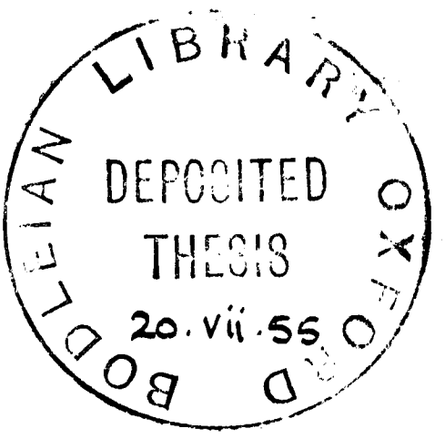
STUDIES IN THE SARDICAN CANONS

A Thesis submitted to the Board of the Faculty of Theology of the University of Oxford by

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ABSTRACT



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The Canons framed by the Council of Sardica in 343 have their historical background in the conflict between the Arian and the Nicene parties subsequent to the deposition of Eustathius of Antioch in about 328. Soon after the Council of Nicaea the controversy which had arisen from the teachings of the presbyter Arius of Alexandria was extended from a primarily doctrinal issue to include the divers factors of personal animosity, imperial politics and regional loyalty. For the Christian Church the fourth century was an age of organizational development and constitutional transition, and it was unfortunately beyond her capability to deal effectively with the abuses of jurisdiction and order to which these factors led. Although the Council of Sardica failed in its purpose to settle the personal and doctrinal differences between the Nicene and Arian parties, the Orthodox delegation issued what was at the same time a formal protest against injustice and a common agreement upon certain corrective principles. This declaration which is embodied in the Sardican Canons, while closely related to the legislation of previous councils, is unusual in two respects: one with regard to its singleness

of purpose and the other with regard to its form and manner of publication.

The concentration of the Sardican Canons upon jurisdictional problems affecting the episcopate and their transcendence of local or temporary limitations is unparalleled in any other series of conciliar legislation from the same period. Indeed, the legislative acts of the Sardican Synod are essentially an attempt to provide a constitutional framework for the episcopate. Thus, canons 1 and 2 condemn unauthorized and ambitious translations for personal or party gain, and canons 3a, 14 and 15 forbid visits by one bishop to the city of another in order to prevent situations from arising which might lead to this abuse. The latter two and canon 21, however, allow certain reasons for which visits may be made and specify their permissible length of duration. Canons 16, 18 and 19 are designed to preserve the integrity of the bishop's jurisdiction over his own clergy. Canon 5 provides for the consecration of bishops in a province which has been left shepherdless; canon 6 directs that bishops shall not be appointed for churches too small to be needful of them; and canon 13 forbids the hasty ordination of candidates for the episcopate, presbyterate or diaconate

whose worthiness has not been proven. Canons 3c, 4, and 7 grant to a bishop deposed from his office the right to appeal his case to the Roman bishop who, if such appeal is made, shall appoint judges for a court of review and if he so chooses be personally represented by his presbyters. Canon 17 grants a similar right of appeal to presbyters and deacons. Finally, canons 8-12 restrict the causes of petitions which bishops may make to the imperial court, and define the way in which lawful petitions may be made.

It may be acknowledged that the judgement of the bishops at Sardica was not impartial, and that their own motives and methods were not above reproach. It is, however, made evident from the Encyclical and other letters of the synod, and by the earlier letter of Pope Julius to the leaders of the Arian faction, that these acts of the Sardican Synod were primarily occasioned by the policy and actions of the Eusebian party in its endeavour to gain control of the important sees of the East through translations, depositions, and the exploitation of imperial favour.

Contrary to the opinion of various commentators, the Sardican Canons in their entirety reflect the hierarchical and organizational institutions of the West. There seems little room for doubt that "the bishop of the metropolis"

alluded to in canon 9 is not the provincial metropolitan of the East, but rather the bishop of the "magna civitas" - Rome, Carthage, or Alexandria - of the Latin West and Egypt. In canons 5, 6, and 17 the "neighbouring bishops" consistently take the place and perform the function assigned in the East at this time to the provincial metropolitan. In canons 3, 4 and 7 the primatial leadership of the papacy is utilized for the process of episcopal appeal in place of the larger synod, or "more bishops", customary to the Church in the East. Also, the country bishop considered in canon 6 does not seem to be the chorepiscopus of the Eastern provinces, whose limitation had previously been urged by the synods in that area.

The form of publication of the Sardican Canons is rightly associated with that of the canons proceeding from the fourth century African synods. It is characterized by the discursive phraseology of the body of the canon, the introductory "(Hosius) episcopus dixit" and the acclamation or assent clause "Omnes episcopi dixerunt, ('placet')". Evidence from various sources shows that it was not an unusual practice during the fourth century for stenographic records of the verbal process to be taken during synodal sittings. The form in which these records

are found is seen to be identical with that of the Sardican and African canons, and it may be concluded that the canons as we have them are the minutes of the legislative sessions. From the extension of an inquiry initiated by Batiffol it seems probable that the underlying verbal process, or protocol, of the legislative sittings of the synods of the fourth century in both the West and the East was patterned after that of the Roman senate. In this form of discussion a matter for consideration was placed before the assembly, normally by the president, and commented upon by each member in turn. The opinion (sententia) which first received general approval was accepted as the resolution and, having been put into a revised form by the president, was entered in the liber sententiarum in senatu dictarum. This was a document which was sent in the form of a letter to interested parties. As an analysis of the African and Sardican canons reveals that they are records of the essential elements of this verbal process, an examination of the form of publication of the more conventional type canon of other contemporary synods shows that they bear the characteristics of the liber sententiarum. These facts place us in a position to examine other textual problems with greater knowledge,

and to separate the Sardican series into its component parts as an aid to interpretational analysis.

The Sardican Canons exist in both a Greek and a Latin text of great antiquity, and the question of their relative priority has long been a subject of discussion. Although the corresponding canons of the two series are on the whole in close agreement, there are in certain cases outstanding differences of meaning. These differences in each instance are caused by the inclusion of Eastern organizational conventions in the Greek series. Also, three canons which are present in the Latin are not found in the Greek and two in the Greek are missing from the Latin. A degree of variation in the division of material by means of acclamation clauses may be observed, and a striking difference exists between the texts as regards the content and occurrence of these clauses themselves. The textual independence between the two series is such that it has allowed arguments of considerable weight to be put forth on both sides of the priority question. While the majority of modern authorities favour Latin priority for the reason that certain words and phrases found in the Greek can only be explained by supposing it to be a translation, other scholars have continued to favour the Greek on the grounds that a greater

internal consistency and a superior presentation of the material is found in that text. Neither contention, however, adequately accounts for the differences which exist between the two texts. While it seems certain that a verbal priority is to be accorded to the Latin, it is suggested, in light both of the nature of the underlying verbal process and the form of the canons as a stenographic record of the essential elements of this process, that the two texts are representative of independent sets of minutes: the Latin taken directly from the verbal process and the Greek through the intermediate office of an interpreter or bilingual scribe.

The Latin text of the canons was apparently received at Rome shortly after the close of the synod and, perhaps for convenience in preservation, was joined to a document containing the early Latin translation of the Canons of Nicaea. For this reason the Sardican Canons soon came to be thought of as Nicene and from the late fourth century until the sixth were frequently cited as such by the Roman Church. Fortunately for our knowledge of the Latin textual tradition, canons 7 and 17 were quoted by Pope Zosimus during the course of a jurisdictional dispute with Carthage in the first quarter of the fifth century.

The hierarchical and other essential differences which have been noted as existent between the Greek and Latin texts appear to have come about through two successive editorial revisions of the Greek. This hypothesis is based upon the suggested original identity of the two texts as dual sets of procedural minutes and upon an examination of the differences themselves with the aid of the late fourth century Latin translation from the Greek text found in the Collection of Theodosius Diaconus. The translation of this valuable version of the canons was apparently made in Africa between 425 and 430, but the version itself seems to be representative of the intermediate stage in the development of the Greek text which was presumably current between 360 and the beginning of the fifth century. Although a small degree of influence from the Latin text may be discerned, the Theodosian version is in most respects faithful to its Greek prototype and provides a valid standard of comparison between the original readings as found in the Latin and the developed readings of the present Greek. The most interesting and extensive change which has taken place in the Greek is in canon VI (Latin 5 and 6). The situation envisaged by the proposal in its original form was evidently misunderstood by the

first Greek editor, and rewritten in the context of the similar but essentially different problem dealt with by canon 4 of Nicaea with the introduction of the organizational conventions presupposed by the newly conceived situation. Only part of the total change was made in the first revision, however, and it was the work of the second editor which brought the canon into its present form.

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PREFACE

Although contributions were made by various canonists and historians of the eighteenth century, the ground-work for Sardican studies in both the textual and historical fields may rightly be attributed to the invaluable labours of the Veronese scholars, Pietro and Girolamo Ballerini. The next contributors of magnitude were two scholars of the latter part of the nineteenth century: Bishop Hefele and Friedrich Maassen. While Hefele's work provided a valuable analysis and synthesis of the findings of previous canonists and historians, the researches of Maassen prepared the way for further progress in textual studies. At the beginning of the present century, in advancing his claim that the Sardican Canons are a forgery, the Old Catholic scholar, Johannes Friedrich, gave impetus to a decade and a half of discussion and controversy concerning the successive questions of their genuineness, textual priority and interpretation. Although this high period of Sardican studies cleared much ground and brought the attention of such scholars as Duchesne, Turner, Funk and Batiffol to bear on the essential questions, many textual and historical problems were left unanswered or at most

were answered without the benefit of knowledge more recently available.

The present study, while owing much to the work of these earlier writers, is an attempt to view the same problems afresh with the aid of the considerable contributions in the textual and historical fields which have been made during the past three decades. The most monumental of these is the critical edition of the Latin, Greek, and Theodosian texts of the Sardican Canons published by C.H. Turner in 1930. His conclusions as to the readings original to the Latin text have been checked and vindicated by a re-examination of the most important manuscript recensions, and it is upon his established readings, with few exceptions, that the following studies are based. The varied labours of Eduard Schwartz are of primary importance, and also to be given specific mention for its direct bearing upon Sardican studies is the work which Dr. Telfer of Cambridge University has done on the Codex Verona LX(58). The recently published study of Hosius of Cordova by Dr. V.C. De Clercq provides an excellent survey of the historical background to the present subject. Unfortunately it has been received too late for citation in reference to specific points, but an

acknowledgement of the importance of this work is made in Appendix VI.

There is much that might be said of the Sardican Canons which this study does not attempt to do. The important role which they played in the later jurisdictional developments of the Church in the West is not considered, and a much fuller survey of the disciplinary problems with which the Canons deal and of the historical situation from whence they arise might be made. The primary emphasis here, however, is interpretational and textual and it is to this end that the historical and disciplinary contexts are considered.

The open questions as to the origins of canonical legislation and its actual meaning to the Church of the fourth century has a significant bearing upon many problems dealt with here. Consequently, these questions have been tentatively explored from various standpoints, but by way of suggestion perhaps more than solution.

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ABBREVIATIONS

A.C.O.	Acta Conciliorum Oecumenicorum
C.S.E.L.	Corpus Scriptorum Ecclesiasticorum Latinorum
D.A.C.L.	Dictionnaire d'Archéologie Chrétienne et de Liturgie
E.O.M.I.A.	Ecclesiae Occidentalis Monumenta Juris Antiquissima
G.C.S.	Die Griechischen Christlichen Schriftsteller der Ersten Drei Jahrhunderte
Harduin	J. Harduin - Acta Conciliorum et Epistolae, Decretales, ac Constitutiones Summorum Pontificum
Hefele	C.J. Hefele - A History of the Councils of the Church
J.T.S.	The Journal of Theological Studies
Kan. Abt.	Kanonistische Abteilung
Mansi	J.D. Mansi - Sacrorum Conciliorum Nova et Amplissima Collectio
Nachrichten	Nachrichten von der Königlichen Gesellschaft der Wissenschaften zu Göttingen
P.G.	J.-P. Migne - Patrologiae Cursus Completus, Series Graeca
P.L.	J.-P. Migne - Patrologiae Cursus Completus, Series Latina
Pitra	J.B. Pitra - Juris Ecclesiastica Graecorum Historia et Monumenta
Z.N.T.W.	Zeitschrift für die Neutestamentliche Wissenschaft
Z.S.S.R.	Zeitschrift der Savigny-Stiftung für Rechtsgeschichte

PART I

HISTORICAL AND TEXTUAL STUDIES

CHAPTER I

THE COUNCIL AT SARDICA

1. THE HISTORICAL SETTING

A study of the conciliar efforts of the fourth century towards the restoration of peace and unity to a Church harassed and divided by controversy is to a large extent a study in failures. To this the Council of Sardica provides no exception. The unique contribution of Sardica, in a general view of the six decades of controversy, was its thoroughgoing attempt to remedy the causes of failure. The theological issues raised by the presbyter Arius of Alexandria were settled at Nicaea with a judgement that was to endure by virtue of the fact that Arius' teachings and the implications drawn from them by his followers were answered with a formula of faith which truly expressed the mind of the Church. However much this may have been doubted by a sincere majority of bishops who were genuinely disturbed by the unscriptural terminology involved in the Nicene Formula, that fact remains as an historical judgement upon the doctrinal issues of the Arian controversy. In the years of recrimination which followed Nicaea, these doctrinal issues provided, as it were, the grist for the stones, but the stones and the

power which moved them were of a different nature. Out of the controversy arose the contest.

The Church of the fourth century found itself in an unaccustomed position. The cessation of persecution and new religious policy of Constantine quickly changed the life and position of the Catholic Church with respect to the State. From a persecuted cultus Christianity became a legal religion, and from a society without rights in the world about her, the Christian Church became a favoured child of the Emperor, not only with rights but also wider responsibilities. From an organization hitherto essentially cell-like in structure, she became immediately and awkwardly conscious of her corporate nature in a manner not before experienced. The rapid absorption of the Church into society, the development of patriarchal jurisdictions and the division of the Empire soon to come, were rapidly creating loyalties which threatened to supersede her unity which had its being apart from secular institutions in the one Apostolic tradition. Through a century and a half of persecution the Church had learned how to deal with the hostility of state authority, but now confronted with state protection she had to learn to deal with secular power anew. The benefits of the Emperor's interest in her affairs soon proved embarrassing

with respect to the problem of Donatus in Africa and it was to prove more so concerning Arius in the East.

In this context of new found freedom with an over-zealous patron of her affairs, the swing of the doctrinal pendulum shattered the corporate unity of which the Church was becoming acutely conscious. The developments which took place between the beginnings of the Arian controversy and the Council of Sardica are well known and historical detail is readily accessible, but a brief resumé of the major events with an eye to the causes of strife is a necessary preparation for consideration of the problems which beset the Church as the bishops assembled at Sardica. Varying interpretations have been placed upon the history of this critical twenty years. Although there is agreement among modern authorities with respect to the underlying doctrinal issues, considerable difference of opinion may be found as regards a just resolution of the jurisdictional claims exerted in the struggle for dominance waged between the Eusebian and Nicene parties. Inflexible determination inspired by sincere conviction on the one hand and duplicity induced by ambition on the other may indeed be found in the leading personalities of both factions. A degree of justice may be found in the Eusebian condemnation of the doctrines held by Nicene extremists such as

Marcellus of Ancyra, and their jurisdictional claims in this and other cases were undoubtedly stronger than was admitted by Athanasius and the Westerns. In the main, however, assuming as we must that the settlement at Nicaea was the just one, the burden of responsibility for the contentious period which followed must be borneby the disciples of Arius. This is well illustrated by their actions.

About 323[1] the presbyter Arius of Alexandria was condemned for certain teachings by his bishop, Alexander, and deposed by a synod of Egyptian bishops convened to consider his case. Arius quickly found support in Eusebius, bishop of the imperial city of Nicomedia, under whose influence a campaign of justification and defence was organized on his behalf, and a synod composed of sympathetic bishops gathered at Nicomedia declared that Arius and his followers should be admitted to communion.[2] In reply a

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1. The sequence of events in the opening stages of the Arian controversy is uncertain. See W. Telfer, "When did the Arian Controversy Begin?", in J.T.S., Vol. XLVII, 1946, pp. 129-142 and E. Schwartz, "Zur Geschichte des Athanasius"; VI, in Nachrichten von der Königlichen Gesellschaft der Wissenschaften zu Göttingen, 1905, Philol.-Hist. Klasse, p. 298. The previously accepted date of 318 is supported, however, by N.H. Baynes ("Sozomen 'Ecclesiastica Historia', I. 15", in J.T.S. Vol. XLIX, 1948, pp. 165-168).
2. For an analysis of the events in this confused period see W. Telfer, "'Arius Takes Refuge at Nicomedia'", in J.T.S., Vol. XXXVII, 1936, pp. 60-63 and the above cited study by Schwartz, pp. 290-299.

similar campaign was initiated by Alexander to acquaint the Church with the true nature of the case. After this beginning the controversy spread rapidly. Within a year the Christian East was divided into two opposing camps which expressed their animosity with mutual decrees of excommunication. Another synod convening at Caesarea in Palestine arbitrarily ruled that Arius and his colleagues at Alexandria should be restored to their functions. Such a judgement was of course unacceptable to Alexander, with respect both to the decision and the unauthorized manner in which it was made. After his victory over Licinius in 324, the attention of Constantine was drawn to the dispute. Following the failure of his first attempt at arbitration through the offices of Hosius,[1] Bishop of Cordova, arrangements were made for a common discussion and settlement of differences at Nicaea in 325.

From the Council there emerged several strong personalities, each destined to play an important role in the contentious decades to follow. Athanasius, deacon of Alexandria and personal aide and advisor to Alexander at Nicaea, rose to prominence as an outspoken antagonist

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1. More properly "Ossius" as also "Serdica" for "Sardica" - Cf. C.H. Turner, "Ossius (Hosius) of Cordova", in J.T.S., Vol. XII, 1911, pp. 275-277.

of Arius and after the death of Alexander in 328 was elected to succeed him. Other prominent supporters of the Nicene definition were Eustathius of Antioch and Marcellus of Ancyra. Eusebius of Nicomedia, Theognis of Nicaea, and Maris of Chalcedon, three influential leaders of the Arian opposition, withdrew their assent to the Nicene definition soon after the Council had dispersed. The deposition of Eusebius and Theognis was ordered by Constantine, but nevertheless within three years they were allowed to return unrepentant to their sees. Eusebius' connection by birth with the imperial family and his personal friendship with Constantine's mother and sister were undoubtedly factors of importance contributing both to his restoration and to his subsequent influence over the religious policies of Constantine and more especially of Constantius.[1]

In 328(6)[2] a council of Arian bishops met at Antioch and pronounced the deposition of Eustathius. This sentence was approved by Constantine who undoubtedly felt that continuance of Eustathius' attacks upon the Arians would endanger the peace so precariously maintained.

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1. Cf. P. Batiffol, La Paix Constantinienne et le Catholicisme (5th edition), Paris, 1929, pp. 360-361.
2. Cf. H. Chadwick, "The Fall of Eustathius of Antioch", in J.T.S., Vol. XLIX, 1948, pp. 27-35.

During the several years following, the same fate befell other bishops of the Orthodox party, notably Marcellus of Ancyra and Asclepas of Gaza. In each case the deposed was replaced by a Eusebian candidate. The repeated accusations made by the Meletians against Athanasius at length aroused the suspicions of the Emperor. In 335 Constantine ordered the bishops of the Eastern provinces to assemble at Tyre for the consideration of these charges. Athanasius was allowed no defence by his Eusebian judges and was speedily condemned to deposition and exile. The death of Arius in 335 and his previous recantation at Jerusalem did little to change the situation. The death of Constantine in 337 had more effect. The subsequent division of the Empire among his heirs served only to aggravate the political aspects of the contest that was crippling the Eastern portion of the Church. In 337 or 338,[1] with the support of Constantine II, Athanasius returned to Alexandria where he was welcomed by clergy and people. Similarly, Marcellus was allowed to return to Ancyra, but not long afterward was again expelled. The Eusebian bishops who had deposed Athanasius at Tyre refused to recognize him and wrote to the bishops of

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1. Cf. N.H. Baynes, "Athanasiana", in The Journal of Egyptian Archaeology, Vol. XI, 1925, pp. 58-69.

Christendom urging the recognition of Pistus, the Arian bishop whom they had placed there in his stead. An Egyptian council held at Alexandria in 338 issued an encyclical letter protesting the illegality of the action taken at Tyre and denying the claims of Pistus. Following closely upon this the Eusebians wrote to Pope Julius asking him to call a synod to decide the issue of Athanasius' status and at almost the same time consecrated Gregory as Bishop of Alexandria, whom they undoubtedly felt would stand more chance of recognition than Pistus. Gregory arrived at Alexandria under military escort. Athanasius withdrew and proceeded to Rome where late in 340 or early in 341 a council of fifty bishops cleared him of the charges made at the Council of Tyre, admitted him to communion, and recognized him as the lawful Bishop of Alexandria. The restoration of Marcellus of Ancyra and Asclepas of Gaza was similarly proclaimed by the same synod.

At this time Constans gained complete mastery of the West with the result that the political forces affecting the Church assumed an even greater role; for with the exception of Egypt the party division in the Church corresponded closely with the division of the Empire. Soon afterward, in 342, at the request of the Emperor Constans a legation of Eastern bishops was sent to the imperial

court at Trêves to clarify their doctrinal position. Eusebius who had been opposed to a council was now dead and, the atmosphere being favourable, Pope Julius and other Western bishops petitioned that Constans might arrange with his brother for a general council towards a final settlement in matters of the Faith and a resolution of the disagreement over Athanasius. Arrangements were made and the bishops of both factions were invited to convene at Sardica in Illyricum just within the domain of Constantius. There they assembled in the Autumn of 343.[1]

On the eve of the Council of Sardica there were four factors contributory to the existent tension within the Church - doctrinal, personal, political and regional. The doctrinal controversy, although still present and inscribed on the party banners of East and West, had faded into the background during the course of the contentious period following Nicaea. At Nicaea it had been evident that few of the bishops were willing to stand with Arius, but few also were fully reconciled to the terminology of the credal definition to which all at length subscribed. Expressions of Trinitarian doctrine were still in their formative stage and the teachings of Arius provided a

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1. For a discussion of the date of Sardica see Appendix II.

palliative for many by whom the fear of Sabellianism had not been forgotten. This, in the main, was where the doctrinal issue rested. Personal animosities springing from the credal stalemate to a large extent governed the ensuing contest between the Nicene and pro-Arian parties. In the centre stood the great majority of bishops most of whom through persuasion or violence ultimately became allied with one side or the other. The injustice done by the Eusebians in their persecution of Athanasius, Eustathius, Marcellus, and others in an attempt to deprive the Orthodox of leadership and to gain dominance by the occupation of strategic sees, provoked indignation and made these persons symbols of orthodoxy to be defended, if for no other reason, for the sake of the cause with which they were identified. This personal battle was waged with the weapon of deposition and in most cases with imperial support. Against this weapon there was no defence and no appeal with the possible exception of another council, and not that without imperial approval. The political factor thus entered in with the frequent interference of the State in the affairs of the Church. Aggravated by the foregoing, but also standing as an influence in its own right, was the factor of regional loyalty so soon to manifest itself in bitter rivalries among the patriarchal sees.

In this context the ascendency of the long powerful See of Alexandria must be reckoned with as one of the reasons for the ready espousal of the Arian cause on the part of many of those bishops whose interests were centred in the greater sees of Syria and Asia Minor. As the Churches of the West under the leadership of the Roman See became directly involved in the controversy a few years previous to the Council of Sardica, the same factor extended and intensified became manifest in the growing tensions between East and West. Clear expression is given to this rising sentiment in the Eusebian letter to Pope Julius as described by Sozomen,[1] and by the Eusebian Encyclical at Sardica.[2] By reason of these diverse factors, the problems which brought the bishops to Sardica were not straightforward, but were attended by complications which would only be resolved through the passage of time and personalities. It was towards these same complicating factors that the Western bishops turned their attention when all attempts at conciliation had failed.

