BW 1. 83: FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 10va.



bishop<sup>44</sup>. The insertion of this 4<sup>th</sup> century canon into Burchard's Collection made a significant effect on the administration of Holy Order in the West<sup>45</sup>. Nevertheless, we must emphasize another canon which springs from chapter 7 of the *Capitula Martini Bracarenensis* —composed in the Suebic Kingdom after 563—<sup>46</sup> and contains basic rule concerning bishops who administer ordination outside of their territories, which is forbidden and as consequence penalized by obligatory excommunication through the provincial council<sup>47</sup>. Concerning this theme the last important textual fragment a pseudo-isidorian false letter, attributed to Pope Antherius (235-236) in BW 1. 77. This source reserves the right to the Roman Pontiff to transfer bishop from one see to another. Without the Roman Pontiff decision the transition is penalized, which means excommunication in this case<sup>48</sup>.

### 2.3. *The Bishop and his Duties*

The bishop has primary mission to defend and interpret the teaching of the Church, moreover to administer the sacraments within his territory, moreover.<sup>49</sup> One of the Bishop's exclusive duties the administration of the degrees of Holy Order. BW 2. 1 declares not only the right of bishop for this administering, but describes in detailed form those circumstances and conditions (to be literate, sufficient knowledge of the Holy Scripture and the Catholic faith, etc.) which must be deliberated by the bishop before he becomes the applicant to any degree of the Holy Order<sup>50</sup>. The bishop directs the pastoral work

44 BW 1. 71: *Episcopus alienam ciuitatem, quae non est illi subiecta, non adeat, nec ad possessionem accedat, quae ad eum non pertinet, nec ordinationem ibi facere praesumat: nisi forte cum consilio et voluntate episcopi regionis. Si quis autem tale aliquid facere tentauerit, irrita sit eius ordinatio, et ipse coerceatur a synodo.* FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 9ra.

45 GAUDEMET, J., *Église et cité. Histoire du droit canonique*, Paris 1994. 100-102.

46 ERDŐ, P., *Storia delle fonti del diritto canonico* (Istituto di Diritto Canonico San Pio X, Manuali 2), Venezia 2008. 55.

47 BW 1. 73: *Si quis episcopus non rogatus de alia provincia in aliam venerit, praesumptive irruens ad ordinationem et constitutionem clericorum, et ad ea quae ad ea quae ad illum non pertinent, importunus existat, vacua sint et inania omnia quae ab eo fuerint constituta. Ipse autem digna increpatione excommunicetur, et abominetur a sancto concilio.* FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 9rb.

48 BW 1. 77: FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, foll. 9vb-10ra; cf. JK †90.

49 ERDŐ, P., *Az egyházjog teológiája* (Egyház és jog 2), Budapest 1995. 154-155.

50 BW 2. 1: *Episcopus quando ordinationes facere disponit, omnes qui ad sacrum ministerium accedere volunt feria quarta ante ipsam ordinationem evocandi sunt ad civitatem, una cum archipresbyteris qui eos repraesentare debent. Et tunc episcopus et latere suo dirigere debet sacerdotes, et alios prudentes viros (...) qui ordinandorum vitam, genus, patriam, aetatem, institutionem, locum ubi educati sint, si sint bene litterati, si in lege Domini instructi, diligenter investigen: ante omnia si fidem catholicam firmiter teneant, et verbis simplicibus asserere queant. (...)* FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 35ra-rb. Cf. SZUROMI, SZ.A., *Megjegyzések a katolikus papképzésre vonatkozó egyházfegyelmelemben, a kezdetektől a 12. századig*, in *Iustum Aequum Salutare* VIII/2 (2012) 195-202, especially 197-198.

of his diocese. Based on this reason, among the duties of bishop appears expressively the nomination of pastors from those clerics who have received the presbyter degree, in order to lead the parishes, to baptize, to celebrate the Holy Mass and to teach the faithful. This can be found explicitly in BW 1. 85 which quotes canon 1 of the Council of Braga II (572)<sup>51</sup>. This canon took place in Burchard's Collection very probable through the work of Regino of Prüm<sup>52</sup>. The diocesan bishop therefore has primary authority to supervise and control the pastoral work of his priests. The earliest form of this control—which is witness of the historical developing process of the parish system—is the visitation of parishes. It can be done by the bishop himself or by his delegation. The fragment from canon 36 of the Council of Toledo IV (633)<sup>53</sup> and also from canon 4 of the Council of Toledo VII (646)<sup>54</sup> clearly indicate the importance of rule of episcopal visitation within the *Decretum Burchardi*<sup>55</sup>.