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1. Sozomen, Hist. Eccles., III, 8 (P.G., LXVII, col. 1053A-B).
2. "Novam legem introducere putaverunt, ut Orientales episcopi ab Occidentalibus iudicarentur" (Sec. 12 - C.S.E.L., LXV, p. 57 - and see sec. 26).

2. THE AIMS OF THE BISHOPS AT SARDICA

There can be little doubt that the Council of Sardica was called at the initiative of the Orthodox. The results which they hoped to obtain from a general council are best outlined in the synodal letter addressed to Pope Julius:

> Tria fuerint, quae tractanda erant --- ut de integro universa discussa disputarentur (1) et ante omnia de sancta fide et de integritate veritatis, quam violaverunt. (2) secunda de personis, quos dicebant esse deiectos de iniquo iudicio, ut, si potuissent probare, iusta fieret confirmatio. (3) tertia vero quaestio, quae vere quaestio appellanda est, quod graves et acerbas iniurias, intolerabiles etiam et nefarias contumelias ecclesiis fecissent, cum raperent episcopos, presbiteros, diacones et omnes clericos in exilium mitterent --- et qui ante fuerant deiecti, non solum recepti sunt sed etiam ad clericalem dignitatem promoti et acceperunt praemium falsitatis.[1]

Thus their aims were threefold - the preservation of Nicene doctrine, the attainment of justice for the victims of Eusebian oppression, and the re-establishment of disciplined jurisdictional order.[2] These aims indeed rise above partisan interest and reveal a realization on the part of the Western leaders that the Church was in serious danger of permanent schism.

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1. Sec. 3 (C.S.E.L., LXV, pp. 128-129).
2. The Encyclical Letter outlines the same in broader terms: " -- ut omnis quidem dissensio amputaretur, iniquia autem doctrina penitus expulsa pietas sola, quae est in Christo hominibus custodiretur" (sec. 1 C.S.E.L., LXV, p. 104).

There was no previous agreement with the Eusebian leaders as to agenda, nor could there have been. The Encyclical Letter of the Eusebian Synod professes a desire for unity within the Church,[1] but the Eusebian terms for unity were the rejection of Athanasius and the other bishops whom they had deposed. Correspondingly, as the Orthodox had much to gain from a general council at this time the Eusebians had much to lose. The latter had acquired their strength through the deposition of their enemies by weighted synods, and by subsequent banishment of the victims at the command of an emperor who was favourably disposed. They knew that in a general council the weight of opinion would be heavily against them. At best they could only hope to maintain the division as it stood, not by agreement or compromise, but by dividing the forces of the Orthodox and discrediting the person of Athanasius in order to discredit his doctrine. For both parties Athanasius was more than a bishop accused of crimes and whose sentence must be reviewed. He was a symbol of the Faith as defined at Nicaea, and both knew that with him that definition would stand or fall.

As the leaders of the Orthodox realized that the doctrinal settlement depended upon the fate of Athanasius,

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1. Sec. 26 (C.S.E.L., LXV, p. 65).

so too, they realized that the Eusebian weapon of arbitrary deposition which had brought that problem into being must be permanently controlled. The bishops at Nicaea had agreed that the affairs of each province should be settled by its own synod,[1] but no provision had been made for appeal to a higher authority if an unjust sentence was imposed. The situation as it existed made it clear to the Orthodox that a greater degree of control upon the action of local synods, the right of appeal to a higher court, and a restriction of civil jurisdiction over ecclesiastical affairs were most necessary. The principles of appeal and non-intervention of imperial power, which were expressed and ratified in canons subsequently passed by the Orthodox synod at Sardica,were no afterthought or expression of regional sentiment. They were a realistic facing of basic problems. Was it not a desirable alternative to insure the right of appeal to the Roman bishops alone rather than be at the mercy of political power and factional intrigue? This question and its answer must have been clearly formed in the minds of the Orthodox leaders as they assembled at Sardica and have profoundly affected their aims, for it is plainly written in the acts which they produced.

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1. Canon 5.

3. THE PRELIMINARY MANOEUVRES

The number of bishops assembling at Sardica was probably seventy-six in the Eusebian company and about ninety-four in the Orthodox. Due to variations in the lists of signatures and numerous omissions from each, it is doubtful if an exact figure can be reached. Socrates[1] and Sozomen[2] agree that there were seventy-six in the Eastern party, which is close to the round figure of eighty which the Eusebians claimed for themselves in their Encyclical Letter.[3] In giving the number of the Orthodox as about three hundred Socrates relies upon the authority of Athanasius[4] whose estimate probably includes those bishops who later added their signatures of approval to the synodal acts, but were not present at the council.[5] Athanasius states in another context that there were about one hundred and seventy from the East and West together.[6] Most authorities agree that from the existing lists of signatures,[7] with the addition of the names of a few bishops

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1. Hist. Eccles., II, 20 (P.G. LXVII, col. 236).
2. Hist. Eccles., III, 12 (ibid., col. 1065).
3. Sec. 16 (C.S.E.L., LXV, p. 58).
4. Apol. contra Arianos, I (P.G., XXV, col. 249).
5. Cf. Apol. contra Arianos, 50 (cols. 340-341).
6. Hist. Arian., 15 (ibid., col. 709).
7. Four episcopal lists from the Western Synod are extant. These are found among the historical fragments of St. Hilary (C.S.E.L., LXV, pp. 74-78); in the Apol. contra Arianos of St. Athanasius (sec. 48 - H.G. Opitz,

known from other sources to have been present at Sardica,[1] the number in attendance at the Eastern Synod was seventy-six and at the Western no more than ninety-seven. The most exhaustive study is that which has been made by Feder. His total count for the Orthodox is ninety-seven (excluding Pope Julius who was represented but not present), but he cautiously states his final estimate as "something more than ninety".[2] Feder's count of the Easterns coincides with the generally accepted seventy-six.[3] It is to be observed that Socrates is apparently correct in this figure, and that subtracted from Athanasius' total of one hundred and seventy the number for the Orthodox remains as ninety-four. The early counts therefore appear to be reasonably accurate on the basis of information now available. Orthodox representation by provinces may have been

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Athanasius Werke, Vol. II, Teil 1, 6 Lieferung, Berlin, 1938, pp. 123-132); and in the letters of the synod and of Athanasius to the Church of the Mareotis (E.O.M.-I.A., I, pp. 658 and 660). The only existing list of signatories at the Eastern Synod is found with the Eusebian Encyclical also preserved by Hilary (C.S.E.L., LXV, pp. 74-78).

1. Feder adds the names of Gratus of Carthage, Euphrates of Cologne and Rheginos of Scopelus to the Western lists and Maris of Chalcedon, Macedonius of Mopsuestia and Ursacius of Singidinum to the Eastern (loc. cit. below).
2. A.L. Feder, "Studien zu Hilarius von Poitiers: II", in Sitzungsberichte der Kaiserlichen Akademie der Wissenschaften in Wien, Philos.-Hist. Klasse, Vol. CLXVI, 1910, 5 Abhandlung, pp. 18-62.
3. Ibid., pp. 70-93.

as many as forty-three[1] and in distribution about half of the bishops came from the provinces of Illyricum and the Balkan peninsula.

The leadership of the Western party was assumed by Hosius of Cordova who had been a leader of the Orthodox at Nicaea. It is his name which appears first upon the lists of signatories and it was he who proposed the majority of the canons. Next in rank to Hosius of those present was Protogenes, Bishop of Sardica, whose name appears on the lists following those of the Roman delegates. Other prominent Westerns were Protasius of Milan, Maximin of Trêves, Fortunatus of Aquileia and Vincentius of Capua. Pope Julius was represented by the presbyters Archidamus and Philoxenus. The leaders of the Eastern party were Theodore of Heraclea, Narcissus of Neronias (Cilicia), Stephen of Antioch, Acacius of Caesarea (Palestine), Ursacius of Singidunum (Moesia) and Valens of Mursia (Pannonia). With them came Musonianus and Hesychius, imperial officers representing the authority of Constantius.

The Western bishops arrived at Sardica first and promptly admitted Athanasius and his fellow accused to communion in accordance with the decrees of the Synod at

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1. Cf. A.L. Feder, art. cit., pp. 64-70.

Rome two years before.[1] This was of course unacceptable to the Eusebians who determined upon hearing of it to have no relations with the Orthodox and upon arrival at Sardica isolated themselves in the imperial palace. Apparently threats were made to prevent defections to the Orthodox camp, but nevertheless two bishops, Asterius from Arabia and Arius from Palestine, joined the Western body.[2]

The propriety and wisdom of receiving the accused bishops into communion at Sardica may well be questioned. Hefele defends the action, maintaining that the Roman Synod which had cleared them must necessarily have borne as much weight as the synods which had deposed them. The emperors had given permission for Sardica to investigate the whole matter and this was actually the primary object of the assembly. This implied, Hefele argues, that all former judgements concerning the accused should be suspended and that they should be treated as if no sentences had been pronounced. If Athanasius and the others were treated as a party their enemies should be treated the same, he states, and the exclusion of one party should demand the exclusion of the other.[3]

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1. Sozomen, Hist. Eccles., III, 11 (P.G., LXVII, col. 1061 A).
2. Hist. Arian; 15 (P.G., XXV, col. 709).
3. Hefele, II, p. 99.

As well as this argument may express the viewpoint held by the Orthodox themselves, it does not fit the facts of the case. Firstly, it must be asked which synod, this or that of Rome in 341, was the court of appeal? Secondly, turning the supposition of Hefele around, the synods of Tyre and Antioch must have had as much jurisdiction in the cases under consideration as the synod of Rome. The Easterns demanded that Athanasius and the others whose cases were to be reviewed be treated as excommunicate from the outset on the grounds that their reception to communion would be a violation of the synods which had deposed them, and contrary to the tradition of the Church.[1] Although their treatment of these bishops had been unjust and although they were making use of the present situation to avoid a fair review of the cases in question, the Eusebians did have reasonable cause to object to the actions of the Roman synod and to the premature acceptance of its decision by the Westerns at Sardica. As they themselves pointed out, the gathering at Antioch which had deposed Paul of Samosata in 268 had been recognized by the West was at least in kind a precedent for the synods which deposed Athanasius and his fellow sufferers.[2]

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1. Secs. 15 and 16 (C.S.E.L., LXV, pp. 58-59).
2. C.S.E.L., LXV, p. 65.

Sardica by its expressed purpose was the court of appeal for these cases, quite in accordance in fact with the provision of appeal which its canons set forth. The status of the bishops in question should, on grounds of fairness to all concerned, have remained indeterminate for the judges at Sardica until the council had rendered its decision. Whatever the Eusebians may or may not have done if this action had not been taken by the Orthodox, exactly what Hefele suggests happened - the exclusion of one party demanded the exclusion of the other. The Eusebians would not enter into communion with those whom they believed they had deposed, nor could they on quite reasonable grounds enter into communion with those who identified themselves with the party of the deposed.

After repeated efforts to persuade the Eastern bishops to join the Western body Hosius invited them to bring their proofs against the accused to him personally if they would not appear in an open council. This they also refused to do apparently realizing that the majority opinion in any consideration of their charges would turn against them. There was little more that could be done under the circumstances and the Easterns soon made their departure. As an excuse they sent word to the Orthodox that the Emperor Constantius had informed them of his victory over the

Persians, presumably implying that they felt their congratulations to be in order. Hosius replied, "If you do not appear and clear yourselves as regards the slanders which you have spread, and the accusations which have been brought against you, be assured that the synod will condemn you as guilty, but will declare Athanasius and his associates to be innocent."[1]

4. THE RIVAL SYNODS

After the departure of the Easterns, the Western bishops turned their attention to the matters for which they had come. In order to insure justice and block all further objection of the Eusebians to their action, the synod investigated the charges against Athanasius, Marcellus and Asclepas, carefully considering the evidence. These bishops were formally declared innocent and restored to their former offices and dignities while the appointments of their successors, Gregory at Alexandria, Basil at Ancyra, and Quintian at Gaza were declared invalid. Sentences of excommunication were pronounced against the leaders of the Eusebians for their commission of slander and violence.

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1. Hist. Arian., 16 (P.G., XXV, col. 712C).

The first stated purpose of the synod - the maintenance of the definition of faith - found at least attempted fulfilment in a creed which was proposed for acceptance by the synod.[1] Its proponents were apparently Hosius and Protogenes. These, we are told by Sozomen, fearing lest they should be suspected of innovation, wrote to Pope Julius that while adhering to the doctrine of Nicaea they favoured the publication of a more detailed statement of faith in order that the Arians might not take advantage of the brevity of its formula.[2] It seems probable that Sozomen's knowledge of the creed and of its treatment by the synod is derived solely from the cover letter sent by Hosius and Protogenes to Pope Julius, for he provides no further information than may be found in, or inferred from, the letter itself.[3]

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1. This is not to be confused with the "Symbolus sanctae synodi Sardici" (E.O.M.I.A., II, p. 468) which does not belong among the Sardican documents. Its place of origin in its present form may have been Antioch. Cf. W. Telfer, "The Codex Verona LX(58)", in The Harvard Theological Review, Vol. XXXVI, 1943, pp. 195-197.
2. Hist. Eccles. III, 12 (P.G., LXVII, col. 1065).
3. The letter is contained among the Sardican documents preserved in the Collection of Theodosius Diaconus. The relevant passages are: "Meminimus et tenemus et habemus illam scripturam quae continet catholicam fidem factam aput Niceam: et consenserunt omnes qui aderant episcopi ... ne quis ex illis tribus argumentis (of the Arians) circumventus rennuerit fidem et excludatur eorum spolium et ne fiat, latiorem et longiorem exponere priori consentientem ut igitur nulla reprehensio fiat" (E.O.M.I.A., I, p. 644).

A somewhat different view is provided by Athanasius in the Tomus ad Antiochenos of the Alexandrian Synod held in 362. It is stated that although a certain credal definition was ascribed to the synod no definition of faith was made at Sardica, and that although certain ones (τινες - Hosius and Protogenes?) maintaining that the Nicene formula was defective (ἐνδεοῦς) attempted to draft a new one, the synod rejected the proposal declaring that all should be content with the faith confessed by the Fathers at Nicaea.[1] It may be inferred from this warning against its acceptance twenty years after Sardica that the Creed did undergo at least limited circulation. It is probable that reference was made to the Sardican definition at Chalcedon in 451,[2] and the circumstances of its transmission indicate that it was widely regarded as official. It was preserved by Theodoret as a continuation of the Encyclical Letter[3] and is so found also in the Theodosian Collection[4] in translation from a different but allied Greek version. The creed may indeed have been originally

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1. Tom. ad Antiochenos, 5 (P.G., XXVI, col. 800c).
2. A.C.O., Tome II, Vol. i, p. 113.
3. Hist. Eccles., II, 8, 40-53 (G.C.S., "Theodoret", pp. 113-118). A critical edition of the Greek text is given by F. Loofs ("Das Glaubensbekenntnis der Homousianer von Sardica", in Abhandlungen der Königlich Preussischen Akademie der Wissenschaften, Philos.-Hist. Klasse, 1909, 1 Abhandlung, pp. 7-11).
4. E.O.M.I.A., I, pp. 651-653.

circulated in this way, but this can by no means be proven from the evidence at hand.

The testimony of Athanasius is not easily reconciled with the fact of the creed's survival for it seems nearly certain from the other evidence that it received some degree of approval by the synod for publication as a common declaration of faith. Athanasius' comment may reflect an understandable resentment that a new formula should have been proposed to supplement that which he had fought so hard to have accepted and had suffered so much to maintain. It must also be observed, however, that the dismissal of the Sardican formula in the letter to the Antiochenes was a necessity if they were to be persuaded that the party of Athanasius stood only for the Nicene definition.[1]

In addition to the Encyclical,[2] letters were sent by

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1. Cf. J.N.D. Kelly, Early Christian Creeds, London, 1950, pp. 278-279.
2. The Encyclical Letter of the Orthodox is preserved in somewhat different Greek versions by St. Athanasius (Apol. contra Arianos, 44-47) and Theodoret (Hist. Eccles., II, 8). A Latin translation from a third Greek version is found in the Collection of Theodosius Diaconus and what may be an original Latin version is found among the historical fragments of St. Hilary. These four sources are printed concurrently in A.L. Feder's critical edition of the latter (C.S.E.L., LXV, pp. 103-126). Additional emendatory notes may be found in the critical study of I. Gelzer ("Das Rundschreiben der Synode von Serdika", in Z.N.T.W., Vol. XL, 1941, pp. 1-24).

the synod to Pope Julius, to the Church of Alexandria, and to the Churches of Egypt and Libya proclaiming the restoration of Athanasius to his see.[1] A similar letter to the Church of the Mareotis (an outlying district of Alexandria) is included in the Theodosian Collection in company with letters of Athanasius written from Sardica to the same church and to the presbyters and deacons of Alexandria and Parembula.[2] A letter of particular significance was sent to the Emperor Constantius[3] requesting a defined limit of state interference in the affairs of the Church as a necessary condition for the restoration of peace. It also asked that exiled bishops be restored to their sees, and it was presumably in support of this request that Constans caused Vincentius of Capua and

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1. These letters are found in Athanasius, Apol. contra Arianos, 37-43 (P.G., XXV, cols. 312-323).
2. E.O.M.I.A., I, pp. 654-662. Hefele has questioned the authenticity of these latter two (op. cit., Vol. II, pp. 165-166), but they are accepted as genuine by such scholars as Turner, Schwartz and Telfer. A good vindication of their authenticity is given by F. Loofs, "Zur Synode von Sardica", in Theologische Studien und Kritiken, 1909, p. 289.
3. That this letter is the primary component of the Ad Constantium I attributed to St. Hilary of Poitiers (C.S.E.L., LXV, 181-187) is demonstrated by Dom A. Wilmart, "L''ad Constantium liber primus' de S. Hilaire de Poitiers et les 'Fragments Historiques'", in Révue Bénédictine, Vol. XXIV, 1907, pp. 161-178; and also by A.L. Feder, "Studien zu Hilarius von Poitiers": I, in Sitzungsberichte der kaiserlichen Akademie der Wissenschaften in Wien, Vol. CLXII, 1909, Philos.-Hist. Klasse, 4 Abhandlung, pp. 146-151.

Euphrates of Cologne to be sent from Sardica to Antioch to obtain Constantius' consent for the return of the deposed to their churches.[1] Finally, during the course of the synod an agreement was reached between Alexandria and Rome in the long standing dispute on the dating of Easter.[2]

Before their final departure the Eastern bishops held a rival synod of their own. Other than the publication of an Encyclical Letter the only act of this gathering seems to have been the drafting of a paschal cycle covering the years 328-367.[3] The Encyclical reviews the whole Athanasian question in conjunction with the events leading up to Sardica. In addition to Athanasius, Marcellus and Asclepas it condemns all who had received them into communion - Hosius, Protogenes, Pope Julius and other leaders of the Orthodox. As a profession of faith the Eusebians re-approved the Fourth Creed of Antioch with the addition of a final anathema.[4]

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1. Athanasius, Hist. Arian., 20 (P.G., XXV, cols. 716-717).
2. Introduction to the Festal Letters of St. Athanasius, Section XV - ed. W. Cureton, The Festal Letters of Athanasius, London, 1848, p. lii.
3. This is found in the Collection of Theodosius (E.O.M.-I.A., I, pp. 641-643). Cf. E. Schwartz, "Christliche und jüdische Ostertafeln", in Abhandlungen der Königlichen Gesellschaft der Wissenschaften zu Göttingen, Philol.-Hist. Klasse, Neue Folge, Vol. VIII, 1905, Nro. 6, pp. 121-125.
4. The letter and creed are preserved together by St. Hilary (De synodis, 34 and in the Historia fragmentica - C.S.E.L., LXV, pp. 48-67 and 69-73), and the creed alone in the collection of Theodosius Diaconus (E.O.M.-I.A., I, pp. 638-640).

Curiously, particular attention is given in the Encyclical Letter to Paul of Constantinople. Communion with him is cited as a major reason for the condemnation of the Western leaders and also of the three controversial figures, Athanasius, Marcellus and Asclepas.[1] Contrary to this stands the fact that the Nicene party had apparently disassociated itself from his cause several years before 343.[2] No mention is made of Paul in the letters of the Orthodox Sardican Synods, and his case was presumably not dealt with by the Roman Synod of 340. If considered, it was not thought to be of sufficient importance for mention in the reports of the proceedings issued by either synod. The reasons for the Eusebian preoccupation with Paul at Sardica are evident. The growing importance of Constantinople made it, next to Alexandria, the most strategic see of the East. Paul had originally become bishop of the city against the will of the Eusebians and in opposition to their own candidate, Macedonius. His deposition in 338 was an important victory for the party of Eusebius, but after the death of the latter, late in 341 or early in 342, Paul with popular support nearly succeeded in his attempt to return, and it was with

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1. Secs. 20 and 27 (C.S.E.L., LXV, pp. 61 and 65-67).
2. Cf. E. Schwartz, "Zur Kirchengeschichte des vierten Jahrhunderts", in Z.N.T.W., Vol. XXXIV, 1935, p. 148.

difficulty that the original Eusebian candidate, Macedonius, was installed. The Eusebians consequently had every reason at Sardica to prejudice the minds of all who would listen, but their individual and collective condemnation of the Orthodox for their communion with Paul, while probably in itself true, implies that Paul played a leading part in the controversy at the time which he did not in fact do. The reasons for Paul's abandonment by his own party are nowhere stated, but it seems probable that his cause was simply too far removed from the basic issues of the conflict. Although the injustice of his deposition and the subsequent removal of Eusebius from Nicomedia to Constantinople undoubtedly came under attack in the canons formulated by the Western Sardican Synod, his personal misfortunes were overshadowed by the symbolic causes of Athanasius, Marcellus, and Asclepas. As a late comer, the defence of Paul could contribute little to the defence of Nicaea. It may also have been felt by the Orthodox that an involvement in the civil strife of Constantinople which their support of Paul would have brought would have been to their disadvantage in reaching a possible agreement with Constantius over more important issues.

The anti-Pauline propaganda of the Eusebian Encyclical had a decided influence upon the subsequent interpretation

of Sardican history. Whereas the first hand reports of Pope Julius, the Orthodox Sardican Encyclical and Athanasius say nothing of Paul's case having been considered at Rome or Sardica, it is cited by Socrates as having held a prominent place on the agenda at Rome,[1] and with the case of Athanasius to have been the determining cause in the calling of Sardica.[2] The source of his information seems to have been the Eusebian Encyclical and the report which he gives to have been an inference from the attention paid to Paul in this document.

It has been generally held that the Eusebian synod convened at Philippopolis, in Thrace, after the departure of the Eastern bishops from Sardica.[3] This has been questioned by certain scholars[4] who have argued alternatively that the synod was held at Sardica before the Eastern withdrawal. The only substantial evidence for the former view is provided by the testimony of Socrates. Whereas he states that the Easterns convened at Sardica and upon the failure of negotiations withdrew to Philippopolis,[5] Sozomen tells us that they first gathered at

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1. Hist. Eccles., II, 15 (P.G., LXVII, col. 212B).
2. Ibid., II, 20 (col. 236A).
3. See for example Hefele, II, pp. 170-176.
4. Cf. F. Loofs, art. cit. (Zur Synode von Sardica), pp. 283-284.
5. Hist. Eccles., II, 20 (P.G., LXVII, col. 237).

Philippopolis and then proceeded to Sardica.[1] That such a preliminary gathering took place is not unlikely. It is almost certain that the Eastern bishops arrived at Sardica in a body. The facts of their accompaniment by civil officers and their self-enclosure in the imperial palace to prevent defections to the Western camp point strongly towards this. Athanasius relates that Arius and Asterius who had come with the Easterns managed to withdraw from the company after arrival.[2] The geographical location of Philippopolis, ninety-six miles to the southeast of Sardica, and its importance as the capital city of northern Thrace would have made it a probable assembly point.

A strong indication is found in the Orthodox Encyclical that Sozomen's account is correct. It relates concerning the Eusebians:

> "Venientes etenim Serdicam per singula loca synodos faciebant inter se et pactiones cum interminationibus ut omnino venientes Serdicam ad iudicium non accederent neque in unum cum sancta synodo convenirent."[3]

In that Euticius, bishop of Philippopolis, was among the Eusebians at Sardica and in that Philippopolis was

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1. Hist. Eccles., III, 11 (P.G., LXVII, col. 1061).
2. Hist. Arian., 15 (P.G., XXV, col. 709).
3. Sec. 7 (C.S.E.L., LXV, p. 120).

a probable point of assembly for the Eastern party, it seems reasonable to assume that the last of the synods along the route, of which the Encyclical speaks, took place there. There is no evidence which contradicts Socrates' report of a later withdrawal to Philippopolis, but neither may any be found to substantiate it. May we not then suppose that Sozomen is correct and that Socrates mistakenly placed the Philippopolis gathering after Sardica rather than before?

Batiffol is of the opinion that Socrates' account is correct and that Sozomen's is a conflation of the former with an Arian source which reported the Easterns as remaining at Philippopolis throughout, in order to conceal their hasty flight from Sardica.[1] Although Batiffol does not cite the evidence in support of his hypothesis, it is shown by the introduction to the Festal Letters of St. Athanasius that such an account was current. It states, " --- when the Arians were arrived at Philippopolis they returned, because Philagrius gave them this counsel there."[2] It must be observed, however,

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1. P. Batiffol, "Sozomène et Sabinos", in Byzantinische Zeitschrift, Vol. VII, 1898, 1 Abteilung, pp. 275-276.
2. W. Cureton, op. cit., p. lii. This Philagrius is probably the pro-Arian prefect of Egypt mentioned by St. Athanasius (Hist. Arian., 9, 10, and 11 - P.G., XXV, col. 705).

that the evidence of this report may be used in support of Sozomen's account as well as against it. Neither historian reports two assemblies at Philippopolis - one before Sardica and one after - and Sozomen is supported by all external evidence while Socrates is not. The Eusebians themselves clearly state that their synod was held at Sardica and make no mention of Philippopolis. In the opening section of their Encyclical they announce, "ad civitatem Serdicam congregati concilium celebravimus"[1], and of the Encyclical itself is stated in section 23, "placuitque nobis de Serdica scribere."[2]

It is difficult to believe that if the Easterns had withdrawn to Philippopolis, Athanasius or the Encyclical letter of the Western Synod would not have cited the action to their further condemnation. The duration of their stay in Sardica was presumably sufficient for the few acts of the Eastern Synod and for the formulation of their Encyclical. Although no final conclusion can be reached from the evidence available, it seems probable that the Eastern Encyclical was written at Sardica as it claims to be and that its authors convened at Philippopolis before their arrival at Sardica and not after their departure.

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1. C.S.E.L., LXV, p. 49.
2. Ibid., p. 63.

The manifest result of the Sardican synods was the temporary severance of communion between East and West. The line of division between the communions was the boundary between the empires. It cannot be doubted that this first clear cut division between the Churches of the East and West made its own unfortunate contribution to the conditions which centuries later would result in final schism. The hopes and aims of the Western bishops remained unfulfilled. Athanasius was restored to his see not by the force of Sardica, but by a change in the policy of the Emperor Constantius. The disciplinary canons passed by the Western Synod had no effect upon the problems they were intended to solve, but their influence was to be felt permanently among the Churches of the West. Partly by its position in the sequence of events, partly by its failures and partly by its acts, the Council of Sardica is a turning point in the history of the Church.

CHAPTER II

HISTORICAL AND TEXTUAL PROBLEMS

1. THE GENUINENESS OF THE SARDICAN CANONS

The genuineness of the Sardican Canons was first seriously questioned in 1846 by an article entitled "Papal Supremacy" published in the British Magazine.[1] The arguments outlined by this initial attack were next taken up by Friedrich in 1901 and strengthened by the addition of further evidence.[2] His article was received with enthusiasm by Bishop John Wordsworth,[3] but at the same time evoked serious criticism from a number of other scholars among whom were Turner,[4] Funk[5] and Duchesne.[6] Although Friedrich was led to meet

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1. Vol. XXIX, pp. 251-268. The author is identified only by the initials "E.J.S.". Bishop John Wordsworth has suggested that the writer was E.J. Shepherd (see note 3 below).
2. J. Friedrich, "Die Unechtheit der Canones von Sardica", in Sitzungsberichte der bayerischen Akademie der Wissenschaften, Philos., Philol.&Hist. Klasse, 1901, pp. 417-476.
3. J. Wordsworth, "Are the Canons of Sardica Genuine?", in The Guardian, 26 Feb. 1902, pp. 315-316.
4. C.H. Turner, "The Genuineness of the Sardican Canons", in J.T.S., Vol. III, 1902, pp. 370-397.
5. F.X. Funk, "Die Echtheit der Kanones von Sardika", in Historisches Jahrbuch der Görres-Gesellschaft, Vol. XXIII, 1902, pp. 497-516 and Vol. XXVI, 1905, pp. 1-18 and 255-274 (also published in Funk's Kirchengeschichtliche Abhandlungen und Untersuchungen, Vol. III, Paderborn, 1907, pp. 159-217).
6. L. Duchesne, "Les Canons de Sardique", in Bessarione, Fasc. 68, Sept.-Oct. 1902, pp. 129-144.

his critics by two further articles,[1] the replies of these and other scholars have confirmed the genuineness of the Canons beyond all possibility of doubt. The raising of the issue, however, is an interesting sequel to the questioning of their authenticity as Nicene fifteen hundred years before by Aurelius of Carthage, for the motive behind both inquiries was a rejection of the prerogatives granted to the Bishop of Rome by the appeal canons 3, 4, and 7.

Friedrich proposed that the Canons are a forgery based upon various earlier documents. The most outstanding of these is a rescript sent to the Roman vicar Aquilinus by the Emperor Gratian[2] upon which Friedrich supposed the appeal canons to have been based.[3] Other canons, he maintained, had their origin in the Canones ad Gallos Episcopos, the letter of Pope Innocent to Victricius of Rouen and canon 8 of the synod held at Carthage under Genethlius in 390.[4]

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1. "Zur Kritik meiner Abhandlung: Die Unechtheit der Canones von Sardica", in Révue Internationale de Théologie, Vol. XI, 1903, pp. 427-454 and "Die sardicensischen Aktenstücke der Sammlung des Theodosius Diaconus", in Sitzungsberichte der bayerischen Akademie der Wissenschaften, Philos., Philol. and Hist. Klasse, 1903, pp. 321-343.
2. This is the letter "Ordinariorum sententiae", Epist. XIII in the Collectio Avellana. The passages relevant to canons 3 and 7 are found in sections 12 and 13 (C.S.E.L., XXXV, p. 58).
3. art. cit. (Die Unechtheit), pp. 424-432 and 452-460.
4. Ibid., pp. 460-472.

Friedrich argued that the Canons were first published in 416 or 417 with the claim to be Nicene, and that in a later redaction with the addition of contemporary historical colour they were put forth as Sardican. It has been shown that such a forgery would have demanded an impossible degree of knowledge of the history and problems of the first half of the fourth century on the part of both the author and the later editor, and that the latter would also have had to have been responsible for the insertion of the Sardican details into widely scattered manuscripts already extant. The direct reference to canons 18 and 19 of Sardica by Gratus of Carthage in 345[1] is of itself fatal to Friedrich's thesis. He himself met this objection by claiming that the reference is spurious, but his arguments have not been accepted. The textual objections have been proven to be equally insurmountable. Turner has shown that at least eleven extant Latin manuscripts containing the Sardican Canons are to be dated before 600. Taking the textual divergence of these sources into

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1. Canon 5 of the Carthaginian synod held in that year (Harduin, I, col. 686D). The synod is still frequently dated as 348 or 349, but Schwartz has shown that this is based upon the supposition that Sardica convened in 347 ("Der griechische Text der Kanones von Serdica" in Z.N.T.W., Vol. XXX, 1931, p. 4, note 1). In that Sardica should be placed in 343 and 344, it is probable that the synod under Gratus should be dated as 345.

account, their prototype must be dated before the supposed forgery of the "Nicene" edition would have taken place, to say nothing of the "Sardican" revision.[1]

Babut, while accepting the authenticity of the Sardican Canons in general, denied the genuineness of the appeal canons and canon 10a considering them to be subsequent interpolations to bolster papal claims.[2] His thesis was based upon what he considered to be contradictions between the appeal canons and the rest of the material, and upon the supposition that these canons interrupt the sequence of thought in the genuine series. Babut was answered by Batiffol,[3] and a good vindication of the authenticity of these particular canons has been made by Zeiller.[4]

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1. C.H. Turner, art. cit. (Genuineness), p. 382.
2. E.Ch. Babut, "L'Authenticité des canons de Sardique", in Transactions of the 3rd International Congress for the History of Religions, Oxford, 1908, Vol. II, pp. 345-352.
3. P. Batiffol, "M. Babut sur l'Authenticité des Canons de Sardique", in Bulletin d'ancienne littérature et d'archéologie chrétiennes, Vol. IV, 1914, pp. 202-208.
4. J. Zeiller, Les Origines Chrétiennes dans les Provinces Danubiennes de l'Empire Romain, Paris 1918, pp. 254-256.

2. THE PROBLEM OF NUMBERING

The number of the Sardican Canons is usually given as twenty-one in the Latin text, although considerable variation is found among the manuscript traditions.[1] The number according to the Greek text is twenty and several differences from the Latin are found regarding the division of the material. The Greek lacks two canons and part of another which are present in the Latin,[2] and the Latin lacks two which are present in the Greek.[3] The order of occurrence of the canons differs between the two versions, each having one canon seemingly misplaced from its context. These facts obviously complicate the interrelationship of their respective numbering systems. There seems to be no solution to the problem of original division and any system adopted must necessarily be arbitrary. It is indeed likely that no such problem exists, for the circumstances and manner of publication indicate that they were not originally numbered at all but rather formed a continuous record of the synodal acts.

In the present study the system of numbering found

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1. E.O.M.I.A., I, p. 442.
2. Canons 12 and 18 and the latter part of 10 (beginning "Alypius episcopus dixit: ... ").
3. Canons XVIII and XIX.

in the "Dionysius" and "Prisca"[1] recensions will be used. It has the advantage of being generally accepted and also provides a more detailed break-down of the material than the system which Turner has adopted in his critical edition of the text,[2] although his more clearly preserves the coherence of related sections. To facilitate reference to specific sections, canons 3, 9 and 10 are here subdivided "a", "b" and "c". For the sake of greater clarity the canons are denoted by Arabic numerals in the Latin text, by Roman numerals in the Greek and by Arabic preceded by "T" in the Theodosian text. The reader is directed to Chart A in Appendix I for cross reference among the three systems of numbering, and for a demarcation of the subdivisions.

3. THE CIRCUMSTANCES OF PUBLICATION

The form of publication of the Sardican Canons presents a problem which has received surprisingly little attention from those who have dealt with the basic textual questions. Its solution is of considerable importance for a full consideration of the further problems

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1. For a discussion of the various textual recensions referred to in this study see Appendix III.
2. E.O.M.I.A., I, p. 442.

of the interrelationship between the Latin and Greek texts and of their transmission and development. The Canons of Sardica are in appearance a more or less continuous transcript of a series of impromptu proposals, and have been thought by Schwartz[1] and Caspar,[2] among others, to be representative of the procedural minutes of the Western synod. Their form of publication is in radical deviation from the consistent forms found in the canons of both Eastern and Western Synods of the same period. Although Sardica cannot be classified as an Eastern synod its connection with Nicaea was close. Hosius presided at Sardica and had been a prominent figure at Nicaea,[3] and Sardica was intended to be a vindication of the former council. It might therefore be expected that its canons would have been preserved in the same form.

Friedrich, in argument against their genuineness, drew attention to the external characteristics of the

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1. E. Schwartz, "Die Kanonessammlungen der alten Reichskirche", in Z.S.S.R., Vol. LVI, 1936, Kan. Abt. 25, pp. 49-50.
2. E. Caspar, Geschichte des Papsttums, Vol. I, Tübingen 1930, p. 160, and "Kleine Beiträge zur älteren Papstgeschichte: IV, Zur Interpretation des Kanones III-V von Sardica", in Zeitschrift für Kirchengeschichte, Vol. XLVII, 1928, p. 164.
3. For a discussion of Hosius' position at Nicaea see J.R. Palanque, G. Bardy, etc., The Church in the Christian Roman Empire (English trans.), Vol. I, London, 1949, p. 91, note 3.

Canons as being indicative of African origin.[1] It is true that their form of publication is identical with that of various series of African canons from the latter half of the fourth and beginning of the fifth centuries. Examples of this are to be found in the canons ascribed to the synods held at Carthage in 345[2] and 390[3] and the second Carthaginian synod of 397.[4] Although the same form is found elsewhere the instances are rare.[5] The characteristics of this form of publication to be found in connection with each canon are three in number. 1) The introductory phrase, " ... Episcopus dixit". 2) The putting of the question ("si omnibus [hoc] placet") and the vote ("placet", "placere sibi" or other expressions of assent) usually introduced by "omni [universi] dixerunt". 3) The informal discursive phraseology of each proposal.

In commenting upon Friedrich's inference Turner points out that this was the form of publication proper

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1. art. cit. (Die Unechtheit), pp. 465-466.
2. Harduin, I, cols. 685-688.
3. Ibid., cols. 951-954.
4. Represented by canons 47-56 in the Corpus Canonum Ecclesiae Africanae - Harduin, I, cols. 886-894.
5. See for example the canons of the Spanish synod of Saragossa in 380 (Harduin, I, cols. 805-806) and the acts of the Roman Synod under Pope Hilary in 465 (Harduin, II, cols. 799-800).

to all official *acta* of the period, not being confined to Africa, and suggests that its use as a medium for the preservation of synodal records was largely a matter of accident.[1] It is apparent, however, that at least from the beginning of the fourth century a distinction must be drawn between canons, as published agreements upon matters of discipline and order, and such other synodal *gesta* as have been preserved. The form of publication under consideration is found to have been universally used for the latter, whereas only rarely for the former.

The recording of synodal discussions in the form of procedural minutes seems to have become a widespread custom at least by the early fourth century and perhaps at a considerably earlier date. It is probable that a verbal transcription was made at the trial of Paul of Samosata in 268,[2] and the same is found in detail from the Baptismal Synod at Carthage in 256.[3] There is quite conclusive evidence for the existence of stenographic records of the discussions which took place at a majority of the synods of the fourth century from Nicaea onwards.[4] Socrates

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1. C.H. Turner, *art. cit.*, p. 373, note 1.
2. Cf. H. de Riedmatten, *Les Actes du Procès de Paul de Samosate*, Fribourg, 1952, pp. 45-47.
3. "Sententiae episcoporum numero LXXXVII de haereticis baptizandis" (*C.S.E.L.*, III, pp. 435-461).
4. Cf. A. Wikenhauser, "Zur Frage nach der Existenz von nizänischen Synodalprotokollen", in *Römische Quartalschrift*, Supplement XIX, 1913, pp. 122-142.

makes specific mention of the employment of stenographers (ὀξυγράφοι) at Seleucia in 359,[1] and Sozomen's detailed account of the trial of Athanasius strongly suggests that he had a transcript of the verbal process at Tyre before him.[2] The Sardican Orthodox Encyclical refers to a record of the proceedings against Asclepas of Gaza in connection with its use in the review of his case at Sardica.[3] Sozomen informs us that shorthand stenographers (ταχυγράφοι) were used at Sirmium in 351[4] and a quotation from their transcript is given by Epiphanius.[5] A section from the Acts of Rimini, the rival synod to Seleucia in 359, is quoted by St. Jerome with the concluding remarks, "Quod si quis a nobis fictum putat, scrinia publica (public records) scutetur" and "Quae si quis plenius discere cupit, in Ariminensis synodis actis reperiet, unde et nos ista libavimus."[6]

These stenographic records to which specific reference has been made by early writers were not exceptional for the period in which they were produced. Studies of

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1. Hist. Eccles., II, 39 (P.G., LXVII, col. 333B).
2. Ibid., II, 25 (ibid., LXVII, cols. 1000-1008).
3. Sec. 6 (C.S.E.L., LXV, p. 118).
4. Hist. Eccles., IV, 6 (P.G., LXVII, col. 1124A).
5. Adversus Haereses, LXXI, 2-5 (P.G., XLII, cols. 376-381).
6. Dialogus adversus Luciferianos, 18 (P.L., XXIII, cols. 171-172).

the sources used by the fifth and early sixth century historians Socrates and Sozomen have established that at least two large collections of material from a wide range of synods from Nicaea onward were available to them, and that these collections, in addition to a quantity of letters, contained procedural records in the form under consideration.[1] Although these collections are not extant, the form of publication of the acts contained may be seen in the quotations from Epiphanius and St. Jerome cited above. It is identical with that of the acts belonging to the Baptismal Synod at Carthage and with other examples which may be cited from synods in the late fourth and early fifth centuries. Outstanding examples are the Gesta apud Zenophilum (303/304)[2] the acts of the Synods of Aquileia in 381,[3] a verbal transcription of a discussion between the Catholics and Donatists at Carthage in

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1. The collections are the Συναγωγὴ τῶν συνόδων of Sabinus and the "Synodicon" attributed to St. Athanasius by Socrates (Hist. Eccles., I, 13 - P.G., LXVII, col. 109). See P. Batiffol, art. cit. (Sozomène et Sabinos), pp. 266 and 271-280; and "Le Synodikon de S. Athanase", in Byzantinische Zeitschrift, Vol. X, 1901, pp. 128-143; also G. Schoo, Die Quellen des Kirchenhistorikers Sozomenos, Berlin, 1911, pp. 95-109. Schwartz does not accept the Synodicon theory, but does hold that a collection of conciliar acts was compiled at Alexandria about 368 (see below, p.106).
2. M.J. Routh, Reliquiae Sacrae, Oxford, 1846, Vol. IV, pp. 320-335.
3. Harduin, I, cols. 825-834.

411,[1] and the Acts of the May 25th sitting of a synod held at Carthage in 419.[2]

Thus a continuity of form was maintained in a practice of stenographic transcription which seems to have been nearly universal. It is indeed the same form referred to by Turner as that in official use in civil affairs. When the Sardican Canons and others of the same type are compared with the procedural minutes of the period their forms of publication are seen to be identical. The conclusion must be drawn that these series of canons are themselves stenographic records of the legislative process either in abridgement or as the only minutes which were taken at the sessions in question.

In specific consideration of the Sardican Canons we may note that their phraseology clearly reflects the verbal process. The Canons are addressed to the assembled bishops and each is set forth in a manner which is discursive and unrehearsed. A continuity of treatment and development of subjects from one to another is clearly in evidence and frequent connective allusion is made to previous considerations. The pairs and groups composed of canons 1-2, 3-4 and 7, 8-12, 14-15, 16-17

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1. The Collatio Carthaginensis (Harduin, I, cols. 1049-1190).
2. E.C.M.I.A., I, pp. 566-583.

and 18-19 are unmistakably records of single unbroken discussions. Canon 3a is of particular interest as a connective section in that it belongs both in the contexts of the preceding translation canons and of the following discussion of episcopal appeal. It is to be noted further that canon 12 of the Latin text and canons XVIII and XIX of the Greek cannot be classed as disciplinary legislation at all, but are instead suggestions or agreements of policy for immediate and final action. Out of a total of twenty-three canons from the Greek and Latin texts together only thirteen are legislative acts which may properly be classed as canons, the other ten being dependent comments or resumés. The classification of the Sardican Canons as procedural minutes is verified and the place of each individually in the verbal process is made clear by an examination of the procedure which was followed in the legislative sessions.

There can be little doubt that in the synods of this early period canons were not worked out beforehand in committees and submitted to the assembly for approval, as became the later custom, but that discussion of disciplinary matters took place in the open assembly. Common discussion thus preceded the framing of the published canon. Batiffol has shown that the procedure followed

in the early African synods held under St. Cyprian was patterned after that used by the Roman senate.[1] He extended his analysis further to the synods at Carthage in 312 and Rome in 313 and concluded that although the use of parliamentary protocol not infrequently gave way to the approval of propositions by acclamation it was the universally accepted procedure for synodal deliberation.[2] In this conclusion Batiffol is supported by Artur Steinwenter who, in a study of the determining influence of Roman civil law in the development of ecclesiastical law, has judged that the parliamentary process was used specifically in the Eastern synods of the fourth and fifth centuries.[3]

The outline of this method of deliberation is briefly as follows. The proposed question upon which opinion was to be expressed (relatio) was addressed to the assembly with such accompanying background information as was necessary and relevant to an understanding of the problem. The proponent was normally the president but could in fact

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1. P. Batiffol, "Le Règlement des Premiers Conciles Africains", in Bulletin d'ancienne littérature et d'archéologie chrétiennes, Vol. III, 1913, pp. 6-17.
2. art. cit., p. 18.
3. A. Steinwenter, "Der antike kirchliche Rechtsgang und seine Quellen", in Z.S.S.R., Vol. LIV, 1934, Kan. Abt. 23, pp. 48-49.

be any member of the senate who was so authorized. Each senator stated his opinion (sententia) once only and in order of precedence in response to the interrogation. The sententiae were normally phrased concisely and in a form which would be suitable for acceptance as the final resolution. Amendments and counter proposals could be made at the conclusion of the period of interrogation. The vote then followed during the course of which the sententiae were read in order of delivery, and that which first received a majority approval was adopted as the resolution on the particular question. This resolution was submitted to the president for final redaction and recorded as a decision of the senate (senatus-consultum).[1]

The use of the parliamentary process in synodal discussion is illustrated in full by the Acts of the Carthaginian Baptismal Synod of 256,[2] which is analysed by

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1. This procedure is described by Batiffol but may be studied in detail in T. Mommsen, "Le Droit Public Romain (French translation), Vol. VII, Paris, 1891, pp. 135-178.
2. C.S.E.L., III, pp. 435-461. The first half of Cyprian's opening address forms the relatio ending with the interrogatory phrase "superest ut de hac ipsa re singuli quid sentiamus proferamus" (pp. 435-436). The latter half provides additional background information for the formulation of the sententiae which follow. Contrary to the strict rule of the senate Cyprian, as proponent, gave his own opinion as a member of the synod (p. 461).