The bishop has «power of keys», therefore he is the one who administers particularly the sacrament of penance, and leads back errant sinners into the Church. In BW 1. 125 can be read the statement attributed to Pope Clement I (92-99)<sup>56</sup> about the basis of the dissolving and bonding authority of bishops, which power was originally given to St. Peter (i.e. Mt 16:19) and testifies the contemporary developed penitential discipline of the Church<sup>57</sup>. The most important essential element of this discipline remained even after the time when the Irish penitential custom widespread in the continent<sup>58</sup>. This is the reason why the priests administered—and still administer—the absolution based on that faculty—mandate—which is received by them from the bishop<sup>59</sup>. It is a unique case of absolutions when the Church receives back the excommunicated members, which administered only by bishops as lawful

51 VIVES, J.-MARTÍNEZ, T.M.-MARTÍNEZ DÍEZ, G. (dir.), *Concilios Visigóticos e Hispano-Romanos*, Barcelona-Madrid 1963. 65.

52 BW 1. 85: Placuit nobis atque conuenit, ut episcopi per singulas Ecclesias et dioeceses euntes, primum discutiant clericos, quomodo ordinem baptismi teneant vel missarum, et qualiter quaeque officia in Ecclesia peragant. Et si recte quidem inuenerint, Deo gratias. Sin autem minime docere debent ignaros. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 10va.

53 BW 1. 87: FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 10vb.

54 BW 1. 86: FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 10va-vb.

55 Cf. VIVES, J. — MARTÍNEZ, T. M.-MARTÍNEZ DÍEZ, G. (dir.), *Concilios Visigóticos e Hispano-Romanos*, 186-225, 249-259.

56 JK †10.

57 Cf. VOGEL, C., *Il peccatore e la penitenza nella chiesa antica*, Torino 1967.

58 GAUDEMET, J., *Eglise et cité*, 261-264.

59 BW 1. 125: Sanctam ergo Ecclesiam immaculatam omnes servare debere evangelizabat, cuius claves episcopus esse dicebat. Ipsi enim habent potestate claudere coelum et aperire portas eius, quia claves coeli facti sunt. Amovere autem eos neminem debere docebat, quia oculi Domini sunt et qui eos tangit, tangit pupillam oculi eius. Et quanta poena dignus sit qui eos scandalizat, ipsum Dominum docuisse dicebat, ubi ait: Qui scandalizaverit unum deus illis qui in me credunt, expedit ei ut suspendatur mola asinaria in collo eius, et demergatur in profundum maris. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol.17vb.

minister even after the time when the delegated penitential faculty appeared. This theme is explained in detailed form by Pope Gregory the Great and his regulation inserted into Burchard's Collection as BW 1. 197<sup>60</sup>. We must notice that the bishop has to turn to the Apostolic Holy See concerning cases of the gravest penalties, because regarding those cases only the Roman Pontiff is competent. This policy is not a modern regulation which is testified well by the very precise description of BW 1. 144, attributed to Pope Julius (337-352)<sup>61</sup>.

#### 2.4. *The Relation of Bishop, Metropolitan and Provincial Council*

Institution of provincial council has got an important place in Burchard's Collection. We can find the general description of the provincial council in BW 1. 45 based on canon 15 of the Council of Toledo XI (675).<sup>62</sup> This summary expressively indicates the necessity of yearly convoked council by the metropolitan, where all of bishops have to be obligatorily present, moreover the influence of secular authority must be excluded<sup>63</sup>. In the light of quotation of canon 17 of the Council of Orléans V (549) is the metropolitan's duty to listen the reports of problems of bishops of the province in the ordinary provincial council<sup>64</sup> and control the execution of the accepted decrees. If particular case or error within the Church needs it, the metropolitan can convoke an extraordinary council in order to discuss the arisen question<sup>65</sup>. The gravest is among these cases the error in faith of some of bishops, which need to be judged by bishops of the province under the leadership of the metropolitan. About this process we can read that canon which appears in Burchard's Collection under the name of Pope Felix I (269-274)<sup>66</sup>. The provincial council is the competent forum for decision regarding those accusations which have been submitted