Batiffol, and found in the Acts of Ephesus (431)[1] and Chalcedon (451).[2] In consideration of when this procedure was followed in synodal discussion and when it was not, it is important to distinguish between the treatment of questions concerning order or discipline and the handling of disputations, trials, and discussions of a more general nature. A different procedure was followed for the conduct of each, which again were apparently patterned upon the corresponding civil process.[3]

Upon examination, the parliamentary method of deliberation is found clearly reflected in series of canons of the Sardican and African type. The unvarying conclusion to each topic of discussion by the "Omnes episcopi

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1. The sententiae of the bishops were elicited for example, on the question of Cyril's adherence to the Nicene faith in his letters to Nestorius. Thus we read, "Cyrillus ... episcopus dixit, ... 'peto vestram sanctitatem dicere utrum recte et irreprehensibiliter et consonanter sanctae illi synodo talia scripserim an non'", which was followed by the sententiae (secs. 8-19 - A.C.O., Tome I, Vol. 2, pp. 39-40). This is succeeded by a reading of Nestorius' letter to Cyril, the relatio, individual opinions as to its orthodoxy, and finally a resolution condemning Nestorius which is prefaced by "Omnes episcopi simul clamaverunt" (secs. 10-21 - ibid., pp. 43-45).
2. Use of the parliamentary process is found for instance in the review of a jurisdictional question involving the sees of Antioch and Jerusalem. The sequence of phases is again relatio, sententiae and resolution (secs. 3-17 - A.C.O., Tome II, Vol. 3, pp. [442] - [444].).
3. A. Steinwenter, art. cit., pp. 11-12 and 29.

dixerunt: ... " is typical of the vote by acclamation which Mommsen described as having replaced the older manner of voting by the discessio, or the silent transfer of position by the members of the senate to the side of the speaker whose sententia they approved.[1] Canons 5-13 of the synod held at Carthage under Gratus in 345 adhere to a uniform pattern of presentation.[2] In each the question for discussion is introduced by a member of the synod and this is followed by the sententia of Gratus to which universal acclamation is made. The same pattern with clarifying details is present in the Canons of the synod at Carthage under Genethlius in 390.[3] In canons 3, 5, 6, 8, 9, 10 and 11 the subject introduction (relatio) is followed by an interrogation of the synod by Genethlius as to individual opinion upon the problem. Thus in canon 9 he exhorts, "Fratris et coepiscopi nostri dignae suggestioni respondere non immoremur", and in canon 11, "Proinde, quid etiam vobis omnibus placeat, propria voce signate". In both cases the interrogation is followed by a short resolution in the form of a universal acclamation. Canon 7 of the same series opens with a simple question, without a suggested solution, and this is

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1. T. Mommsen, op. cit., p. 216.
2. Harduin, I, cols. 685-688.
3. Harduin, I, cols. 951-954.

followed by the sententiae of Epigonius and Genethlius. The series from the 345 synod is concluded with the instruction, "Superest iam, ut placita (resolutions)[1] omnium nostrorum, quae ad consensum vestrum sunt scripta, vestra quoque subscriptione firmetis." In canons 1-4 of the earlier synod and canons 1, 2 and 4 of the later the sententia of the introductory speaker accompanies his proposal and is accepted by acclamation. If other sententia were given there is no record of them. This same manner of relatio-sententia presentation by the speaker introducing the subject for consideration is found in the records of the verbal process from the Roman synod of 6 November 502[2] and from a sitting of the Roman senate in 438.[3]

The Canons of Sardica bear the same characteristics as the documents which have just been discussed, and in addition reflect other essential features of the parliamentary protocol.[4] It is evident that in this period

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1. Cf. P. Batiffol, art. cit. (Le Règlement des Premiers Conciles Africains), p. 15.
2. T. Mommsen, Monumenta Germaniae Historia, Vol. XII (Auctores Antiquissimorum), Berlin, 1894, pp. 444-451.
3. "Gesta Senatus Romani de Theodosiano publicando" - anno 438 - secs. 3, 4, 6, and 7, in T. Mommsen and P.M. Meyer, Theodosiani Libri XVI, Berlin 1905, Vol. I, part 2, pp. 1-4. Regarding this document see T. Mommsen, op. cit. (Le Droit Public), p. 216, note 2.
4. A summary analysis of the phases of parliamentary procedure represented in the Sardican Canons is given in Chart B, Appendix I.

the rigorous formality of the pure parliamentary process was not observed. In most of the Sardican discussions, as we have seen with respect to several canons of the series considered above, the relatio is accompanied by the sententia of the proponent and as such was frequently acclaimed as the judgement of all.

As a preliminary observation it is to be noted that frequent use is made of expressions characteristic to the parliamentary idiom. "Placere sibi", denoting the concurrence of the sententiae with the formula of the question,[1] is found in the acclamation clauses of canons 10a, 11, 13, 14 and 15. The most striking use of the word "sententia" in reference to an individual opinion is found in canon XIX of the Greek text with, τῆς ἐμῆς μετριότητος ἡ ἀπόφασίς ἐστιν αὕτη. Also in the Greek text, the acclamation clause following the first half of canon XX(11) reads ἀρέσκαι ἡμιν ἡ τοιαύτη γνώμη. Canons 11 and 18 allude to the judgement of the synod as the "sententia omnium",[2] and in canons 4 and 11 similar reference is made to the canon preceding as "huic sententiae". In canon 8 the verb "decernere" is employed in its parliamentary connotation in reference to

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1. T. Mommsen, op. cit. (Le Droit Public Romain), p. 166.
2. This seems parallel to the senatus-sententia (= senatus-consultum). Cf. T. Mommsen, op. cit. (Le Droit Public Romain), p. 186.

the complete process of sententiae, vote, and resolution.[1]

Canons 1, 2, 3, 5-6, 8, 9-10a (9a and 9b-10a separately according to the Greek text as VIII and IX), 11 (as two proposals separately in the Greek), 13, 14, 15, 16, 17, 18 and 20 are initial propositions which bear the characteristics of the relatio and, with the exception of canon 20, also express the sententia of the proponent. The latter provides an example of the relatio in its purest form. The problem for consideration is simply placed before the assembly with no proposed solution. Each, as was the custom, is accompanied by background information relating to the question. This is particularly noticeable in canons 8, 13, and 14. Also characteristic is the inclusion of different related questions within the one proposition as in canons 3, 5-6, 9, and 11. The nature of the relatio as a question inviting expression of opinion is particularly evident in canon 9a with "providentia vestra tractare debet", in canon 11 with "si vobis placet, debet omnium sententia confirmari", in canon 13 with "necessarium arbitror ut diligentissime tractetis" in canon 14 with "statuere debetis" and "definite ergo tempus", and in canon 17 with "providendum est ne innocens damnetur aut

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1. Cf. T. Mommsen, op. cit. (Le Droit Public Romain), p. 166, note 4.

perdat communionem". That the foregoing analysis of the proposal canons is not arbitrary is demonstrated by the positive evidence of other phases of the parliamentary process in connection with the above considered canons 3, 8, 11, 17, 18, and 20 and possibly also 16. It remains that with respect to canons 1, 2, 5-6, 9, 13, 14, and 15 the parliamentary process may have given way to immediate assent by acclamation with no further opinions given, and that the initial proposition thus approved became also the resolution intended for publication. It has been noticed, however, that of these canons 9, 13, and 14 are phrased in such a way as to invite comment rather than direct approval. The final paragraph of canon 14 (beginning "Memini autem") is clearly the sententia of Hosius relating to the preceding proposal. Whether or not it immediately followed the relatio in the original presentation cannot be determined, but it is possible that other sententiae intervened.

The remaining canons and some of the closing sections which stand as acclamation clauses are extracts preserved for one reason or another from other phases of the full parliamentary process. Canon 10 of the Latin text contains nothing which is not already expressed in canon 8 and can only be regarded as a

sententia in response to the "si ergo et hoc vobis placet" of that former canon. Canon XIX of the Greek text, as is shown by its opening phrase quoted above, is the sententia of Hosius on a question concerning a local schism at Thessalonica.[1] The acclamation clause of canon 20 (Ea tempora quae constituta ...) is an answer to the question posed by Aetius in the body of the canon. As it is not in the form of a resolution it may be presumed that this clause is the sententia which was accepted by the synod. In the Latin text the clause is introduced by "Universi dixerunt" but ascribed instead to Hosius by the Greek and therefore appears to be his response to the question. That which stands as the acclamation clause of canon 18 (Quia ex his contentionibus ...) seems similarly to be an approved sententia in abbreviated form,[2] and the same may be the case with the acclamation clause of canon 16

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1. The preceding canon (XVIII) is addressed in direct discourse to Aetius recognizing his personal involvement in this problem, and recalls the judgement which the synod had made (ἔδοξε = placuit). It seems probable, therefore, that it should not be regarded as the initial proposal, as its present position indicates, but as a statement outside the essential verbal process.
2. A fuller reading is provided by the Theodosian version: "Maxime ex huiusmodi contentionibus consueverunt nasci discordiae et concupiscentiae, et ob hanc rem ad destinatas sibi clerici non pergunt ecclesias: omnium sententia hoc proibet fieri." This is undoubtedly close to the original reading of the Greek, now entirely lacking in that text.

(Hoc statutum et pacem servabit ...). Also, according to the Greek text, the first section only of canon XIV(17) (down to ... τῆς κοινωνιάς ἀποστερεῖσθαι) stands as the initial proposal while the remainder, headed by πάντες εἰρήκασιν, appears to be the sententia which was approved by the synod.

Three canons of the series are final resolutions or redacted sententiae. These are 7, 19, and 21 each of which, neither in the form of a proposal nor an opinion, is instead a report of what has been decreed. Thus canon 7 opens with "placuit autem ut", canon 19 with "Et hoc universi constituimus" and canon 21 with "(Suggerente ... Olympio) hoc placuit". With regard to the latter, "Suggerente ... Olympio" seems to refer to the sententia of which this resolution is a redaction.

Canons 4 and 12 are amendments to the propositions preceding them. This is shown both by their content and by their opening phrases: "Addendum, si placet, huic sententiae quam plenam sanctitatis protulistis" and "Sed et moderatio necessaria est."

A final source of evidence for use of the parliamentary process at Sardica is found in the authorship of the various phases of the verbal process. The great majority of initial propositions, as would be expected,

were introduced by Hosius as president. Out of fourteen subject introductions (as according to the Latin text) eleven were made by Hosius and one each by Gaudentius of Naissus, Januarius of Benevento and Aetius of Thessalonica. The final resolutions, three in number as noted above, were again presented by Hosius. The one amendment (canon 12) and the one sententia (canon XIX) attributed to Hosius were in each case made in response to a proposal presented by another member of the synod.

From the foregoing discussions it is apparent that the Sardican Canons are representative of a rudimentary stage of canonical preservation, being simply stenographic records of the essential phases in the parliamentary process. A record of this sort can hardly be called a form of publication and its employment for that purpose, with the exception of the Canons of Sardica, was confined to Africa.

The form of canonical publication apparently normal to both East and West during the fourth and fifth centuries will for convenience be called the "placuit" form. The canons which typify it may be described as informative and frequently discursive accounts of agreements made with respect to particular problems at particular synods. Series of canons in this form are found to be accompanied

by a brief statement (usually introductory) identifying the place and circumstances of the assembly and also by a list of subscriptions such as is common to various forms of synodal acts.[1] The canons are usually characterized by a word or phrase such as "(item) placuit, ut", "constitutum est, ut", or "decrevit sancta synoda, ut" which refers back to the authority of the assembly designated in the heading. In the West rigid adherence to this as a set form is found in the canons of the synods held at Arles in 314,[2] Valence in 374,[3] Nimes in 394,[4] Turin in 401,[5] and Carthage in September 401.[6] The same may be observed in the Canons of Elvira (between 300 and 306)[7] and Toledo (400),[8] although in a number of the canons of these synods the "placuit, ut" characteristic is lacking.

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1. An example may be cited from the Canons of Arles: "Dominus sanctissimo fratri Silvestro Marinus, vel coetus episcoporum qui adunati fuerunt in oppido Arelatensi. Quid decreverimus communi consilio, caritati tuae significavimus, ut omnes sciant quid in futurum observare debeant." The canons then follow and are succeeded by a statement as to the time and place of the sitting and the list of subscriptions (Harduin, I, cols. 263-268).
2. Harduin, I, cols. 263-268).
3. Ibid., cols. 795-797.
4. Hefele, II, pp. 402-406.
5. Harduin, I, cols. 957-960.
6. Canons 27, 66-76 and 79-85 of the Codex Canonum Ecclesiae Africanae (Harduin, I, cols. 878 and 899-907). Cf. Hefele, II, p. 423.
7. Harduin, I, cols. 249-258.
8. Ibid., cols. 990-992.

If Steinwenter's assumption is correct, as it seems to be from the later evidence furnished by the acta of Ephesus and Chalcedon, the same parliamentary process underlies the framing of the canons of the Eastern synods in the fourth or fifth centuries. Although the introductory headings are lacking the "placuit" form is clearly represented in many of the Canons of Ancyra (312),[1] Nicaea (325),[2] and Antioch (c. 329).[3] The absence of the characteristic feature of the headings in these series may well be due to their early combination with other canons in the formation of the primitive Eastern corpus.

It is not difficult to establish the relationship of canons of the "placuit" type to the primitive form of publication typified by the Sardican and African series. As the primitive form reflects the parliamentary verbal process in each of its phases, the "placuit" form is parallel to the customary method used in the publication of the resolutions of the senate, or senatus-consulta. These resolutions were combined to form a series known as the liber sententiarum in senatu dictarum, which is described by Mommsen as a document addressed to interested

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1. Pitra, I, pp. 441-448.
2. Ibid., pp. 427-435.
3. Ibid., pp. 456-466. For a discussion of the origin of the Canons of Antioch see Appendix IV.

persons in the form of a letter.[1] The resolutions were statements of agreements which had been made by the senate on specific questions and in their phraseology frequently referred to the authority of the particular sitting with use of words or phrases such as "placere", "placere senatus" or "arbitrari senatum".[2] These resolutions were, as has been mentioned, redactions of the sententiae accepted by the senate. In addition to resolutions, the liber sententiarum contained information as to the place and date of the sitting and the subscription of witnesses.[3] The similarities between this type of document and the form of canonical publication manifested in the "placuit" series leads to the conclusion that the one provided the pattern for the other, and that the canon published in this form is a redaction of the synodal resolution in the final phase of the parliamentary process. Confirmatory evidence for this identity is furnished by the "cross section" of the parliamentary process displayed by the Canons of Sardica. Canons 7, 19 and 21, as examples of the redacted resolution, are identical in form with canons of the "placuit" type.

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1. Op. cit., pp. 210-211.
2. Cf. C.G. Bruns, Fontes Juris Romani Antiqui (7th edition), Tübingen, 1909, pp. 164-211 and specifically the examples in sections 47, 48, 50, 51, 55 and 57-60.
3. Cf. T. Mommsen, op. cit. (Le Droit Public Romain), pp. 202-205.

Unfortunately no procedural minutes are extant for the legislative sessions which underlie the publication of the canons from this early period. If such were available the overall analysis of the relationship between the verbal process and the published canon would be greatly aided. The failure in preservation of these records, however, does not seem to be entirely fortuitous for among the minutes of Ephesus and Chalcedon no trace may be found of the legislative sessions which underlie the canons published by these councils. This fact indicates that once the final redaction of the canons was made such minutes as may have existed were no longer kept. For the synod, as for the senate, the redacted resolution was the accepted form of publication of agreements concerning discipline, polity or order. The editorial process of publication illustrated by a comparison of the Sardican Canons with series of the "placuit" type may also be seen, however, with respect to canons 28-30 of Chalcedon.[1] These were not included in the series as originally published and are extracts subsequently edited from the minutes of the Sixteenth, Nineteenth and Fourth Sessions respectively. Canon 28 is the final resolution of the council in a discussion concerning the authority of the See of Constanti-

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1. Harduin, II, cols. 611-614.

nople. Reference to the circumstances in which the session was assembled has been removed by the deletion of the phrase τῶν συναχθέντων ... νέαι Ῥώμηι[1]. Canon 29 is a verbatim transcription of the sententiae of the papal delegation and of Anatolius of Constantinople concerning the case of Photius of Tyre and Eustathius of Beryte.[2] Canon 30 has been formed by the combination of two final judgements relating to the subscription of the Egyptian bishops to a letter of Pope Leo.[3]

It is reasonable to suppose that the adoption of the forms of particular types of civil enactments for ecclesiastical use was determined by the function which the canonical forms, parallel to their civil counterparts, were intended to perform. As an institution of civil government the senatus-consultum was regarded in the time of Diocletian and Constantine as a counsel of advice.[4] It is therefore not surprising that the synodal canon was patterned after the senatus-consultum before the conscious acceptance of an ecclesiastical rule of law, for a degree

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1. Actio XVI, sec. 8 (A.C.O., Tome II, Vol. 1, pp. [447]-[448] or Harduin, II, cols. 625D - 628A).
2. Actio XIX, secs. 49 and 50 (A.C.O., II, 1, pp. [467]-[468] or Harduin, II, col. 444A-B).
3. Actio IV, secs. 60 and 62 (A.C.O., II, 1, p. [310] or Harduin, II, col. 420D-E).
4. Cf. E. Cuq, Manuel des Institutions Juridiques des Romains (2nd edition), Paris, 1928, p. 26.

of limited authority, parallel to that of the senatus-consultum, seems to have been accorded to the canon until at least the late fourth century in the East and the late fifth century in the West. The emergence of the concept of the canon as an instrument of juridical authority is closely associated with the later growth of an ecclesiastical corpus parallel in structure to the corpus of civil law.[1]

A form of publication very different from that just considered is exemplified by the canons of Neocaesarea (between 314 and 319)[2] and by the Canons of the Apostles[3] and of Laodicea.[4] Canons of this type are terse, usually brief and phrased in the imperative mood with no internal reference to the authority of the synod to which they are attributed. Schwartz has supposed that this polished style of publication was developed in the East in the late third century.[5] In view of the evidence advanced above it seems more probable, however, that the "placuit" form was normal to the East as well as to the West until perhaps

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1. Cf. E. Schwartz, "Die Kanonessammlung des Johannes Scholastikos", in Sitzungsberichte der bayerischen Akademie der Wissenschaften, Philos.-Hist. Klasse, 1933, Heft 6, p. 2, and see below p. 180 f.
2. Pitra, I, pp. 451-454.
3. Ibid., pp. 13-36.
4. Ibid., pp. 495-504.
5. art. cit. (Der griechische Text), p. 5.

the latter half of the fifth century, and that the statute form, patterned after the civil statute,[1] was introduced with the growth of a legalistic concept of canonical authority. As we have seen, the canons of Ancyra, Nicaea and Antioch clearly show that the "placuit" form of publication was used in the East during the first half of the fourth century, and further evidence against Schwartz' supposition is provided by the consistent use of this form in the fifth century canons of Ephesus (431)[2] and Chalcedon.[3]

The development towards the second stage of canonical publication does seem to have begun in the East during the fourth century, but it is evident that it did not come into general use until a later period. Although it is impossible to draw a hard line of distinction between the two forms, it may be that the statute is reflected in a number of the canons of Ancyra, Nicaea and Antioch. The earliest positive evidence for its use is found in the work of the school of collectors and editors which operated in the region of Antioch during the latter half of the fourth century. Schwartz and others have shown that these early canonists combined

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1. See for example the decrees of Constantine (P.L., VIII, cols. 93-400).
2. Pitra, I, pp. 515-518.
3. Ibid., pp. 522-532.

the genuine series of Antioch and Gangra with material taken from a variety of sources and that the latter was edited under the name of the Canons of the Apostles and of Laodicea.[1] These spurious series reveal that the form of publication favoured by the editors was that of the statute, and its use by them is consonant with the evident purpose of the whole collection as a bulwark of legal authority. The Canons of Neocaesarea, uniformly representing the terse statute, may be a very early manifestation of this process of development, but their degree of contrast with contemporary and later genuine publication indicates the possibility of their having been revised from their original form. Of the canons of Constantinople the first five are of the statute form, whereas the last two are of the "placuit".[2] Here also a strong likelihood of later editorial change is suggested. The Canons of Gangra (341)[3] on the other hand, may hardly be classified with contemporary canonical forms at all due to their quite different characteristics.[4]

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1. Cf. E. Schwartz, art. cit. (Die Kanonessammlungen der alten Reichskirche), pp. 35-43.
2. Pitra, I, pp. 508-512.
3. Cf. E. Schwartz, "Der sechste nicaenische Kanon auf der Synode von Chalkedon", in Sitzungsberichte der Preussischen Akademie der Wissenschaften, Philos.-Hist. Klasse, 1930, p. 638, note 1.
4. Pitra, I, pp. 487-492. The series is composed of twenty short canons in the form Εἴ τις .... ἀνάθεμα ἔστω.

It does not seem likely that the record of the Sardican verbal process has ever existed in a more extensive form than that represented by the present canons. In view of the manner of canonical publication which we have found to have been current in the West and also in the East, it would be expected that an extract edition of minutes, rather than preserving the various phrases of the verbal process which are found in the Sardican series, would contain only redacted resolutions. In several cases in the Sardican series repetitions occur from the inclusion of initial propositions, sententiae or resolutions which pertain to the same subjects. Such redundancy would not be likely in an extract edition.

No mention of the Sardican acts is found in the writings of the early historians, but reference to them seems to be made in the Synodal Letter to Pope Julius by the phrase, " ... universa, quae gesta sunt, quae acta, quae constituta, et chartae continent et vivae voces ... exponere poterunt."[1] It is probable that the Latin text of the Canons reached Rome soon after the synod[2] and, in

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1. C.S.E.L., LXV, p. 127. The Thesaurus Latinae Linguae (Leipzig, 1906, Vol. III, col. 998, line 70) gives "chartae" a meaning synonymous with acta or gesta as an account of public proceedings in this particular context. See also A. Wikenhauser, art. cit., p. 134.
2. See below, p. 85.

the absence of evidence to the contrary, it may be presumed that the documents containing them were the "chartae" referred to in this letter.

The reasons for the employment of this form of publication at Sardica seem to arise from the circumstances under which the synod met. Caspar has suggested that professional stenographers had been sent by Constantius in company with the Eastern bishops, and that by the refusal of the Eusebians to meet with the Orthodox the Western synod was deprived of adequate secretarial assistance. It is as a result of this, he suggests, that the sketchy records which we have were made.[1] As determined as the Orthodox bishops were to conclude the matters for which they had assembled, the Western synod was an ineffective substitute for the general council which had been planned. While in theory its acts were intended primarily to check Eusebian manoeuvres, in reality they could at best achieve acceptance only among those who supported the Nicene cause. In these circumstances the bishops may well have realized the futility of official publication of their legislative acts in the customary canonical form.

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1. Op. cit., Vol. I, p. 160.

4. THE PROBLEM OF TEXTUAL PRIORITY.

Unlike all other series of early canons which were incorporated into the primitive Latin and Greek collections, no direct evidence exists for either the Latin or the Greek texts of the Sardican Canons to have been the original with the other as a translation. Both are of great antiquity and the question of relative priority has remained unsettled up to the present time. While they are in substantial agreement concerning the agreements made at Sardica the two versions are at variance in several significant details. Not only is the order and arrangement of material somewhat different between them, but in certain cases there is considerable divergence in meaning between corresponding canons. All of the extant Latin recensions agree in their basic differences from the Greek and must therefore owe their origin to a common prototype. The Greek recensions, fewer in number, agree in like manner against the Latin. The priority arguments on behalf of each have been based on both textual and historical evidence, and, as the internal textual evidence may admittedly be interpreted in different ways, fairly strong cases have been advanced on both sides. Latin priority has been recently maintained by Schwartz and Turner among others, and Greek priority by Hankiewicz.

Schwartz feels that the form of publication, differing as it does from that customary in the East, provides strong evidence for Latin priority in that it suggests Western authorship. He also argues for the probability of the official use of Latin at Sardica from the language of publication of the other Sardican documents, particularly the Synodal Letter to Constantius and the Encyclical.[1] The Latin originality of the former has never been questioned and that of the latter he thinks definite from the pure Latinity of the version represented by the Paris Manuscript 483, and from the absorbed latinisms in the Greek versions of Athanasius and Theodoret.[2] Schwartz finds further evidence for the originality of the Latin canons in the fact that the fifth century editor of the Quesnel Collection corrected the Canons of Nicaea with the aid of the Greek text whereas he did not do so with the Sardican. This, he suggests, shows that the editor considered the Latin text to be original.[3]

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1. E. Schwartz, art. cit. (Der griechische Text), pp. 5-7.
2. The Latin originality of the Encyclical has been questioned by Feder (art. cit. - Studien zu Hilarius von Poitiers: I -, p. 87) and more recently by Gelzer in his detailed study of this document (art. cit., pp. 12-17). Schwartz has received support, however, from Opitz who considers the Greek versions of Athanasius and Theodoret to be translations from the Latin text represented by the version preserved by Hilary (op. cit., p. 119, note 4).
3. E. Schwartz, art. cit. (Der griechische Text), p. 18.

Turner points to two expressions found in the Greek text which he feels are unlikely to have occurred in original Greek composition and therefore appear to be literal translations from the Latin idiom. These are the Greek equivalents of "de latere suo (presbyterum mittat)" found in canon 7(V), and "coepiscopum nostrum ... qui in maxima civitate, id est metropoli, consistit" in canon 9 (IX).[1] In the Greek text λαϊκοῖς is found in canon VII as the equivalent of "pupillis" in Latin canon 8. Turner suggests that in this case the translator misread "populis" for "pupillis" and thus wrote λαϊκοῖς in translation. Strongly favouring this explanation is the occurrence of the meaningless "liutius" in the Theodosian version which seems to be an attempted transliteration of the Greek. Turner's arguments have been accepted, and to a degree augmented, by Schwartz.[2]

Hankiewicz, in an article on the genuineness of the Canons and the interrelationship between the Greek and Latin texts, has developed a lengthy argument for the originality of the Greek text. He bases his argument on internal evidence and contends that the Greek gives a more harmonious and coherent presentation of the

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1. C.H. Turner, art. cit. (Genuineness), p. 376, note 2.
2. E. Schwartz, art. cit. (Der griechische Text), pp. 7-9.

material than the Latin.[1] One of his principal points concerns the appeal canons. The Greek text, he feels conveys the intended meaning of the appeal legislation at Sardica whereas the Latin has misinterpreted it. He maintains that this supposed confusion in the Latin text is demonstrated by the position of the acclamation clause in the appeal series. In the Greek, Hankiewicz contends, the clause is correctly placed at the conclusion of the series - after canon V(7) - but in the Latin text it is wrongly attributed to canon III(3).[2] It is to be observed against this argument that Hankiewicz' own interpretation of the appeal legislation, upon which his analysis rests, is open to serious criticism,[3] and that the position of the acclamation clause is correct in the Latin and not in the Greek according to the analysis set forth in the previous section. Hankiewicz further makes use of the readily acknowledged divergence between canon VI of the Greek and its Latin counterpart,[4] but it is to be noted that Schwartz has quite easily turned the same argument in the other direction and used it in support of Latin priority.[5]

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1. G.R. von Hankiewicz, "Die Kanones von Sardika", in Z.S.S.R., Vol. XXXIII, 1912, Kan. Abt. 2, pp. 49-76.
2. art. cit., pp. 63-76.
3. See below, p. 204 ff.
4. art. cit., pp. 87-95.
5. art. cit. (Der griechische Text) pp. 20-21.

Hankiewicz' arguments in behalf of the greater coherence of presentation in the Greek text are subject to varying evaluation, for taking the Sardican Canons as they stand in either the Greek or the Latin version and interpreting their meaning from their historical context is one matter, but trying to reconstruct them on a basis of internal consistency is another. The unpolished form of preservation and extemporaneous phraseology of the Canons will not allow a critical analysis of each construction.

In conjunction with the proportionate Latin speaking representation at Sardica, the textual differences led the Ballerini to postulate a double redaction.[1] Their hypothesis has been accepted latterly by Hefele,[2] and Maassen.[3] The considerable differences between the versions have, as we have seen, been marshalled as evidence for both Latin and Greek priority, and also by those who have argued for dual originality on the grounds that the textual divergence can be adequately explained only by supposing that both texts are original and independent. Unfortunately the major textual differences cannot be

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1. P. and J. Ballerini, "De antiquis collectionibus et collectoribus Canonum", Pars. I, caput 5 (P.L., LVI, cols. 41-44.
2. Op. cit., Vol. II, p. 109.
3. F. Maassen, Geschichte der Quellen und der Literatur des Canonischen Rechts in Abendlande bis zum Ausgänge des Mittelalters, Gratz 1870, Vol. I, p. 50.

validly used as evidence in the problem of priority, for they undoubtedly come from later editorial emendations to the Greek text.[1] This simplifies the problem to the extent that the present Greek text cannot be considered prior to the present Latin, and indeed settles the priority problem as envisaged by those who have attempted to solve it on the basis of the texts as they stand, but further obscures the relationship of the Greek prototype to the Latin. The external evidence cited by Schwartz and the latinisms in the Greek pointed out by Turner, together with the occurrence of λαϊκοῖς, provides the only substantial evidence we have towards a solution of the essential problem. These facts do show with reasonable certainty that the Greek prototype is dependent upon the Latin and not vice versa, but still leaves the open possibility, for reasons advanced below, that two independent sets of minutes are represented by the received texts as the Ballerini originally suggested.

From a study of the sees represented[2] at Sardica the following language representation is made evident. At least thirty-eight Greek speaking bishops were present and thirty-three Latin. The number for the Latin includes

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1. See below, pp. 97-98.
2. Cf. A.L. Feder, art. cit. (Studien zu Hilarius von Poitiers: II), pp. 62-63.

two from Pannonia, three from Moesia, and five from Dacia.[1] The number for the Greek includes one each from Alexandria, Palestine, and Arabia where Greek but not Latin would be known. Eighteen sees represented are unknown and the location of eight is undeterminable from corruption of the texts.

This approximately equal Latin and Greek speaking representation is unique among fourth century councils. The number of Westerns at Nicaea was small, and at no other Eastern Council do we find the number of Latin speakers nearly equal to that of the Greek, as indeed it would not have been at Sardica if the Council had met as planned. Under these circumstances both a Latin and a Greek record of the essential phases of the verbal process may well have been considered a necessity. The very fact of the existence of two texts in the same form of publication is a strong indication that this necessity was satisfied, for it seems doubtful that a full translation of minutes would have been made from one language to the other when the publication of legislative acts in canonical forms was customary. If a translation of such records had been made certainly a more polished redaction

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1. The Latinity of the Church in these provinces is shown by inscriptions (cf. J. Zeiller, op. cit., p. 40).

would be expected.

It is almost certain that the majority of the proposals, sententiae, amendments and resolutions which we have as canons were presented in the Latin tongue,[1] and that consequently the process of translation to the Greek took place at one point or another. Herein lies the inescapable dependence of the Greek upon the Latin which would pertain equally well if the Greek text is in fact a set of minutes taken from the Latin by a bilingual scribe or, as is more likely, a verbatim record of the proposals as they were repeated by an interpreter. It is quite possible that an interpreter so employed might have understood "populis" when Hosius said "pupillis". Schwartz points out that the translator knew both languages well and rendered the Latin into smooth flowing Greek retaining the sense of the Latin without slavish dependence.[2] This description could as well fit the oral translation of one who would have been employed as the interpreter for the synodal sittings, and the large

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1. The Canons presumably presented in Greek are 4, 11 and XVII (by Gaudentius of Naissus); 10b (by Alypius of Megari in Achaia); and 20 (by Aetius of Thessalonica). Schwartz considers Latin to have been used as the business language at Sardica ("Zweisprachigkeit in den Konzilsakten", in Philologus, Vol. LXXXVIII, 1933, p. 245).
2. art. cit. (Der griechische Text), p. 31.

degree of acknowledged independence between the texts which allows Hankiewicz to argue for Greek priority and Turner and Schwartz for Latin also allows the possibility of a double redaction.[1]

The omission of canons 10b and 12 from the Greek text and canons XVIII and XIX from the Latin provides further evidence for the suggested independent transcription. 10b is a sententia containing nothing which had not been previously stated in canon 8, and 12 is an amendment calling for temporary action only. XVIII and XIX on the other hand are concerned with a problem peculiar to the Church of Thessalonica. The reason for the omission of these four canons from the respective texts is manifest from their nature and limited applicability. It seems more likely that they were never included in the texts from which they are lacking than that they were deleted later, for the work of the early canonists shows that they had a fascination for every item of legislation which they were able to collect. The absence of canon 18 from the Greek text does seem to be the result of a later editorial omission, but for a specific purpose.[2]

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1. For specific examples of independent readings and constructions see below, p. 96, note 1.
2. See below, p. 147.

Outside the main body of the text lie the acclamation clauses, and these exhibit a curious pattern of diversity. Out of sixteen acclamations of approval, which pertain to material preserved by both the Latin and Greek, in only eight cases does the wording of the Greek clause conform to that of the Latin in a general sense. In canons 3, 9a, 11, 13, 14, 17, 19 and 21 of the Latin the clauses are dissimilar either in position or in meaning to that of their Greek counterparts. It is possible that these differences are due to editorial changes at a later date, but there is no evidence that this is the case, and no conceivable reason why it should have been done. Schwartz, in supposing that the Greek text is a later translation from the Latin, suggests that the acclamation clauses were revised to make them conform to the Greek idiom. This explanation accounts for only one of the differences. In several cases the Greek closing clauses are not rephrased but express an entirely different idea from the Latin and in six cases the position of the clauses in the same block of material is not the same. For the entire series the Greek has seventeen clauses whereas the Latin has only thirteen. The most significant factor to be noticed in connection with the acclamation clauses as found in two texts is the different

view of the verbal process which they effect. Canon 9, which appears as a single proposal in the Latin, is given as two separate proposals in the Greek by the occurrence of an assent clause at the end of the first section (9a Latin and VIII Greek). A similar division occurs in canon XX(11) and in canon XIV(17). In the latter a large section of the main body of the text as it stands in the Latin is given as an acclamation clause by the Greek.

It would indeed be curious for a Greek translator or later editor to show this degree of creative interest in the distinguishing characteristic of a form of publication which was apparently little used in the East. We may in this respect usefully compare the occurrence of assent clauses in the early fifth century Latin translation of the Greek text in the Collection of Theodosius Diaconus. Of the seventeen clauses in the Greek prototype all but eight have been entirely omitted.[1] Should we not expect a similar lack of interest in closing clauses in the Greek text, rather than the keen interest exhibited, if it were itself a later translation from the Latin? These variations in the acclamation clauses seem to reflect the differing judgements of two scribes as to the wording and position of the expressions of assent,

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1. See chart C, Appendix I.

and provide further evidence that the two texts represent independent sets of minutes. The only two closing clauses which have similarity of content between the Latin and Greek and are of sufficient length as to suggest a textual interdependence are those of canons 16 and 20. These, it has been suggested, are not acclamations at all, but sententiae.

It may well be questioned on the other hand whether the relatively close agreement between the texts with respect to the material preserved allows the hypothesis of two independent transcriptions. Would two stenographers have agreed so closely in the phases of the verbal process which they recorded? It may be seen in connection with the two African series and the minutes of the Senate from 438, considered in the previous section, that a common principle of selection from the verbal process was observed. In each the overall pattern is the same. The initial proposition and the related approved sententia have been preserved from each debate. It is evident that the same principle of selection was followed at Sardica, and consequently that the complete agreement between the Greek and Latin texts in the preservation of the initial propositions and the redacted resolutions, when these exist, need cause no difficulty. The majority of the

initial propositions were also approved by the judgement of the synod, but in a few cases this did not happen, either because the speaker introducing a question did not suggest a solution or because his solution was not accepted. As has been considered above, canons 17(XIV), 20(XVI) and perhaps 16(XIII) were cases of this sort. It is not surprising that the texts again agree in preserving the approved sententiae relating to these proposals. While the Greek text has omitted Hosius' amendment (canon 12), the amendment to canon 3(III) submitted by Gaudentius is of considerable importance to the appeal legislation and might be expected to be preserved as an integral part of it in any record which was kept.

CHAPTER III

EARLY TEXTUAL TRANSMISSION AND DEVELOPMENT

1. THE TRANSMISSION OF THE LATIN TEXT

The history of the transmission of the Sardican Canons in the Latin text is uncertain before their emergence in the first systematic collections of canon law in the West, but a few indications of their preservation are found in this early period which allow certain conclusions to be drawn.

Two facts are brought to light by a jurisdictional dispute which arose between the African and Roman Churches in 418. Citing the authority of Nicaea, Pope Zosimus quoted canons 7 and 17 of Sardica to justify his restoration of a deposed African presbyter, Apiarius of Sicca. The claim for these canons to be Nicene was rejected by a synod assembled at Carthage, but no counter-claim as to their identity was advanced. From this incident it appears that the Sardican Canons were known at Rome but not at Carthage, and that they were believed at Rome to be Nicene. Subsequent to this affair the circumstances of transmission and preservation of the Sardican Canons are fairly well known from their presence in the early

canonical collections.[1] Previous to 418 the identifiable references to the Canons are few, but those which exist indicate that they were preserved at Rome from an early date.

Early in the fifth century Pope Innocent attributed Nicene authority to the appeal canons in his letter to Victricius of Rouen (404).

> Si maiores causae in medium fuerint devolutae, ad sedem apostolicam, sicut synodus statuit, et beata consuetudo exigit, post iudicium episcopale referantur.[2]

Friedrich has maintained that this was not a citation of Sardica but instead a repetition of Pope Julius' interpretation of canon 6 of Nicaea[3] in his letter to the Eusebians.[4] In this it is stated that it was the custom to refer important matters to the Roman See that just judgement might be given from there.[5] Julius' statement may well be reflected by the phrase " ... Romanae Ecclesiae, cui in omnibus causis debet reverentia custodiri" found in the preceding paragraph of Innocent's letter, but the ruling under consideration is considerably more specific than the general statement of Julius,

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1. See Appendix III.
2. Sec. 3 (P.L., XX, col. 473).
3. According to the Latin version preserved at Rome the canon begins, "Ecclesia Romana semper abuit primatus" (E.O.M.I.A., I, p. 121).
4. art. cit. (Die Unechtheit), pp. 437-438.
5. Athanasius, Apol. contra Arianos, 35 (P.G., XXV, col. 308A).

and there seems little doubt that it is an intended summary of the Sardican canon.

In section 7 of the same letter Innocent ascribed Nicene authority to the precept that a cleric from one Church should not be ordained to a higher function in another.[1] The fact that his reference was to canon 19 of Sardica and not to the similar canon 16 of Nicaea, as Friedrich claims, is made evident by a comparison of the three texts.

Letter to Victricius, 7:

> Ut de aliena Ecclesia clericum ordinare nullus usurpet, nisi eius episcopus precibus exortatus, concedere voluerit.

Canon 19 of Sardica:

> ... ut quicumque ex alia parrocia voluerit alienum ministrum sine consensu episcopi ipsius et sine voluntate ordinare, non sit rata ordinatio. Quicumque autem hoc usurpaverit ... "

Canon 16 of Nicaea:

> Si quis autem ausus fuerit per subreptionem aut contumaciam hoc agere (cf. canon 15 preceding) ut qui ad alium pertinet sibi vindicando eum constituerit episcopum vel presbyterum, inrata fiat eius ordinatio.[2]

Innocent's paraphrase is not only verbally dependent upon the Sardican canon, but also closer to it in content than to the Nicene canon. This is made particularly

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1. P.L., XX, col. 475.
2. E.O.M.I.A., I, p. 137.

evident by the inclusion of the qualifying clause that the ordination may take place if the permission of the cleric's own bishop has been obtained.

Two earlier citations of the Sardican Canons may be cited from the Canones ad Gallos Episcopos.[1] Canon 2 of Sardica seems to underlie the admonition in section 5 against the acquisition of the episcopal office by payment of money or by courting the favour of the people,[2] and the punishment of episcopal translation by deposition ordered in the same section reflects Sardican canon 1.[3] As neither of these stipulations has a Nicene equivalent the references to Sardica seem definite.

Friedrich is probably correct, however, in denying an attributed Sardican source to several other references from the late fourth century. Two specific examples are the supposed citations of canon 1 by St. Jerome,[4] and of the appeal canons by Pope Siricius.[5] In both cases the statements are so general that their sources cannot be clearly identified, and they may well have been references

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1. This letter has been variously attributed to Pope Innocent I (402-417), Pope Siricius (384-399) and more recently to Pope Damasus (366-384). Cf. O. Bardenhewer, Geschichte der altkirchlichen Literatur, Vol. III (2nd edition), Freiburg, 1923, p. 590.
2. P.L., XX, col. 1191A.
3. Ibid., col. 1192B.
4. Epist. LXIX, 5 (C.S.E.L., LIV, p. 687).
5. Epist. I, 20 (P.L., XIII, col. 1146).

to canons 15 and 6 of Nicaea respectively.

The authentic citations of the Sardican Canons show conclusively that they were known at Rome from the late fourth century onwards, and it is probable that the document containing them arrived in Rome at a considerably earlier date. In no instance are the canons attributed to Sardica. The genuine references which are identified are invariably invested with the authority of Nicaea. This attributed authority, and the long persisting continuous numeration of the Sardican Canons with those of Nicaea, has led to the conclusion that subsequent to their arrival in Rome they were bound together with the Nicene series either for the sake of convenience, or because Sardica was considered to be a vindication or completion of the former council.[1]

Fortunately canons 7 and 17, cited by Pope Zosimus in the controversy over Apiarius, were quoted in full in the commonitorium which was read at Carthage in 419.[2] Upon comparison it may be seen that the textual tradition known to Zosimus is identical with that called the "Chieti" preserved in the ninth century Codex Ingilrami episcopi

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1. C.H. Turner, art. cit. (Genuineness), p. 239 and E. Schwartz, art. cit. (Die Kanonessammlungen der alten Reichskirche), pp. 51-52.
2. E.O.M.I.A., I, pp. 571-573 and 578.

teatini.[1] From this it is evident that the Chieti very closely represents the original Latin text of the Sardican Canons.

There is no evidence that the Sardican Canons were preserved elsewhere in the West before the dissemination of the early collections of canon law. In Africa one direct reference was made soon after Sardica. This is a paraphrase quotation of canons 18 and 19 by Gratus of Carthage at the synod assembled in that city in 345: "Nam et memini, in sanctissimo concilio Sardicensi similiter statutum, ut nemo alterius plebis hominem usurpet ...."[2] This citation was evidently made from memory and provides no evidence for the preservation of a copy of the Canons at Carthage. Certainly there is no later trace of such a document having been known in Africa, and the first introduction of the Sardican Canons into the African Corpus of canon law seems to be with the Brevatio Canonum of Fulgentius Ferrandus in the mid-sixth century.[3] Early in the fifth century St. Augustine demonstrated his

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1. The version represented by this manuscript is the basic source for Turner's critical edition of the Latin text. The Chieti readings which he does not accept as original are indicated by "I" in the footnotes. For canon 7 see E.O.M.I.A., I, pp. 460-462 and for canon 17 see pp. 480-482.
2. Canon 5 (Harduin, I, col. 686).
3. F. Maassen, op. cit., p. 56.

ignorance of the Orthodox Synod by the assumption that Sardica was an Arian Council.[1] It seems improbable that acquaintance with the Canons would not have corrected this false impression. Friedrich has attempted to establish a connection between canon 17 of Sardica and canon 8 of the Carthaginian synod under Genethlius in 390. He has compared the two canons in parallel columns and shown certain similarities both in phraseology and in the rulings made,[2] but their interdependence seems unlikely from the essential difference between the problems considered.

Turner suggested that the inquiry into the authentic text of the Nicene Canons which was initiated by controversy over Apiarius resulted ih the reception of the Sardican Canons in translation from the Greek at both Carthage and Rome. If the conclusions set forth below on the history of the Theodosian version are correct, the knowledge of the true identity of the Sardican Canons was probably not received at Rome in this way or at this time. In Africa their identity even when known was ignored and at Rome they were still officially quoted as Nicene until the end of the century. The Roman synod of 485, for

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1. Contra Cresconium IV, 44 (C.S.E.L., LII, p. 550), and Epist. XLIV, 6 (C.S.E.L., XXXIV, p. 114).
2. art. cit. (Die Unechtheit), pp. 471-472.

example, in a letter to the presbyters and archimandrites of Constantinople, cited the Council of Nicaea for its conferment upon the Roman Church the right to confirm judgements[1] and in the mid-fifth century Pope Leo attributed Nicene authority to canon 4.[2] Other evidence for this continuance of Sardica under the authority of Nicaea in circumstances unconnected with papal claims is abundant in the early collections of canons. In the late sixth century Verona Fragment and in the ninth century Chieti Manuscript, by way of example, the Sardican Canons are found in continuous numeration with the Nicene and also bear the name of the latter.

There is no doubt, however, that the identity of the Canons became known at Rome by the end of the fifth century for by the beginning of the sixth they were published under their own name in the Collection of Dionysius Exiguus. An intermediate stage in this recognition of their identity may be found in the fifth century collection called "Isidore". In this we find the following heading given to the Canons of Sardica: "Incipit concilium Nicaenum XX episcoporum quae in graeco non habentur sed in latino invenientur ita."

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1. Collectio Avellana, Epist. LXX,10 (C.S.E.L., XXXV, p. 159).
2. Epist. XLIV, 3 (P.L., LIV, col. 832A).

It has been frequently suggested that the short memory of the Roman Church concerning the identity of the Canons was rather by design than accident, but it is evident that little was known or cared about canonical legislation, particularly in the West, during this early period. Still by the early fifth century canon law in the later sense was in its infancy in the West, and it is open to question how much authority canonical legislation was at that time actually accorded. The holding of frequent councils and the attempted solution of local and also general problems by common agreement began almost simultaneously in all quarters during the early fourth century. In the West, however, progress towards an ecclesiastical rule of law was suspended after its beginnings at Elvira and at Arles until late in the century. While the East had a rapidly growing body of legislation from a series of councils, the West had little to preserve. The Canons of Nicaea alone seem to have grown in esteem in the West, resting upon the venerated memory of the council from whence they came, so that by the beginning of the fifth century they were held as universally binding. From about 380 onwards, provincial synods were again held in Africa, Gaul, and Spain with increasing frequency, but for universally acknowledged authority

the Canons of Nicaea stood alone. With these circumstances in mind and in conjunction with the fact that no canonical legislation had proceeded from the occasional Roman synods of the period, it is not surprising to find, for example, that Pope Innocent requested Theophilus of Alexandria to plead his case only from the Canons of Nicaea for, he added, "the Roman Church accepts no other".[1] Nor under these circumstances is it surprising to find the Canons of Sardica so closely identified in tradition and in their means of preservation with the canons of the former council which it had been called to vindicate.

An additional indication of the fortuitous nature of this identification is found in the fact that the name and authority of Nicaea were also extended to the canons of other Eastern councils after their reception in the West. We find St. Ambrose of Milan invoking the authority of Nicaea to exclude digamists from the ministry when the canon referred to is probably the 7th canon of Neocaesarea.[2] St. Gregory of Tours late in the sixth century can still quote canon 14 of Gangra as Nicene,[3] and even in the East Theophilus of Alexandria attributed the

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1. Epist. V (P.L., XX, col. 496A).
2. Ambrose, Epist. LXIII, 64 (P.L., XVI, col. 1258).
3. Historia Francorum IX, 33 (P.L., LXXI, col. 510).

second canon of Constantinople to Nicaea.[1] Again abundant evidence for this prevailing authority of the Canons of Nicaea is to be found in the early Latin canonical collections.[2]

Under these circumstances of their early transmission the Sardican Canons enjoyed no authority in their own right and indeed might never have survived in the West had not some Roman collector or scribe thought them worthy of preservation with the Canons of Nicaea.

2. THE PRIMITIVE GREEK TEXT

Unlike the Latin text with its many versions, the Greek is represented by only one major recension extant in a number of manuscript families which exhibit only minor textual variations one from another.[3] The earliest extant representatives, both dating from the latter half of the sixth century, are found in the Collection of

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1. Palladius, Dialogus de vita S. Joannis Chrysostomi, VII (P.G., XLVII, col. 25).
2. One such example is found in an early Gallic collection which contains the Canons of Ancyra, Neocaesarea, Gangra and Antioch in continuous numbering with those of Nicaea and under the one heading (represented by the St. Germain Collection, MS. Paris lat. 12444).
3. The Syriac text of the Sardican Canons is derived from an early representative of the present Greek. It has been edited by F. Schulthess in "Die syrischen Kanones der Synoden von Nicaea bis Chalcedon", Abhandlungen der königlichen Gesellschaft der Wissenschaften zu Göttingen, Neue Folge Band X, Nro. 2 (1908), pp. 167-174.

John Scholasticus,[1] Patriarch of Constantinople, and in the Collection of the "XIV Titles".[2] In the following discussion Turner's critical edition of the Greek text[3] will be used, but the reader's attention is also directed to Schwartz' supplementary notes.[4]

The differences in content and arrangement of the Latin and Greek texts provides an absorbing and difficult problem. As we have seen, due to the scarcity of external evidence these differences have been heavily drawn upon in support of priority arguments on the one side and on the other. Whereas light has been thrown upon the history of the primitive Latin text, and its reconstruction aided by quite substantial evidence from a number of early sources, the history of the Greek text and the reasons for its divergence from the Latin remain almost totally obscure. Until such time as further facts may be brought to light the history of its early transmission and development must remain within the realm of specula-

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1. For a recent critical edition see V.N. Beneševič, "Ioannis Scholastici Synagoga L Titulorum", in Abhandlungen der bayerischen Akademie der Wissenschaften, Philos.-Hist. Abteilung, Neue Folge, Heft 14, 1937 (references to individual canons may be found in Index C - "Initia canonum in L titules", pp. 270-281.
2. Printed in V.N. Beneševič, Syntagma XIV Titulorum Sive Scholiis, St. Petersburg, 1906, pp. 280-298.
3. E.O.M.I.A., I, pp. 490-531.
4. E. Schwartz, art. cit. (Der griechische Text), pp. 12-17.

tion. The differences between the present Greek and Latin texts noted during the course of this study and the evidence provided by the early fifth century translation from the Greek, known as the Theodosian version, do, however, together reveal certain probable landmarks in the Greek textual history.