60 FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 28ra; cf. JE 1525.

61 FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, foll. 20rb-21vb; cf. JK †196.

62 VIVES, J.-MARTÍNEZ, T. M.-MARTÍNEZ DÍEZ, G. (dir.), *Concilios Visigóticos e Hispano-Romanos*, 344-369.

63 BW 1. 45: (...) omni anno ad peragendam celebritatem concilii in metropolitana sede (...) Quisquis autem Episcoporum, excepta inevitabili causa, vel necessitate, de peragendo se concilio abstentaverit, per unius anni spatium erit communione plectendus. Quod si deinceps absque celebratione concilii, anni unius metas transierit, omnium in communione pontificum eiusdem prouinciae sententiam obnoxius retinebit, id est, si nulla sibi impediende principis potestate, vel infirmitate, aut inevitabili causa, sed solius propriae voluntatis libitu sese ad celebrandum concilium collegerit. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 6va.

64 BW 1. 59: Si metropolitanus a quocunque comprovinciali episcopo bis fuerit in causa propria appellatus, et eum audire distulerit, in proxima synodo negotii sui habeat licentiam exercendi: et quidquid propter iustitiam a comprovincialibus suis fuerit statutum debet custodiri. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 7va.

65 BW 1. 53: FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 7ra-rb.

66 BW 1. 51: Quod si aegrotans fuerit episcopus, aut aliqua eum grauis necessitas detinuerit, pro se legatum ad synodum mittat, suspecturus, salua fidei veritate, quidquid synodus statuerit. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 7ra; cf. JK †143.

against bishops. The accused bishop could appeal to the Holy See for remedy.<sup>67</sup> These rules support that the judgment concerning actions of bishops exclusively belongs to ecclesiastical competence, therefore there is no secular tribunal which has right to intervene into these affairs as it noticed by BW 1. 167-169.<sup>68</sup> This principle is supported also by BW 16. 21 —citing canon 8 of the Council of Mâcon I (581/583)— which forbids in general the discussion of clerical cases at secular tribunals<sup>69</sup>. The judgment cannot be issued by another provincial council, because only the accused bishop's own metropolitan has right within his province to judge the bishop's case by the own provincial council, or it can be done by the Apostolic Holy See too<sup>70</sup>.

## 2.5. Metropolitan and Primate

Concerning the definition of primate's jurisdiction the *summarium* of BW 1. 155 —like in the *Decretales Pseudo-Isidorianae*— expresses equality between patriarchs and primates<sup>71</sup>. It is well known that the pseudo-isidorian collection renews this office with new contents in the West when the pseudo-isidorian texts equate the authority of primate with the jurisdiction of patriarch<sup>72</sup>. That canon which is attributed to Pope Clement I<sup>73</sup> certainly uses the pseudo-isidorian material in order to describe together the jurisdiction of patriarch and primate<sup>74</sup>. BW 1. 55 is also considerable, which very possibly cites canon 6 of the Council of Braga I (561)<sup>75</sup> and orders to keep the seniority of bishops during the election of metropolitan or primate<sup>76</sup>. Nevertheless, BW

67 BW 1. 75: FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 9r-v.

68 FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, foll. 23rb-23va.

69 FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 165va.

70 BW 1. 170: Nullus episcopus extra suam provinciam ad iudicium devocetur: sed, vocato eo canonicè in loco congruo, tempore synodali, ab omnibus comprovincialibus episcopus audiatur (...). Nam si ipse metropolitanum aut iudices suspectos habuerit, aut infestos senserit, apud primum dioeceseos, aut apud Romanae sedis pontificem iudicetur. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 23va.

71 BW 1. 155 [summarium]: De patriarchis et primatibus — In illis vero civitatibus in quibus olim apud ethnicos primi flamines eorum, atque primi legis doctores erant, episcoporum primates poni, vel patriarchas, qui reliquorum episcoporum iudicia, et maiora, quoties necesse foret, negotia in fide agitent, et secundum Domini voluntatem, sicut sancti constituerunt apostoli, ita ut ne quis iniuste periclitaretur definirent. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 21rb-va.

72 About this question cf. SZUROMI, SZ.A., *The importance of the councils of Toledo of the 6<sup>th</sup>-8<sup>th</sup> centuries in the Spanish and in the universal canonical discipline of the Church*, in *Folia Theologica* 17 (2006) 227-237, especially 232-233.