It has been suggested by Schwartz that the differences between the Latin and the Greek are too great for the latter to have existed in its present form at Sardica. He has therefore been led to suppose that it is a translation from the Latin made soon after the synod, and by a translator who although competent in both languages had no personal knowledge either of the synod or of the compelling circumstances behind its legislative acts. For this reason, he supposes, certain differences in meaning resulted in the process of translation. From the presence of canons XVIII and XIX in the Greek text and the near certainty of their never having been present in the Latin, Schwartz concludes that the place of translation was Thessalonica. These canons are a counsel of advice made in response to a problem laid before the synod by Aetius, Bishop of Thessalonica, and in that they are concerned only with the local affairs of the Church in that city, Schwartz proposes that they were added to

the main body of material at the time of translation.[1] He advances further evidence for Thessalonican origin in the identification of the Roman Bishop,, as mentioned in canons III and IX, with Pope Julius. He suggests that the name was added to the original reading by the strongly Nicene bishop Acholius of Thessalonica soon after the desertion of the Nicene cause by Pope Liberius in 357 in order to purposefully exclude him from the honour and privileges accorded to the Roman See by the canons in question.[2]

It has been proposed in the preceding chapter that the external textual differences - the position and content of acclamation clauses and the arrangement of the material as a whole - points towards an independent origin for the Greek and Latin texts as two sets of procedural minutes. The internal differences between the texts, which have contributed to Schwartz' supposition that the Greek must have originated at a time and place other than Sardica are also patient of another explanation. While accepting his hypothesis that the early

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1. art. cit. (Der griechische Text), p. 19. A good discussion of these canons is found in Hefele, Vol. II, pp. 154-158.
2. art. cit. (Der griechische Text), p. 27. This hypothesis of the Greek textual origin is accepted by Professor Telfer, art. cit.(The Codex Verona LX(58)), pp. 198-199.

history of the Greek text may be traced to Thessalonica, it is suggested that the primitive Greek text which had its origin at Sardica subsequently underwent considerable alteration before reaching its present form. The evidence which may be assembled from a comparison of the Greek, Latin and Theodosian version strongly indicates that the major divergences of the Greek from the Latin are due to two later revisions of a primitive Greek text which was itself in harmony with the primitive Latin.

The differences between the Latin and Greek texts fall into five categories. (1) Significant variations in meaning. (2) Variations in order. (3) The omission or addition of complete sections or canons. (4) The insertion of the name "Julius" in canons III and IX. (5) Variations in the wording and position of closing clauses. Of these five categories of differences it was proposed in the discussion of textual priority that the original Greek secretary was responsible for the third and fifth. The second, also previously discussed, is not relevant to the present discussion, and the fourth has been considered above. The differences in meaning conveyed by divergent readings in the two texts, as under the first category, fall into two groups. The minor differences are attributable to the processes of translation and

transcription or in a few cases to accidental or deliberate subsequent alteration.[1] While a number of them are

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1. These, for the most part noted in the commentary sections below, are: The occurrence of ἀπὸ πόλεως μικρᾶς in place of "de civitate sua" in canon I (p. 126, n. 1); the omission of "qui sinceram fidem non habent" (p. 132, n. 2) and the addition of ἐν τῷ τέλει to the penalty imposed (pp. 133 ff.) in canon II; the insertion of μη σαθρον ἀλλὰ between "putat" and "bonam causam habere", a divergence in meaning from the Latin phrase "quae decreverit confirmata erunt" (p. 197) and the different position of the phrase "ab illis episcopis qui in provincia proxima morantur" (pp. 197-198) in canon IIIc; the addition of πάλιν and the differently phrased context in which it is contained (p. 199) in canon IV; the divergent και βουληθείη αὐτοῦ διακοῦσαι (p. 200, n. 2), the occurrence of the plural πρεσβυτέρους (p. 201, n. 2) and the singular ἐπισκόπου (p. 201, n. 3) and the addition of δόξῃ (p. 201, n. 1) in canon V; the occurrence of ἡγοῦμαι καλῶς in place of "et hoc iustum esse" in canon VIa and the insertion of ὡς προεῖπον with regard to the body of consecrating bishops in canon VIb; the naming of Gratus as author of the report against the African bishops (p. 211, n. 2) in canon VII; the reading διάκονον αὐτοῦ (p. 219) and different honorific adjectives applied to the emperor (p. 218, n. 4) in canon IX; the occurrence of οὐκ ἀπεικότως in the final phrase and the omission of "ex administratore" (p. 170, n. 1) from canon X; the addition of ταράχους to "quia haec occasio facit" (p. 139, n. 1) in canon XI; the divergent initial description of the case considered by canon XII (p. 142, n. 1) and the insertion of λειτουργεῖν (p. 143) and addition of και τοῦτο ὁρισθήτωαt the beginning of the same canon; the occurrence of μη χρηναι τῷ ἀδελφῷ αὐτοῦ ὕβριν ποιοῦντα between "non oportet" and "ut ei communionem indulgeat" (p. 144) in canon XIII; the use of ἐπιτρέψειαν (p. 147) in canon XV; the addition of περι τούτων οὖν ὁριστεον in canon XVI; and the occurrence of ὁμολογίαν τῆς καθολικῆς ἐκκλησίας (p. 150, n. 2) in canon XVII. Other divergences between the texts may be found as would be true of any free translation, but they are not of such magnitude as to be worthy of special note.

of some importance for the interpretation of the contexts in which they occur, there is no reason to suppose that they were deliberate alterations of the established primitive text. The second group, the major differences, are few in number but are of much greater importance. They occur in canons VIa(5), VIb(6), IX(9b), and XIV(17) and constitute a deliberate and essential change from the meaning of these proposals as they stand in the Latin. In each the change involves the superimposition of the developed provincial system of the East, with the provincial primate in the person of the metropolitan, upon a canon first formulated in the context of the nascent provincial system of the West. As these alterations are fully discussed in the commentary sections with respect to the contexts in which they occur, they need only be summarized here.

In canon VIa(5) the less formal conduct of episcopal consecrations in the West has been replaced by the more highly organized Eastern practice with the introduction of the provincial bishops and the metropolitan, and the entire canon has been reconstructed around this alteration.[1] In canon VIb(6) the body of provincial bishops

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1. See below, p. 160ff.

has been introduced in parallel function to its use in the preceding related canon.[1] Canon IX(9b) was perhaps unwittingly altered by the substitution of a preposition,[2] but in canon XIV(17) the metropolitan bishop has again been introduced in place of the "episcopi finitimi".[3] Schwartz has suggested that all the changes were made at Thessalonica about 360 by the same editor who inserted the name "Julius" in the text of canons III and IX.[4] By reference to the commentary sections and to the next section of the present chapter, however, it may be seen that the alteration of canon VIb(6), one change in canon VIa(5) and a series of insertions of the word ἐπίσκοπος apparently took place later than the other changes and should therefore be assigned to a second revision.

In the Synodal Letter of the Council of Constantinople (381) we find a citation of "the enactment of the holy fathers at Nicaea, that in every province the bishops of the province, and with their consent, the neighboring bishops with them should perform ordinations as expediency may require."[5] This stipulation is not found among

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1. See below, p. 169.
2. See below, p. 220 ff.
3. See below, p. 208 f.
4. art. cit. (Der griechische Text), pp. 31-32.
5. Theodoret, Hist. Eccles., V, 9, 14 (G.C.S. "Theodoret" - 1911 - p. 293).

the Acts of Nicaea, and is in fact a paraphrase of canon 5 of Sardica as found in the Theodosian Latin translation from the Greek.[1] In that the Theodosian reading of this canon is based upon the revised Greek text, and as the Theodosian also follows the Greek in the other changes noted above, it may be concluded that the first revision of the Greek took place before 381. In the absence of evidence to the contrary Schwartz' suggestion that the revision took place at Thessalonica about 360 would seem to be correct. The differences between the full reading of canon VI in the present Greek text and the reading cited at Constantinople suggests, however, that other changes were yet to be made subsequent to the departure of the Theodosian prototype from the Thessalonican text. These further alterations will be considered in the following analysis of the relationship of the Theodosian to the Greek.

3. THE VERSION OF THEODOSIUS DIACONUS

The independent Latin version of the Sardican Canons contained in the Collection of Theodosius Diaconus[2]

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1. Cf. H. Lietzmann, Review of A.P. Leder, Acht Vorträge über das älteste Synodalrecht der päpstlichen Gerichtshoheit in Z.S.S.R., Vol. XXXVII, 1916, Kan Abt. 6, p. 425, and Hefele, Vol. II, p. 134.
2. The edition used for reference is Turner's (E.O.M.I.A., I, pp. 490-531).

provides a valuable source of contact and comparison between the Latin and early Greek versions. It seems to represent in translation the stage of development which the Greek text had reached in the later fourth century after the introduction of the conventions of Eastern provincial organization, but before the final formation of the present textual tradition.

A degree of caution must be used, however, in accepting the Theodosian version simply as a replica in translation of the contemporary Greek. In several cases the translator condensed what he probably considered to be unnecessary verbiage. Hence, the absence of words or phrases which occur in the present Greek text and are not found in the Latin cannot be used as certain evidence for their not having been present in the primitive Greek. This condensing process is especially noticeable towards the end of canons T7,[1] T10 and T19, and with the omission of the acclamation clauses from canons T7, T9, T10, T11, T20, T21, T22 and T25. In a number of instances also, the Theodosian reading differs from both the Greek and Latin. The most notable occurrences of this (variant readings underlined) are found in canon T3 with the

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1. For convenience the Theodosian numbering is thus designated by the preceding "T". For equivalents in the Greek and Latin numbering systems see Chart A, Appendix I.

substitution of "interpellante episcopo" for "in qua sunt episcopi"; in canon T7 with the addition, "si quis episcopus adpetitus vel accusatus fuerit" and the variant "scribere episcopis dignabitur providentibus[1] provinciae"; in canon T8 with the addition of "plures sunt episcopi ordinandi";[2] in canon T10 with the addition of "videlicet his causis exceptis"; in canon T12 with the variants "ad fratres et coepiscopos suos" and "amicos in aula regia"; and in canon T21 with the addition of "de aliis provinciis et parrochiis". The problem of evaluating Theodosian fidelity to the Greek text from which it originated is complicated still further by the fact that it is a free translation in which the exact sense is frequently dependent upon the translators' own understanding of the Greek. Finally, several of the points of agreement between the Theodosian and Latin texts against the Greek strongly suggest that the Latin was consulted in the production of the Theodosian.

These points of agreement between the Theodosian and Latin against the Greek are as follows:

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1. This reading may on the other hand be a corruption from "propinquis" as found in both the Latin and the Greek.
2. See below, p. 162.

1) The omission of the Greek μικρᾶς from canon T1 (Latin 1, see p. 126, n. 1).

2) The inclusion of the phrase "non habentes fidem sinceram" in canon T2 (Latin 2, see p. 132, n. 2). The omission of the Greek μὴ σαθρὸν ἀλλὰ in canon T5 (Latin 3c).

3) The omission of the Greek πάλιν from canon T6 (Latin 4, see p. 199).

4) The omission of δόξῃ from canon T7 (Latin 7, see p. 201, n. 1).

5) The use of the phrase, "vocandi sunt de vicina provincia episcopi ad ordinationem episcoporum" in canon T8 (Latin 5, see p. 164).

6) The reading "episcopi vicinae provinciae" in canon T9 (Latin 6, see p. 169).

7) The agreement in substance with the parenthetical "et maxime Afri ... adque contemnunt" in canon 8 of the Latin (T10, see p. 211, n. 2).

8) The reading "ipse (the metropolitan) et diaconum et preces eius destinet" in canon T12 (Latin 9b, see p. 219).

9) The addition of the honorific adjectives "felicissimus" and "beatus" in description of the emperor in canon T12 (Latin 9b, see p. 218).

10) The occurrence of canon T25 (Latin 11) as a continuous whole, not being broken by a question and vote as is the Greek.

11) The omission of ταράχους from canon T14 (Latin 14, see p. 139, n. 1).

12) Conformity to the Latin construction rather than the Greek from "hoc enim pacto" to the end in canon T16.[1]

13) The omission of the clauses καὶ τοῦτο ὁρισθήτω and περὶ τούτων οὖν ὁριστέον from canons T16

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1. Cf. E.O.M.I.A., I, p. 521.

(Latin 15, see p. 96, n. 1) and T21 (Latin 20, see p. 96, n. 1) respectively.

14) The presence of canon T19 in the Theodosian (Latin 18, see p. 147).

15) The use of the verb "usurpare" in canon T20 (Latin 19, see p. 147).

16) The possible influence of the Latin construction in the final clause of canon T22 (Latin 21) as compared with the Greek.[1]

17) In four cases the Theodosian follows the Latin text with the use of a pronoun where the Greek substitutes the word ἐπίσκοπος. These are found in canon T14 with "studens confundere et vilem eius demonstrare personam";[2] in canon T20 with "si voluerit ex aliena parrochia quis alienum ministrum";[3] in canon T22 with "ut qui vim sustinuit";[4] and in canon T25 with "si quisque nostrum in transitu vel canali possitus".[5]

The development of the Greek text subsequent to the stage from which the Theodosian version is derived would seem to consist of changes which are concerned with points 1, 5, 6, 8, 14 and 17 above. Discussion of these, with the exception of the last, may be found in the commentary sections below as noted. With regard to point 17, it is difficult to see why the Theodosian translator would have followed the more indefinite Latin construction in these cases if the specific ἐπίσκοπος readings were present in the Greek text from which his translation was made. We

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1. Cf. E.O.M.I.A., I, pp. 528-529.
2. Cf. ibid., p. 519.
3. Cf. ibid., p. 527.
4. Cf. ibid., p. 529.
5. Cf. ibid., p. 513.

may only reasonably suppose that the Greek readings were changed at a later date for the sake of clarity.

For the reason already considered, only slight evidence for influence from the Latin text can be drawn from textual agreement caused by omissions, as in points 3, 4, 10, 11 and 13 above. Point 2 may have been caused by a later omission from the Greek, and point 7 by a later corruption of the same text. Points 9, 12, 15 and 16, however, remain as fairly strong proof of direct influence by the Latin text in the preparation of the Theodosian. These may be thought to be remarkably few in number if such a comparison of texts was in fact possible, but if the circumstances of translation suggested below are correct the Latin text would scarcely command confidence.

It is generally agreed that the Verona Manuscript LX(58) in which the Theodosian version is found dates from no later than the seventh century,[1] and that all but a small portion of its contents is representative of a fifth or sixth century African Collection.[2] The contents of this collection, bearing the name of Theodosius Diaconus, is a quantity of material pertaining to Eastern

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1. Professor Telfer would date it c. 700 (art. cit., p. 171).
2. For a complete description of the contents of the manuscript see W. Telfer, art. cit., pp. 179-184.

Councils with other documents translated from Greek originals, and also a number of African documents. Especially prominent among the latter are those bearing upon the jurisdictional dispute with Rome which arose over the appeal to Pope Zosimus by the deposed African presbyter Apiarius in 418. A considerable proportion of the Eastern material is composed of documents pertaining to the Councils of Nicaea and Sardica and to the personal history of St. Athanasius.

By reason of the presence of these latter in the same collection with the Apiarian documents, Turner suggested that they are the combined answer of the Eastern Churches to the request from Carthage for the authentication of the Nicene canons at the time of the controversy with Rome.[1] He suggested at the same time that the greater part of this Sardican, Nicene and Athanasian material, including the unique Latin version of the canons, were translations from Greek texts preserved at Alexandria.[2]

Schwartz has agreed to the Alexandrian origin of much of this material, and of particular concern for the present discussion, the Theodosian version of the Sardican

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1. This search was in accordance with the decision made at the May 25th synod at Carthage in 419 (E.O.M.I.A., I, p. 574).
2. C.H. Turner, art. cit. (Guardian).

Canons. He does not, however, accept Turner's suggestion as to the circumstances or approximate date of its arrival in Africa.[1] His primary objection to Turner's hypothesis is that the textual versions represented by the Nicene material present in the collection do not correspond to the versions which were used at the time.[2] It is Schwartz' own opinion that the documents of Western Sardica, Nicaea, and the Athanasian Historia Acephala were combined at an early date in Alexandria and taken to Africa considerably before the time of the jurisdictional dispute with Rome.[3]

Another serious objection to Turner's hypothesis is the fact that in the final correspondence between Africa and Rome,[4] after the answers from the East had been received, the Sardican identity of the canons in question was not revealed. It was not only affirmed that they were not Nicene but stated that they could not be found at all: "Nam ut aliqui tamquam a tuae Sanctitatis latere mittantur, in nullo invenimus patrum synodo constitutum".[5]

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1. Turner himself seems latterly to have questioned his own hypothesis ("Eduard Schwartz and the 'Acta Conciliorum Oecumenicorum'", in J.T.S., Vol. XXX, 1929, p. 116).
2. E. Schwartz, "Uber die Sammlung des Cod. Veronensis LX" in Z.N.T.W., Vol. XXXV, 1936, pp. 11-13.
3. Ibid., pp. 9-11.
4. The Carthaginian Letter to Pope Celestine (E.O.M.I.A. I, pp. 614-622) sent between 424 and 426.
5. E.O.M.I.A., I, p. 620.

Schwartz has assumed that the Africans were familiar with the Canons and knew them to be Sardican but, pretending ignorance, kept the knowledge to themselves.[1] This, if correct, contributes to the defence of Turner's hypothesis as well as his own, but from a consideration of all the evidence does not seem to be a justified assumption. Why, we must ask, if they knew the disputed Canons to be Sardican, would the Africans have gone to the considerable difficulty of staging an elaborate deception by sending delegates to the East merely to prove that they were not Nicene?[2] It has been shown in section 1 of the present chapter that universal authority seems to have been enjoyed by Nicaea alone at this time, and the very fact of the search for Nicene verification in the case of these Canons reflects this situation. Indeed, the sole recognition of Nicene authority seems to have been admitted by the Africans themselves at Carthage in 419: "Universum concilium dixit: Omnia quae in Nicaeno concilio statuta sunt placent nobis omnibus."[3]

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1. art. cit. (Die Kanonessammlungen der alten Reichskirche), p. 80.
2. The Letter to Pope Boniface from the May 25th Council at Carthage in 419 states that all available Nicene material in both Greek and Latin manuscripts had been searched without result, and that inquiry as to the true text would be made at Constantinople, Antioch, and Alexandria (E.O.M.I.A., I, pp. 605-606).
3. E.O.M.I.A., I, p. 579.

It must also be observed that the canons (3 and 17) quoted by Pope Zosimus are on face value of more support to Carthage in the case in question than to Rome. As Apiarius was not a bishop but a presbyter, canon 3 would clearly have no application to his case. Canon 17 directs that clerical appeals should be made to neighbouring bishops (finitimos), into which category the Roman bishop would hardly fall. The excitement which the citation of these Canons caused in Africa was therefore not warranted by the case in question, but must be seen in the context of the broader efforts of Carthage to curb transmarine interference in African affairs. This indeed is where the strength of Schwartz' supposition of deceptive silence lies, but neither under this consideration was the dispatch of a threefold mission to Alexandria, Constantinople and Antioch a likely course of action if the Africans knew the disputed Canons to be Sardican from the first. The chance to dismiss them as Sardican and furthermore irrelevant to the case in question would have clearly done the African cause more good than to have let the issue finally rest with the negative report sent to Pope Celestine.

With respect to Turner's hypothesis the argument of deceptive silence is even further out of the question,

for the Theodosian reading in canon 3 limits the appeal prerogative for bishops to the reign of Julius and in canon 17 directs that presbyters should appeal to the provincial metropolitan. For the case in question the Theodosian text, as an authentic version from the East, would have played directly into the hands of the Africans.

Other serious objections to Schwartz' hypothesis arise from the nature of the documents proceeding from Western Sardica which are found in the collection. These, in addition to the Canons, are the Encyclical Letter with the proposed Sardican Creed appended, and the cover letter for the creed sent to Julius by Hosius and Protogenes. Schwartz has supposed that these were preserved in the archives at Alexandria where, perhaps by Athanasius, they were joined to other Theodosian material before being taken to Africa. Sardican material which we know to have been kept at Alexandria is that which is incorporated into the Apologia Contra Arianos of Athanasius. This consists of the Encyclical Letter and the synodal letters to the Church of Alexandria and to the Churches of Egypt and Libya. The latter two are absent from the Theodosian Collection and the Encyclical Letter as found in this Collection is of a distinctly different version from the

copy preserved in the Apologia.[1] Furthermore the likelihood of the creed and cover letter having been kept at Alexandria as an authoritative Sardican document is slight for the reason that Athanasius was apparently one of the outstanding critics of the creed at Sardica, and was later opposed to its circulation and acceptance as genuine.[2] For these reasons the Alexandrian origin of the Sardican documents in the Theodosian Collection seems improbable.

Professor Telfer has connected the appearance of the Sardican material in Africa with questions which arose during the controversy with the Donatists in the early fifth century. Thus he thinks it came not as an answer to the request for authentication of Nicaea but to a later question posed to the Eastern Churches on the nature of Sardica.[3] The quantity and diversity of Sardican material present gives support to such an explanation, for most of the known documents of both Sardican synods are found in the collection. Telfer convincingly assigns the documents proceeding from the secession synod of the Eusebians to Antioch, and the above mentioned

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1. Cf. I. Gelzer, art. cit., p. 1, and L. Parmentier, "Theodoret Kirchengeschichte", G.C.S., Leipzig, 1911, p. lxxvii. The versions may be compared in C.S.E.L., Vol. LXV, pp. 103-126.
2. See above, p. 23 f.
3. art. cit., p. 198.

trilogy of Western material to the Church of Thessalonica whereby, he suggests, Sardica was erected "into the bulwark of orthodoxy" after the defection of Pope Liberius. From there or from another Orthodox church in which it came to be preserved, this trilogy then found its way to Africa in the early fifth century. Telfer would thus date the arrival of the Canons in Africa between 424, the date of termination of the controversy over Apiarius with the African letter to Celestine,[1] and the Vandal invasion in 429.

The relatively close fidelity of the Theodosian version of the Canons to the revised Greek text gives this hypothesis considerable support, and shows quite conclusively that its date of origin is subsequent to the date of the first Greek revision (c. 360). The use of the typically African expression "primatis episcopi" in canon T8[2] and the probable influence of the Latin text upon the Theodosian indicate that the translation was made in Africa. Where the transported copy of the Greek text was obtained must remain an open question, for if Telfer's suggestion of the Orthodox Sardican trilogy is correct it may have

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1. Turner dates this letter as 425 or 426 (E.O.M.I.A., I, p. 614).
2. Cf. C.H. Turner, E.O.M.I.A., I, p. 501, note to line 10.

become widely distributed during the period before the final settlement of the Arian controversy at Constantinople. Indeed the variant readings of the Theodosian text in divergence from both the Latin and the Greek suggest textual corruption at the hands of a number of copyists, and makes the existence of one or more intermediary Greek redactions between Thessalonica and Carthage probable.[1] The persisting ignorance of Sardica in Africa until at least 424 and the difficult times after 430 would indicate that between these years the Sardican material arrived at Carthage from the East. It is not unlikely that a copy of the Latin text of the Canons of Nicaea with the Sardican series appended was obtained from Rome at the time of the jurisdictional controversy. With the arrival of the Greek text the disputed Canons would have been recognized as Sardican and used for comparison in the process of translation.