73 Cf. JK †10.

74 SZUROMI, SZ.A., *Törekvés a régi egyházi kánonok összegyűjtésére*, 34-35.

75 VIVES, J.-MARTÍNEZ, T. M.-MARTÍNEZ DÍEZ, G. (dir.), *Concilios Visigóticos e Hispano-Romanos*, 65-77.

76 BW 1. 55: Item placuit ut, conservato metropolitani episcopi primatu, caeteri episcoporum secundum sui ordinationis tempus, alius alii sedenti deferat locum. FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 7rb.

1. 54 and BW 1. 56 argue also about the keeping of seniority in general<sup>77</sup>. It is not allowed for the metropolitan or primate to intervene directly into the suffragan diocese, without the previous consultation with the competent bishop or bishops. This principle intends to protect the diocesan bishop's jurisdiction. This canon can be read under the name of Pope Callixtus I (218-222) in BW 1. 66<sup>78</sup> and based on this text such intervene licitly can happen only if the aforementioned consultation was not successful<sup>79</sup>. On the other hand, the bishops are unlawful to accuse the primate, however the primate can convoke a council in order to improve the trust of his bishops through a confessed creed. If the primate does not convoke a council or the convoked council does not improve his position, the Apostolic Holy See has right to act, based on BW 1. 157<sup>80</sup> which refers to Pope Felix I<sup>81</sup>.

### 3. CONCLUSION: THE DISCIPLINARY EFFECT OF THE COLLECTION AND ITS AFTERLIFE

Based on the explained canons of the *Decretum Burchardi* we can see clearly that the essential disciplinary material regarding bishops —notwithstanding the numerous patristic canons— was inserted from two basic sources: papal canons —basically testifying of the pseudo-isidorian influence<sup>82</sup>—; and canons of particular councils. Thanks to the systematic organization of the disciplinary text, the classification of the different subjects (i.e. papal primacy; competence of the Church; exclusion of secular influence; jurisdiction of bishops, metropolitans, primates) is much clearer within the collection than in the previous canon law collections. Therefore, that remarkable strong influence which had been made by the *Decretum Burchardi* was not accidental. This influence is well recognizable in the texts of the Gregorian reform collections, even their disciplinary material was more advanced concerning the ecclesiological emphasizes and descriptions, hence the disciplinary and doctrinal statement was more explicit. As we have already explained, St. Anselm

77 BW 1. 54: FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 7rb; BW 1. 56: FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 7rb-va.

78 JK †86.

79 BW 1. 66: Nullus autem primas vel metropolitanus dioecesanam Ecclesiam vel parochianum, aut aliquid eius parochiae, praesumit excommunicare, vel diiudicare aliquid, vel agere absque eius consilio vel iudicio: sed hoc observet, quod ab apostolis ac Patribus et praedecessoribus nostris est statutum, et a nobis confirmatum: id est, si quis metropolitanus episcopus, nisi quod ad suam solummodo propriam pertinet parochiam, sine consilio et voluntate omnium comprovincialium episcoporum extra aliquid agere tentaverit, gradus sui periculo subiacebit, et quod egerit irritum habeatur et vacuum (...). FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 8ra-rb.

80 BW 1. 157: FRANSEN, G.-KÖLZER, TH. (Hrsg.), *Burchard von Worms*, fol. 21va.

81 JK †142.

82 Cf. SZUROMI, SZ.A., *Rules concerning bishops in the Decretales Pseudo-Isidorianae, especially the regulation on the death of bishops*, in *Folia Theologica* 14 (2004) 145-156.

of Lucca quoted numerous canons from Burchard's work to compose the *Collectio canonum Anselmi Lucensis* (1081-1083).<sup>83</sup> Very similar appearance can be experienced about the so called *Liber Tarraconensis* (1085-1090)<sup>84</sup> and the *Polycarpus* (1104-1106).<sup>85</sup> We must indicate the textual families of St. Ivo of Chartres (1093-1095)<sup>86</sup>, in particular the *Decretum*.<sup>87</sup> The most important collection which also uses the collected disciplinary material of the *Decretum Burchardi* is without doubt Gratianus's Collection. The *Decretum Gratiani* (about 1140) quotes thirty of those forty-six canons which describe the rules concerning bishops in Burchard's Collection.<sup>88</sup> Obviously, these canons are only a small group of texts on the episcopal discipline in Gratianus's work, but show well the importance of contents of this early 11<sup>th</sup> century canonical collection for the classical age of canon law.<sup>89</sup>

Burchard's Collection is an extraordinary example for the intention of composers who tried to collect the ecclesiastical discipline as complete as possible, in order to promote not only the knowledge of that and the jurisprudence of the Church, but to improve the day-to-day administration of sacraments and sacramentals too.