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1. One specific example of textual corruption in the Theodosian version seems to be found in the reading "in aula regia" of canon T12. Both the Latin and best representatives of the Greek read "in palatio" (ἐν τῇ αὐλῇ του παλατιου), but Greek variant readings exist which have ἐν τῃ αὐλῃ τοῦ βασιλέως. Another striking instance is the addition of the word "ordinandi" in canon T8 (see below, p.162).

PART II

STUDIES IN INTERPRETATION

INTRODUCTION

The series of disciplinary canons enacted by the Western Sardican Synod reflects almost in its entirety the preoccupation and anxiety of the Orthodox bishops with one of the stated purposes of the synod - the correction of episcopal abuses and the prevention of partisan action against individual bishops and other clergy. For this reason we find that the canons, with the exception of 16, 17, and 20, deal solely with problems pertaining to the office of the episcopate. By way of illustration the canons may be profitably classified in nine groups according to content of subject matter. These are as follows:

1. The translation of bishops and other clergy - 1, 2, 3a, 14, 15, (20).[1]
2. The reception of excommunicate clergy - 16, (17).
3. The solicitation of clergy from another diocese - 18, 19.
4. Refuge for bishops and clergy persecuted for the Faith - 21.
5. The filling of vacant sees - 5, 6.
6. The proving of candidates for the episcopate - 13.

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1. Canons in parenthesis have fuller context in another grouping.

7. The right of appeal - 3b & c, 4, 7, 17.

8. Episcopal journeys to the Imperial court - 8, 9, 10, 11, 12.

9. Matters pertaining to the Church of Thessalonica - 20, XVIII, XIX.[1]

The single-mindedness of the bishops at Sardica is manifest from this "Table of Contents" of their legislation. Each subject group with the exception of the ninth has direct bearing upon the stated purpose of the synod. Groups 1, 2, 3, 5, and 6 are designed to insure the integrity of the see and to halt Eusebian encroachment. Groups 4 and 7 are designed to protect bishops and clergy from persecution and unjust deposition, and group 8 to prevent the courting of imperial favour. As we have observed, the protection of the local Catholic churches from Arian encroachment and the inherent difficulties in the new relationship between Church and State were interrelated factors and were among the foremost problems of the Church in the mid-fourth century. A solution to both was sought within the framework of common agreement at Sardica. In the legislation of no other council do we find this close cohesion in a systematic attempt to

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1. Canons XVIII and XIX of the Greek text are concerned solely with a local schism at Thessalonica of which little is known. For a brief discussion of the problem the reader is referred to Hefele, II, pp. 154-156.

solve the problems of polity with which the fourth century Church was faced. Although historical circumstance was to veil the canons in relative obscurity during the course of the ensuing century, there exists in these enactments a transcendence of temporary applicability which is reached by no other series of canons in the period. It is in these characteristics that their uniqueness and importance consists. This canonical legislation on the other hand does not emerge from Sardica as a novelty. It is clearly set in the context of conciliar enactments which the Church had already brought forth in previous attempts to solve the problems as they arose.

The Sardican legislation is in a real sense a continuation of that which was begun at Nicaea, for the most universal of the Nicene problems find further treatment at Sardica. Canon 13 gives further development to the 2nd and 9th of Nicaea, the appeal canons to 5, and the translation canons to 15; other points of continuity are evident. Also the Canons of Sardica have a close relationship to those of Antioch. On first sight their connection seems paradoxical because of the bitter opposition between the parties to which they owe their authorship. Nonetheless, both series are essentially concerned with the preservation of order, and the

problems considered by each arose from contemporary circumstance. For introductory consideration it is well to outline these parallels. In relation to the nine Sardican groupings the corresponding Nicene and Antiochene Canons are shown by the following scheme:

Sardican Grouping	Antiochene Canon	Nicene Canon
1	3, 16, 21	15, 16
2	(2), (4), 6	
3	13, 22	
4	18	
5	10, 19, (23)	4, 6
6		2, 9, 10
7	4, 14, 15, 20	5
8	11, 12	

This relationship of the Sardican Canons to those of Antioch and Nicaea provides the foundation of their legislative context and is to be considered in any analysis of their historical meaning. Thus the canons have their place in two contexts: the immediate problems with which they are concerned, and the more general context of conciliar enactment by which the Church was slowly feeling her way towards a juridical framework of administration. The setting of the Canons within these two contexts provides the method outline for their individual consideration.

CHAPTER IV

THE TRANSLATION OF BISHOPS AND OTHER CLERGY

1. THE HISTORICAL AND DISCIPLINARY BACKGROUND

The Sardican legislation which is designed to prevent the movement of bishops and clergy from one church to another is a continuation of similar enactments proceeding from a succession of earlier synods. Although the problem of ecclesiastical migration was heightened by additional factors during the early fourth century, the censure of translation was not new but followed in suit from a general disapproval of the practice evidenced by diverse sources.

St. Cyprian, for instance, in a letter to the clergy and people of Carthage, instructs them of his decision to join the presbyter confessor Numidicus to the ranks of the Carthaginian clergy,[1] justifying this action by twice stating that its fitness was divinely revealed. It is clear that this move was regarded as unusual, but it is also evident that there was no conceived hindrance to the valid exercise at Carthage of a ministry received elsewhere.

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1. Epist. XL (C.S.E.L., III, pp. 585-586).

Other third century evidence for the practice of episcopal translation is not lacking. Eusebius describes the circumstances at Jerusalem early in the century in which Alexander, Bishop of Cappadocia, was retained when on pilgrimage to that city to share the episcopate of Narcissus, because of the great age of the latter.[1] It is stated that this was done by divine direction and with the unanimous consent both of the people and of the neighbouring bishops. Socrates states that the translation of bishops was in times past an indifferent (ἀδιάφορον) thing, being done as circumstance demanded, and lists thirteen early instances of translation known to him.[2]

Although apparently thus regarded as valid in principle, two objections to translation were recognized, - one theological and the other moral - and these in fact made the practice unusual and frequently suspect. The theological objection seems to stem from the early view of the relationship between the bishop and his church.[3]

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1. Hist. Eccles., VI, 11 (P.G., XX, cols. 541-544).
2. Hist. Eccles., VII, 36 (P.G., LXVII, cols. 817C and 820-821).
3. Cf. St. Ignatius, Smyrn, 8 (P.G., V, col. 713); St. Cyprian, Epist. XXXIII, 1 (C.S.E.L., III, pp. 566-567) and Epist. LXVI, 8 (pp. 732-733); the ordination prayers in the Apostolic Tradition of Hippolytus (G. Dix, The Treatise on the Apostolic Tradition of St. Hippolytus of Rome, London, 1937, pp. 4-5); and Didascalia, 9 (R.H. Connolly, Didascalia Apostolorum, Oxford, 1929, pp. 85-101).

The bishop's election by an almost independent Christian community and his essential fatherhood among his people gave rise to the concept of a mystical bond between the bishop and his see expressed as being akin to marriage. Thus in the Encyclical letter of the Council of Alexandria in 339 it is said in reference to 1 Corinthians 7:27,

> "For if this expression applies to a wife, how much more does it apply to a Church, and to the Episcopate itself, to which whosoever is bound ought not to seek another, lest he prove an adulterer according to Holy Scripture."[1]

This theological objection undoubtedly underlies apologetic accounts of the translations of Alexander to Jerusalem and Numidicus to Carthage, and may perhaps be seen in the later refusal of Eusebius of Caesarea to accede to the request for his acceptance of the episcopate at Antioch.[2] It would be a mistake, however, to attribute a clear cut doctrinal position in the matter to the Church of third and fourth centuries in whole or in part. The theological objection to translation was not rigid nor defined. It was flexible and capable of being outweighed by circumstances in which the Church as

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1. St. Athanasius, Apol. contra Arianos, 6 (P.G., XXV, col. 260).
2. Eusebius, De Vita Constantini, III, 61 (P.G., XX, col. 1136).

a whole would benefit by the transfer of a bishop, or another cleric, from one church to another. The stress laid upon divine direction in cases of this sort is significant. This we notice in connection with the translations of Alexander and Numidicus and also later in the fourth century with the translation of Poemenius to Nicopolis as described by St. Basil.[1]

The moral objection, on the other hand, arose as a protest against the removal of bishops, or other clergy, to wealthier and more influential sees for personal or party gain, and this seems to be the predominant cause of the prohibitions against translation found in the conciliar legislation of the fourth century. The problem of ambitious changes does not appear to have become a specific issue before the end of the third century, and indeed a self-seeking bishop would have had little to gain from obtaining a more prominent position in the times of intermittent persecution. The existence of the problem in the early fourth century is made evident, however, by its treatment at two regional synods held soon after the Peace of the Church.

Of this legislation, canons 2 and 21 of Arles (314) are the earliest in the West. Canon 21 orders deposition

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1. St. Basil, Epist. CCXXIX, 1 (P.G., XXXII, col. 857).

for presbyters or deacons who move to another church than that in which they were ordained.[1] Similarly canon 2 states concerning the lower clergy: "De his qui in quibuscumque locis ordinati fuerint ministri, in ipsis locis perseverent."[2] A question has been raised with respect to the breadth of the term "locus" in the latter canon, but its meaning is apparently that of a specific Christian community and not a larger unit of organization as Hefele has suggested,[3] for it is in the former sense that the same term is used in other canons of the series.[4] It is of importance to notice that canon 21 of Arles specifically condemns those who transfer themselves (se transferunt).

At the same time, in the East, canon 18 of Ancyra is concerned directly with the translation of bishops. It decrees that bishops who have not been received in their own churches and who cause dissension by invading other churches shall be excommunicated.[5] Here again the problem as considered concerns those who effect their own translation.

Canon 15 of Nicaea treats the translation of bishops,

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1. Harduin, I, col. 266.
2. Ibid., col. 263.
3. Hefele, I, p. 185.
4. Canons 7 and 16.
5. Pitra, I, p. 447.

presbyters, and deacons together. It is stated that the practice of translation which seems to be allowed in certain regions is contrary to discipline (παρὰ τὸν κανόνα), and because this practice has caused much discord it shall be abolished. Clergy are forbidden to move (μεταβαίνειν) from city to city and the canon orders that if any should do so after the present ruling, the translation shall be nullified and he shall be returned to the church in which he was ordained.[1] The κανών to which reference is made seems to be a precept of tradition in the sense of a universally accepted discipline. This interpretation of the term is consonant with its employment in canons 2, 5, 9, 10, 15, 16 and 18 of the Nicene series and seems to be in agreement with contemporary usage.[2] Again, in this canon, no categorical condemnation of translation is made and the point under consideration is the discord caused by ambitious changes. Furthermore it does not seem probable that the bishops at Nicaea intended to forbid it under

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1. Pitra, I, p. 433.
2. The early Latin Chieti version reads, "extra disciplinam et canonem" (E.O.M.I.A., I, pp. 222-223). For other examples of the early use of κανών see Irenaeus, Adversus Haereses, I, 9,4; Eusebius, Hist. Eccles., III, 32; IV, 23; V, 24; and Socrates Hist. Eccles., II, 27. See also the analysis of H. Oppel, " ΚΑΝΩΝ - zur Bedeutungsgeschichte des Wortes und seiner lateinischen Entsprechungen (Regula-Norma)", in Philologus, Supplement XXX, 1937, Heft.4, pp. 68-71.

circumstances favourable to the welfare of the Church, for Eustathius of Antioch, himself an eminent member of the synod, had been translated to Antioch from Beroea by a synod held a short time before, which was composed of many of those in attendance at Nicaea.[1] An outstanding incident which seems to provide considerable background to the canon was the self-translation of Eusebius from Beryte to Nicomedia several years previous (c. 320).[2] The favour which this influential supporter of Arius enjoyed at the imperial court was made possible largely by his proximity, and the canon may well reflect a resentment of this on the part of his victorious opponents.

Three of the canons of Antioch are devoted to the present question. Canon 3 stipulates that a presbyter, deacon or one of the lesser clergy who removes himself to another church with the intention of remaining there, and especially if he does not heed the summons of his bishop to return, shall be deposed from his ministry with no possibility of reinstatement.[3] Canon 21 orders that a

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1. Sozomen, Hist. Eccles., I, 2 (P.G., LXVII, col. 864) tells us that he was thus translated by Nicaea itself, but Schwartz (art. cit. - Zur Geschichte des Athanasius: VI - p. 282) shows Sozomen to be in error and that the translation took place at Antioch in 324 (or 325).
2. Cf. the Encyclical letter sent by Alexander of Alexandria, in Socrates, Hist. Eccles., I, 6 (P.G., LXVII, col. 44).
3. Pitra, I, p. 457.

bishop shall not move (μεθίστασθαι) from one church to another seizing it of his own accord, nor being forced by the people or compelled by bishops (ὑπὸ ἐπισκόπων), but shall remain in the church for which he was first chosen by God.[1] It is unlikely that ὑπὸ ἐπισκόπων is intended to mean synodal action, for in canons 3, 4, 12 and 22 of the series this is signified by ὑπὸ συνόδου and in a number of other cases synodal action is clearly identified by some reference to the provincial body. This ruling is, the canon concludes, according to the rule formerly proclaimed.[2] This may be a reference to canon 16 of Antioch but it seems more likely that canon 15 of Nicaea is intended.

The interpretation of the verb μεθίστασθαι affects the meaning of the entire canon. If rendered in the passive voice, following Hefele,[3] translation is prohibited in principle, affecting translations by synodal enactment as well as by personal instigation. The voice of the verb, as also the infinitive of the middle voice of μεθίστημι , may also be rendered middle so that it is the bishop in question who is himself the agent of the

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1. Pitra, I, pp. 463-464.
2. κατὰ τὸν ἤδη πρότερον ἐξενεχθέντα ὅρον.
3. C.J. Hefele, Conciliengeschichte (2nd German edition), Vol. I, Freiburg, 1873, p. 519. "Ein Bischof darf von einer Paroikie nicht in eine andere versetzt werden."

action.[1] Canon 16 of the same series confirms this interpretation as it implies the recognized possibility of a bishop being regularly translated by the judgement and consent of a synod upon election to a vacant see. The canon decrees that a bishop taking possession of a vacant see without the consent of such a synod shall be deprived even though he may have been elected by the church into which he has intruded.[2]

Canon 14 of the Apostolic Canons forbids a bishop to leave his diocese and go to another unless there be good reason, such as leaving way for a successor who will do more profitable work for the better service of religion. He ought not, however, decide this alone but let it be decided by other bishops.[3] Although this canon in its present form must be dated later in the fourth century, it summarizes the judgement of the fourth century Church upon the practice under consideration. Throughout this period and the century previous an essential distinction seems to have been drawn between

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1. Cf. E. Heckrodt, Die Kanones von Sardika aus der Kirchengeschichte erläutert, Jena, 1917, pp. 16-17. The verb is also rendered as active by the early Latin translations of the canon (E.O.M.I.A., II, 294-295) with use of the verbs transmigrare, migrare, and transire.
2. Pitra, I, p. 462.
3. Ibid., p. 16.

self-translation for personal gain and the considered transferal of a bishop by synodal action. It is in the context of this that the Sardican enactments concerning the removal of bishops and other clergy from one church to another must be viewed.

2. CANON 1.

The greater part of canon 1 is devoted to a pointed analysis of the motives underlying episcopal migration. "Almost no bishop is found", it is somewhat sarcastically stated, "who will move from a large city to a small one .... whence it appears that they are inflamed by the heat of avarice to serve ambition." The legislative statement itself is short and precise: "ne cui liceat episcopo de civitate sua[1] ad aliam civitatem transire ... nec laicam habeat communionem." The purpose of the canon is manifest as an agreement to cut off from communion those bishops of the Eusebian party who endeavoured as a facet of the greater contest to further themselves and the cause by securing influential positions. Specific condemnation

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1. The Greek text reads ἀπὸ πόλεως μικρᾶς . This reading is not found in the Theodosian version and it seems likely that μικρᾶς is a later addition influenced by the related passage in the Sardican Encyclical. The Greek reading of this is ἀπὸ μικρῶν πόλεων εἰς μείζονας παροικίας , whereas the Latin is "de ecclesia ad maiores" (C.S.E.L., LXV, p. 122).

of such opportunism is found in the Sardican Encyclical.[1] Two particular incidents which contribute to the historical background of the canon seem to be the recent attempt of Valens of Mursia to assume the episcopate of Aquileia,[2] and the translation of Eusebius of Nicomedia to Constantinople in 338. That canon 1 was occasioned by incidents of this sort is made evident by the Synodal Epistle of Sardica to Pope Julius and by the Epistle of Julius to the Eusebians. In the latter there seems to be a connecting link between canon 15 of Nicaea and the Sardican canon. In condemning the frequent changes of the Arians, Pope Julius appeals directly to the authority of the Nicene canon: παρὰ κανόνα τῶν τριακοσίων τὴν ψῆφον λύσαντες ... καὶ ἀπὸ τόπου εἰς τόπον μεμελετήκασιν ἐπίσκοποι διαβαίνειν .[3] The reason for these changes Julius notes is the desire for the prestige of greater sees.

> "If therefore you truly consider the honour due to all bishops to be the same and equal, and, as you write, do not measure the dignity of a bishop by the greatness of his city; it is fitting that he who has been established in a small city should remain there ... and not move to another not entrusted to him, that by despising that which he was given by God he should foolishly hope for the approbation of men."

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1. Sec. 8 (C.S.E.L., LXV, p. 122). Among the various Arian practices condemned is included, "translationes de ecclesia (minori) ad maiores".
2. Cf. the Sardican Epistle to Pope Julius, 4 (C.S.E.L., LXV, p. 129).
3. Sec. 5 (P.L., VIII, col. 887 B), Canon 15 of Nicaea reads: ἀπο πόλεως εἰς πόλιν μὴ μεταβαίνειν.

These words, as we have seen, are echoed by Hosius in canon 1.

It can hardly be inferred that the statement of Julius, or that of the Sardican canon, which he to a degree inspired, is an objection to translation in itself. Both Julius and the synod had the strongest reasons for appealing to tradition and the theological objection, but they were not considering the abuse in those terms. In the canon there is reference only to the moral objection, and Julius does no more than mention in conventional terms the relationship of the bishop to his see: τῆς μὲν παρὰ θεοῦ δοθείσης. The key verb used in the Latin version of the canon is "transire" which by its employment in the active voice makes the moving bishop the necessary agent of the action.[1] In the Greek version μεθίστασθαι is used,[2] as in the 21st canon of Antioch. These are the only two uses of this verb among the translation canons of the fourth century and its unequivocal meaning from context in the Sardican canon adds confirmatory evidence to a parallel interpretation in the former. The Sardican

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1. "transferri" is used in the Theodosian version (E.O.M.I.A., I, p. 491) but see note 1, p. 130. below.
2. E.O.M.I.A., I, p. 490.

canon makes no mention of translation by synodal direction, but from the background of historical events and canonical legislation as a whole, it may be assumed with certainty that the prohibition of such translations was not intended at Sardica. Canon 2, to be considered below, provides evidence that the bishops at Sardica admitted the regularity of translation under certain conditions, for the phrase " ... fortasse talem excusationem adtulerit, adseverans quod populi litteras acciperit" implies that letters of invitation from the people following a valid election might be taken into consideration in judging a worthy case.

The first Sardican canon orders that those bishops who move from their own church to another shall be deprived even from lay communion: nec laicam habeat communionem".[1] This penalty is considerably more severe than those of similar canons from previous synods, with the exception of canon 18 of Ancyra.[2]

The forceful Sardican protest against episcopal migration did not achieve its desired effect,[3] but in

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1. For a discussion of this penalty in connection with that of canon 2 see below, p. 133 ff.
2. Canon 16 of Nicaea excommunicates presbyters and deacons who move from one church to another, but in canon 15 of the same series no punishment is prescribed other than returning the bishop to his original see.
3. Outstanding examples of ambitious moves after Sardica are that of Eudoxius of Germanicia to Antioch

the West either the memory of the first and related Sardican canons, or the ethos which produced them, apparently had a determining influence upon the subsequent development towards a categorical condemnation of all translations.[1] It is evident from the late fourth and early fifth century canons concerned with the practice, that translations were made in the West, but the Western reaction towards strictness in interpretation of the earlier discipline is marked in its divergence from the relative laxity of the East. Although the moral objection seems to underly the Western strictness,[2] an enlargement of the theological objection is also evident. This is illustrated by St. Jerome who wrote,

> "et hoc in Nicena quoque synodo a patribus esse decretum, ne de alia ad aliam ecclesiam episcopus transferatur, ne virginali pauperculae societate contempta ditioris adulterae quaerat amplexus ... ita uxores pontificum dici ecclesias.[3]

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in 357 (Socrates, Hist. Eccles., II, 37 - P.G., LXVII, col. 304) and from there to Constantinople in 360 (ibid., II, 43 - col. 353) and that of Meletius of Sebaste to Beroea, also later installed at Antioch (361) by Eudoxius (ibid., II, 44 - cols. 356-357).

1. The use of the passive infinitive "transferri" in the fifth century Theodosian version from the Greek perhaps illustrates later Western disapproval of bishops being translated as well as moving of their own will.
2. Cf. Pope Damasus, Epist. IV (P.L., XIII, cols. 360-361) and Epist. V, 4 (ibid., cols. 368-369); Pope Leo, Epist. XIV, 8 (P.L., LIV, col. 674) and Epist. I, 5 (ibid., col. 596).
3. Epist. LXIX, 5 (C.S.E.L., LIV, p. 687).

Also in section 16 of the Canones ad Gallos Episcopos we read,

> "Item de his qui de ecclesia ad ecclesiam transeunt iussi sunt haberi, quasi relicta uxore ad alienam accesserint."[1]

A canon which originated at Capua in 391, and which was adopted as canon 1 of the Carthaginian synod of 397, classes translation with the forbidden practices of re-baptism and reordination:

> "non liceat fieri rebaptiziones et reordinationes, vel translationes episcoporum."[2]

In contrast to this, evidence is provided by Eastern writers for a continuance of a less restrictive view. To the previously cited opinions of Socrates[3] and St. Basil[4] may be added that of St. Gregory Nazianzen who considered the translation canons to be null through disuse.[5] Also, canon 10 of Chalcedon clearly condemns translation only when motivated by ambition. It must be observed, however, that personal considerations and ecclesiastical politics undoubtedly had considerable influence upon the attitudes of the Easternand Western writers and disciplinary canons cited.

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1. P.L., XIII, col. 1192.
2. Canon 48 of the Codex Canonum Ecclesiae Africanae (Harduin, I, col. 886).
3. See above, p. 118.
4. See above, p. 120.
5. St. Gregory Nazianzen, Poemata de Seipso, lines 1810-1815 (P.G., XXXVII, col. 1156).

3. CANON 2.

Canon 2 continues the legislation of canon 1, and is particularly concerned with the usurpation of sees by means of fraudulent elections effected through bribes. The immediate historical background of this canon is undoubtedly the affair of Valens of Mursia alluded to above. Valens is described as having incited a seditious faction in the church of that city to demonstrate on his behalf. "Eo tempore, quo seditionem commovit ... qui perturbavit, qui sollicitavit."[1]

The canon condemns as transparently false the excuse that one designing to move to another see should claim to have received letters of invitation from the people. It continues with the explanation that his only claim to election is that a vociferous minority has proclaimed him bishop in the name of the church.[2]

This means of effecting ambitious moves involved the practice of simony and was as a consequence treated with extreme severity.[3] Canon 30 (29) of the Apostles

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1. Sardican Epistle to Julius, 4 (C.S.E.L., LXV, p. 129).
2. The phrase "qui sinceram fidem non habent" in description of the agitators is not found in the Greek version, but is present in all early Latin recensions.
3. Cf. Tertullian, De Idolatria, 9 (P.L., I, col. 748) "Simon Magnus ... etiam Spiritum sanctum per manuum impositionem enundinaret, maledictus ab apostolis de

rules that a bishop, presbyter or deacon who has bought his office shall, as also him by whom he was ordained, be perpetually excommunicate, and canon 31(30) exacts the same penalty for a bishop who has caused the intervention of secular power to obtain the government of a church.[1] This latter canon is similar to the second of Sardica in that the office itself is not solicited, but rather that an appointment through which the office already possessed might be used. The punishment decreed by canon 31(30) is no less strict, however, than that of 30(29). The Greek text of the Sardican canon similarly directs: μηδὲ ἐν τῷ τέλει λαϊκῆς γοῦν ἀξιοῦσθαι κοινωνίας , whereas the earliest representatives of the Latin read, "et damnum ut nec fidelem laicam communionem accipiat."