Szabolcs Anzelm Szuromi, O. Praem.

Professor ordinarius of Canon Law History  
Pázmány Péter Catholic University (Budapest)

83 SZUROMI, SZ.A., *A püspökökre vonatkozó egyházfegyelmi szabályok az Anselmi Collectio Canonumban* (Bibliotheca Institutii Postgradualis Iuris Canonici Universitatis Catholicae de Petro Pázmány nominatae IV/1), Budapest 2000; cf. SZUROMI, SZ.A., *Anselm of Lucca as a Canonist. Critical summary on importance of the Collectio Anselmi Lucensis*, in PINTO, V.E. (ed.), *Iudex et Magister. Miscelánea en honor al Pbro. Nelson C. Dellaferrera*, I. Buenos Aires 2008. 57-70.

84 ERDŐ, P., *Storia delle fonti del diritto canonico*, 95. FOWLER-MAGERL, L., *Clavis Canonum*, 133-136, 166-167.

85 Cf. HORST, U., *Die Kanonessammlung Polycarpus* (MGH Hilfsmittel 5), München 1980. 104-198.

86 SZUROMI, SZ.A., *Some witnesses of the gradual crystallization process of the Ivonian textual families*, in *Ius Canonicum* 50 (2010) 201-219.

87 LANDAU, P., *Das Dekret des Ivo von Chartres*, in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung* 70 (1984) 1-44; cf. SZUROMI, SZ.A., *The BAV Pal. lat. 587 as a textual witness of the canonical work of Ivo of Chartres*, in *Rivista internazionale di diritto comune* 17 (2006) 343-358.

88 BW 1. 8=D. 23 c. 2; BW 1. 9=D. 24 c. 4; BW 1. 11=D. 62 c. 1; BW 1. 15=D. 64 c. 2+D. 66 c. 2+D. 75 c. 1; BW 1. 21=C. 1 q. 1 c. 4+C. 1 q. 1 c. 5+C. 1 q. 1 c. 117+C. 1 q. 7 c. 3; BW 1. 24=D. 75 c. 4; BW 1. 27=D. 64 c. 1; BW 1. 37=D. 92 c. 7; BW 1. 51=C. 5 q. 3 c. 1; BW 1. 55=D. 18 c. 1; BW 1. 59=C. 6 q. 4 c. 4; BW 1. 66=C. 9 q. 2 c. 3+C. 9 q. 3 c. 7; BW 1. 70=C. 16 q. 6 c. 1; BW 1. 71=C. 9 q. 2 c. 7; BW 1. 72=C. 7 q. 1 c. 25; BW 1. 74=C. 7 q. 1 c. 31; BW 1. 76=C. 7 q. 1 c. 11; BW 1. 77=C. 7 q. 1 c. 34; BW 1. 85=C. 10 q. 1 c. 12+D. 4 c. 94 de cons.; BW 1. 86=C. 10 q. 3 c. 8; BW 1. 87=C. 10 q. 1 c. 11; BW 1. 144=C. 2 q. 2 c. 5+C. 2 q. 6 c. 5+C. 2 q. 6 c. 7+C. 3 q. 6 c. 5; BW 1. 157=C. 2 q. 1 c. 5; BW 1. 168=C. 11 q. 1 c. 8; BW 1. 195=D. 33 c. 7; BW 1. 197=C. 1 q. 7 c. 11; BW 2. 1=D. 24 c. 5; BW 16. 21=C. 11 q. 1 c. 6; BW 16. 22=C. 11 q. 1 c. 2; BW 16. 35=C. 4 q. 2 c. 2. Vö. FRIEDBERG, AE. (ed.), *Corpus iuris canonici*, I. Lipsiae 1879. xlvii-xlviii.

89 Cf. ERDŐ, P., *I criteri per la designazione dei vescovi nel Decreto di Graziano*, in ANDRÉS GUTIÉRREZ, D. J. (a cura di), *Il processo di designazione dei vescovi. Storia, legislazione, prassi. Atti del X Symposium canonistico-romanistico 24-28 aprile 1995* (Utrumque Ius 27), Città del Vaticano 1996. 105-127.