In a valuable study of episcopal deposition, Vacanard has concluded that in the early centuries this punitive discipline was synonymous with degradation.[2] The deposed bishop was thus deprived of his place of honour or

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fide eiectus est." Early references to simony are few, and it is probable that this abuse was not frequent in the early centuries. More frequent allusion is made in the councils of the fifth to seventh centuries.

1. Pitra, I, p. 19.
2. E. Vacanard, "La Déposition des Evêques", in Revue du Clergé Français, Vol. LV, July-Sept. 1908, p. 388.

presidency at the Eucharist, but in most cases was allowed to communicate with the laity (ut laicus communicet).[1] It is evident therefore that the penalty enjoined by the first Sardican canon (ut nec laicam habeat communionem) is a straightforward formula of excommunication as well as of deposition. Hefele has judged this clause to mean that offenders were to be placed among the public penitents with the possibility of at least final reconciliation.[2]

The probability of this interpretation depends largely upon a solution of the textual question concerning the original reading of the punishment ordered by canon 2. In contrast to the reading quoted above, which Turner has judged to be the original, various late recensions parallel the Greek reading with "nec fidelium laicam in fine(m) communionem accipere". Turner's judgement that "in fine" is a spurious insertion is apparently based largely upon the supposition that the longer reading is devoid of significant meaning, for he asks, "Sed quid esse possit in fine laica communio? Viaticum enim et plebis et cleri commune est."[3] This question surely has been answered by Vacanard with the demonstrated identity of status between the laity and deposed clergy. The longer reading

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1. E. Vacanard, op. cit., pp. 394-395.
2. Hefele, II, p. 110.
3. E.O.M.I.A., I, p. 454, note to line 13.

clearly means that not only are offenders to be perpetually excluded from their former dignity with no possibility of final restoration, but that also they are to be deprived of final communion in the status normal to the deposed. The relationship between canons 1 and 2 favours the acceptance of the longer reading as the original, for the abuse considered by canon 2 was condemned as a particularly pernicious manifestation of the practice considered in canon 1. This may carry with it the implication, as Hefele suggests, that final reconciliation was admissible to offenders in the case of the former, but any attempt at strict interpretation must necessarily involve us in drawing hard and fast rules in an age when these did not apply.

4. CANON 3a.

The first section of canon 3 is not wholly clear in meaning and for this reason it has been subject to diverse interpretation. Illustrative of its ambiguity is the fact that in the Dionysius and Prisca Latin recensions and in the Greek it appears as the first section of the third canon, but in the recension of Isidore it alone is given as the second canon. The judgement of the Isidorian redactor is probably justified, for the thought expressed

in this first section of canon 3 is only related to the remainder of the canon by its service as a transitional clause between the previous subject consideration and the following. In reality section 3a is more closely related to canon 2 from which it proceeds as a supplementary statement. The section is, as we have seen, of unique interest for its reflection of the flow and development of the verbal process.

It is stated that a bishop shall not pass (transire) from his own province to another in which there are bishops resident. To this is added the confusing phrase, "unless he be invited, that we seem not to have closed the door of affection (nisi forte a fratribus suis invitatus, ne videamur ianuam caritatis clausisse). The most obvious interpretation of the first clause places it in the context of canon 1 and makes it a parallel prohibition for ambitious translation from province to province. Although this thought is certainly implicit there are other factors which make this sole meaning improbable.

The first factor is the Greek verb used to express the main idea. Although the meaning of διαβαίνειν is perhaps too fluid to determine exactly what is meant, it does indicate a distinction from μεθίστασθαι of canon 1, bearing instead the connotation of movement through. The

second factor is the phrase, "nisi forte a fratribus suis invitatus", which cannot have direct application to the ambitious episcopal migration dealt with in the previous canons. The final factor is the probable relationship between this section and canon 3 following.[1]

Hefele sees the primary affinity of the section to be with canon 3b and interprets it as forbidding a bishop to perform the essential acts of his office in another province without invitation.[2] He therefore equates this section with canon 13 of Antioch[3] which rules that a bishop shall not pass from one province to another to ordain persons to the ministry unless he does so at the invitation of the metropolitan and provincial bishops. The parallel between these two canons is real to the extent that they both forbid entrance into a province without invitation, but it is questionable how much farther the parallel can be carried. Hefele unquestionably distorts the meaning of the received text in order to carry his point, for he translates the final phrase as, "that it may not appear as if the synod wished to cut off from the

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1. From this section canon 3b proceeds with a ruling that arbitration in an episcopal disagreement will not be allowed as a reason for bishops to be invited into another province.
2. Hefele, II, p. 113.
3. Pitra, I, p. 461.

bishops the opportunity of rendering each other the service of love." This is surely an unwarranted expansion of both the Greek and the Latin. Also, the problem is not simplified by his interpretation for it necessitates removing the section from both the preceding and succeeding contexts.

Canon 3a instead seems to follow in development from canon 2 as the opening words "Illud quoque" suggest. As the previous canon stands as a condemnation of those who are minded to incite demonstrations in other churches in order that they may be demanded as bishops by the people, this canon restricts the possibility of future incidents of the sort by forbidding them to enter other provinces, either for official acts or for unofficial visits, without a specific invitation. The words "in qua sunt episcopi" cannot be taken to imply freedom of movement in a province which did not have bishops, but should rather be seen in the light of canons 14 and 15 as being concerned with maintaining the integrity of local bishops against ambitious displays of superiority on the part of visiting colleagues.[1]

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1. Z.B. Van Espen (Commentarius in Canones Juris Veteris ac Novi, Vol. III, Louvain, 1753, pp. 248-249)in setting forth essentially the same interpretation of the section has based his argument upon a minor variant

5. CANON 14.

Canon 14 returns to the subject of canons 1, 2, and 3a, and is concerned with securing further restrictions against the possibility of a bishop gaining control of an occupied see by subversion.

It is agreed that a limit of three weeks should be set for episcopal visits to other cities, whether in the same or another province, unless there be a serious reason for a longer stay. The stated purpose of this is to prevent situations in which a visiting bishop might gain popularity among the people to the discredit of the perhaps less gifted incumbent of the see, with the result that the people would expel[1] their bishop in favour of the invader.[2] The connection between this canon and

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of the text (see E.O.M.I.A., I, p. 455) which reads "provinciam in qua non sunt episcopi" in order to overcome what he supposes to be a difficulty in the accepted reading. In so doing he is faced with the resultant problem of "a fratribus suis invitatus" which he attempts to solve by gratuitously changing the clause to "nisi utique a fratribus (the laity presumably), quo in ea sunt provincia vocetur episcopus." The textual evidence does not support this radical transformation of the canon.

1. The Greek text seems to be correct in adding ταράχους to the phrase "quia haec occasio [turbas?] facit ut commendans se postea et alienam sedem concupiscat et invadat."
2. A similar problem has been considered by the bishops assembled at Arles. Canon 17 reads: "Ut nullus episcopus alium episcopum inculcet." (Harduin, I, col. 266).

canon 3a is illustrated by the type of visits which Hosius was anxious to curtail. These were visits made for ostensibly religious reasons but which in reality were of an ambitious nature (ambitioni magis serviens quam devotioni). A bishop motivated by ambition, it is stated, would not hesitate to leave his appointed church and pass over to another.

The canon falls naturally into two sections. In the first Hosius states the problem and asks that a time limit for visits be defined. The last section (beginning "Memini autem") is apparently Hosius' own sententia containing the proposed time limit which was accepted. The limit is based upon a similar rule for the laity which he recalls as having been previously established. The reference is undoubtedly to canon 21 of Elvira,[1] which synod Hosius had attended.

The application of the Elviran canon to the present situation is, however, only by analogy for the previous ruling concerns the layman's absence from the Christian Assembly wherever he might be, but the latter concerns the bishop's absence from his own church (nec licet nec

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1. "Si quis in civitate positus tres dominicas ad ecclesiam non accesserit, pauco tempore abstineat, ut correptus esse videatur." (Harduin, I, col. 252). A similar rule applied to laity and clergy alike is found in the 80th canon of Trullo (Harduin, III, col. 1689).

decet ut episcopus ... diutius absit et populum contristet). The essentially mystical relationship between the bishop and his people is thus shown in relief against the parallel relationship of the individual Christian to Christ in the Church. This is a theological overtone not unimportant to the basic meaning of the canon as it stands in the general context of translation.

Canon 21 of Sardica, although concerned with the question of refuge for clergy persecuted for the Faith, has relevance to the present canon in that visits under these conditions are not subject to limitation. In such a case a bishop is to be allowed to remain in the city in which he has taken refuge until justice may be obtained (non prohibeatur inmorari quamdiu aut redire potuerit aut iniuria eius remedium acceperit).

6. CANON 15.

In continuation of the previous ruling, canon 15 ends the Sardican consideration of translation by bishops. Its designed conclusion of the subject is reflected in the opening words, "Et quia nihil praetermitti oportet ... ". The canon begins with the observation that there are certain ones who do not dwell in the cities in which

they are established as bishops,[1] or at least have little business there and are known to be concerned with farms and interests[2] elsewhere. It is proposed that so they may not suffer loss they may attend to these affairs for three weeks (of each year), preferably remaining on their estates (in suis potius fundis morentur). It is clear that business expeditions of this sort had frequently in the past been occasions for the type of ambitious abuse dealt with in the previous canon. The present agreement is aimed at insuring that in the future such trips will not only be short, but also that the bishops will remain engaged in their own affairs and not in ambitious meddling in foreign churches, for the final phrase states, "et si non frequenter venerit ad civitatem in qua est episcopus careat suspicionem ambitionis adque iactantiae."[3]

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1. The Greek text reads that certain bishops have little property in the cities in which they are established as bishops (E.O.M.I.A., I, p. 520).
2. "adfectationes quibus indulgeant" with "disponant" following may be equivalent to the Greek reading here: "with which they are able to sustain the poor."
3. The canon seems also designed to reduce the business activities of bishops. Although the increase of Church properties during the fourth century reduced the necessity for the higher clergy to depend upon secular incomes, the practice is represented here to be not uncommon. Earlier disapproval of excessive business activity among the higher clergy had been expressed by Tertullian (De Idolatria, 11, P.L., I, col. 752) and St. Cyprian (De Lapsis, 6, P.L., IV, cols. 484-485), but the fourth century brought

The canon further directs that if there is a city nearby in which a presbyter is located, a bishop tending his estate should go there (accedat) lest he seem to pass Sunday without the Church (ne sine ecclesia facere videatur Dominicum), and so that he will not frequent cities in which there are bishops.[1] Turner is of the opinion that "facere Dominicum" is a term denoting the celebration of the Eucharist.[2] This would suggest that the clause was intended to prevent it being thought that the bishop had participated in the liturgy of a body outside the communion of the Church, rather than that he had simply missed the Eucharist completely. It is undoubtedly to be understood in the Latin that, as the Greek text explicitly directs, the bishop is to preside at the liturgy (λειτουργεῖν) in a church which is under the supervision of a presbyter. This honour in any case would be consistent with the usual hospitality offered to travelling bishops and other clergy.[3]

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considerable restriction. Canon 18 of Elvira forbids bishops, presbyters and deacons to trade in markets outside the province (unconnected but parallel to Sardica 3a), canon 6 of the Apostles orders deposition for clergy of the higher grades who undertake secular employment, and canon 17 of Nicaea forbids all clergy to practise usury.

1. Cf. canon 17 of Arles (note 2, p.139 above).
2. E.O.M.I.A., I, p. 488.
3. Cf. Didascalia II, 58, 2 (F.X. Funk, Didascalia et Constitutiones Apostolorum, Vol. I, Paderborn, 1905, pp. 166-168), and canon 19 of Arles, "De episcopis peregrinis qui in urbem solent venire, placuit eis locum dari ut offerant" (Harduin, I, col. 266).

7. CANON 16.

The canon rules that if a deacon, presbyter, or cleric having been excommunicated by his own bishop seeks to be received by another, and the other knows him to have been cast out, he must not be admitted to communion. The Greek text includes the observation that it is not fitting for a bishop thus to do his fellow bishop injury.[1] The exclusion of those from communion who were not in good standing in other churches was customary from the earliest times,[2] and the same ruling as that in the Sardican canon is found among the canons of several other fourth century councils.[3] Of particular interest are the two similar canons of Antioch which were undoubtedly occasioned by the same problem of divided loyalties. In this, as in other areas of discipline, the older uncodified mutual respect of bishop for bishop and church for church became defined in a jurisdictional idiom during the fourth century. The reason for the repetition of this particular ruling at Sardica is well illustrated by the other documents of the synod. In describing the activities of the

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1. μὴ χρῆναι τῷ ἀδελφῷ οὐτοῦ ὕβριν ποιοῦντα.
2. 2 John 10; Didache, XI, 1-2 and 5-6; Didascalia, 26
3. 53 of Elvira, 5 of Nicaea, 3 and 6 (also 2 and 4) of Antioch, and 13(12) of the Apostles.

Eusebians, the Encyclical Letter states, "Supra haec omnia etiam olim depositos atque eiectos ecclesia propter heresim Arrii non solum susceperunt, sed etiam in maiorem provexerunt gradum."[1] The same charge is repeated in the Synodal Letter to Pope Julius,[2] and echoes Julius' own letter to the Eusebians in which he reproved them for having readmitted to communion those whose sentence of excommunication under Alexander had been universally ratified at Nicaea.[3]

The discussion of the subject is continued in canon 17 which provides an opportunity for excommunicated clergy to appeal for revision of their sentence. This will be treated in the following chapter.

8. CANONS 18 and 19.

Canon 18 rules that no bishop shall solicit a man (ecclesiasticum)[4] from another church and ordain him in his own, and canon 19 states that if a bishop ordains a foreign cleric (ministrum) without the consent of his bishop the ordination shall be considered invalid.

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1. sec. 7 (C.S.E.L., LXV, p. 119).
2. sec. 3 (Ibid., p. 129).
3. sec. 3 (P.L., VIII, col. 883).
4. Turner is of the opinion that "ecclesiasticum" means merely a churchman, lay or clerical. See E.O.M.I.A., I, p. 488 and art. cit. (Genuineness), p. 379, note 2.

Both Batiffol[1] and Turner[2] have been of the opinion that the two canons are essentially equivalent in meaning, but Bardy has tried to separate these sections of material as being two different enactments. He supposes that the first presumes that the ordinand is to be retained for service under the ordainer, and that it is to be understood in the second that he is ordained for service in his native diocese.[3] If, as has been suggested, canon 18 is the initial proposal and canon 19 is the final redaction, Bardy's supposition is textually impossible. Further evidence for an equivalence of meaning between the two canons is provided by a citation made by Gratus at the Carthaginian synod held in 345. He recalled that it was forbidden by the Council of Sardica for a bishop to solicit a man for ordination from another diocese without the consent of his own bishop.[4] The meaning of Gratus' statement is unequivocal and his use of "plebis hominem" and "usurpet", as well as his phraseology, indicate that he drew upon both Sardican sections

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1. Op. cit. (La Paix Constantinienne), p. 435.
2. E.O.M.I.A., I, p. 483, note to lines 10-18.
3. G. Bardy, La Théologie de l'Eglise, de Saint Irénée au Concile de Nicée, Paris, 1947, p. 292.
4. Canon 5: "Nam et memini, in sanctissimo concilio Sardicensi similiter statutum, ut nemo alterius plebis hominem usurpet. Sed si forte erit necessarius ordinationi, petat a collega suo, et per consensum habeat" (Harduin, I, col. 686).

for his citation. It also seems probable that the second Greek redactor understood the two canons to convey the same meaning and that he deleted canon 18 as the least explicit of the two. The presence of this canon in the primitive Greek text is certain, for it is found in the Theodosian version with a decidedly different structure from its Latin counterpart. Not only is the phraseology at variance between the two, but the acclamation clause found in the Theodosian is considerably longer.

The Theodosian, however, agrees with the Latin text in the use of the verb "usupare" with reference to the practice of soliciting foreign clergy. The Greek, on the other hand, employs ἐπιτρέπειν. The three readings are as follows:

Latin
"Quicumque autem hoc usurpaverit"

Theodosian
"Si quis vero hoc usurpare voluerit"

Greek
εἴ τίνες δὲ ἂν τοῦτο ἑαυτοῖς ἐπιτρέψειαν.

The meaning of the phrase is clear in the Greek as, "if any presume to do this". Although the Latin may be interpreted in agreement with the Greek as, "whoever shall practise this" its intended meaning seems to be, "whoever shall take possession for this end". This is the sense

in which the verb is used by Gratus in his citation of the canon, and the use of the same verb by the Theodosian translator can only be reasonably explained by assuming that he had access to the Latin text and understood the phrase in the same way preferring this interpretation to that of the Greek.

The canons under consideration repeat the injunction contained in the final clause of canon 16 of Nicaea which proceeds from a consideration of clerical translations. The general prohibition of unauthorized translations in this period clearly provides a major reason for the disapproval of such ordinations in that the soliciting bishop would effect the translation of the cleric, but another objection arises from the fact that the jurisdiction of the cleric's own bishop would be violated. A similar concern for the integrity of local jurisdiction is evidenced by other fourth century councils. Canon 24 of Elvira forbids the ordination of a candidate baptized in another diocese, and canon 17 of Arles, as we have seen in another context, decrees, "Ut nullus episcopus alium episcopum inculcet." Canons 13 and 22 of Antioch and 36(35) of the Apostles forbid episcopal acts within the territorial boundaries of another church. Four bishops wrote to Melitius of Lycopolis, "Lex est patrum et

propatrum ... in alienis paroeciis non licere alicui episcoporum ordinationes celebrare."[1]

9. CANON 20.

A special problem affecting the Church of Thessalonica is dealt with by this canon. Aetius complained to the synod that this large important city had attracted numbers of presbyters and deacons from other communities, and that these either made it their permanent residence or at least with difficulty were at length compelled to return to their own churches. The situation described seems to be comparable to that envisaged in canon 14. Because of the greater opportunities offered there, the clergy in question desired to become permanently attached to the church of that city. Translations by presbyters and deacons had previously been forbidden by the canons of a number of councils[2] as an offence worthy of severe punishment, but there seems to be no recognition on the part of the synod that these were translations as an accomplished fact. They were instead apparently regarded as ambitious visits, and the limitation

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1. Epistola ad Meletium Lycopolitanum Episcopum (P.G., X, col. 1565C).
2. See as mentioned above: Arles 21, Nicaea 16 (and 15), Antioch 3 and Apostles 15.

agreed upon in canon 14 appertaining to a bishop's absence from his see was ordered to be observed.

10. CANON 21.

Canon 21 constitutes an agreement that if anyone[1] suffers violence and is cast out because of his confession of the Catholic faith[2] or defence of truth and, being innocent, flees to another city, he shall be allowed to remain either until he is able to return to his own or until the injustice has been corrected. The initial proposal, or the approved sententia, had apparently been on the motion of Olympius, and what has been preserved is the final resolution as stated by Hosius. In effect it is an amendment to canons 16 and 17 insuring the reception of innocent refugees to communion, and particularly those who had suffered persecution for the faith at the hands of the Arians. The canon may be viewed at least in part as a justification of the asylum which had been granted to Athanasius, Marcellus and others at Rome. The provision was of course not new but a reiteration of the custom which had been observed in the earlier days of persecution

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1. Of the Latin recensions only the Chieti specifies bishops, presbyters, or deacons (E.O.M.I.A., I, p. 485).
2. The Greek reads, καθολικῆς ἐκκλησίας.

under the pagan oppressors. The Didascalia[1] had urged hospitality to be given to those persecuted for the faith who fled from city to city, and there are numerous examples of hospitality having been given in such circumstances. In closer context with the Sardican canon is an injunction contained in the fourth century Apostolic Constitutions[2] according to which those persecuted for the faith are to be received and their needs supplied.

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1. V, 3 (ed. Funk, p. 240).
2. VIII, 45 (ed. Funk, p. 556).

CHAPTER V

THE APPOINTMENT OF BISHOPS

1. CANON 5.

The Latin and Greek readings of canon 5 (VIa) are strikingly different in meaning. The Latin envisages a situation in which there is but one bishop left in a province and he through heedlessness (neglegentiam)[1] is unwilling to ordain a bishop (that a vacancy may be filled). If the people of the Church in question for this reason call upon the bishops of a neighbouring province,[2] the

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1. The phrase "ille vero per neglegentiam noluerit ordinare episcopum" is omitted in several recensions. Turner considers the longer reading to be correct supposing the omission to have been made through homoeoteleuton (E.O.M.I.A., I, p. 458, note to line 4).
2. Because of the Nicene ruling (canon 4) that at least three bishops must participate in a consecration, Hefele has interpreted this to mean that if the remaining bishop has not taken the initiative in inviting bishops from a neighbouring province to join him in the consecration, the people of the church in question must invite them (op. cit., Vol. II, p. 131, note 3). The custom of a minimum participation by three bishops at episcopal consecrations seems to have been universally accepted during the fourth century (cf. canon 20 of Arles, canon 2 of the synod at Carthage in 397, canon 1 of the Apostles, and Apostolic Constitutions VIII, iv, 6-ed. Funk, p. 472) but it may be questioned whether in extreme cases such as that outlined by the Sardican canon the rule was necessarily observed. For ordinations in circumstances of similar difficulty a century and a half later Pope Gregory I differentiated between the desirability of three or four participants and the

canon states that the foreign bishops should summon the one remaining bishop of the province informing him of the peoples' desire, that he may join with them in the consecration. If, however, he ignores the summons, the peoples' need should be fulfilled and the ordination should take place. In the Greek text, on the other hand, the circumstances are considerably modified. The situation represented concerns a province in which there are a number of bishops, one of whom refuses through indifference (ἀμέλειαν) to assent to the institution of a candidate for a vacant see. The canon directs that the absent bishop should be sent for by the metropolitan of the province, but that if he does not heed the summons the ordination should take place without him.

The difference between these two versions is remarkable in that both are concerned with a bishop who is unwilling to ordain, but that the circumstances in the two cases are entirely different. Both canons clearly state their respective propositions without internal contradiction. The final clause in the Latin canon, which directs that the bishops from the neighbouring province shall

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validity of consecration by one bishop only (Epist. LXIV: Liber Epistularum XI - P.L., LXXVII, col. 1191). In any case, Hefele's interpretation cannot be directly inferred from the text of the Sardican canon.

perform the ordination, is presented in the Greek as a separate section and provides that the bishops from a neighbouring province shall be invited to attend the appointment of a metropolitan.

A solution to the problem of the relationship of these variants, one to the other, is not possible on grounds of internal evidence alone. No clear case can be put forward by means of textual analysis for the corruption of one reading having resulted in the other, although serious arguments on linguistic grounds have been advanced from both sides.[1] The possibility of the separate existence of two original versions of this canon seems slight from conclusions previously reached with respect to textual priority, and from the otherwise generally close agreement between the two texts. The fairly certain early transmission history of the Latin text allows little likelihood that the Latin version of the canon underwent such extensive revision, either by accident or by design, as would have been necessary for its adaptation from the present Greek. The existence of other strong evidence for alterations having been made in the Greek text does suggest, however, that it is this version which has departed from the original. This

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1. See above, p. 71.

apparent solution to the problem is made manifest by an analysis of the canon with respect to its disciplinary and historical contexts.

During the third century the prerogative of suffrage in episcopal elections was customarily shared among the clergy and people of the local church and the neighbouring bishops.[1] Although the initiative in this system of appointment was variously taken by one or another of the three parties concerned, the joint exercise of suffrage seems to have continued in practice in the East until the fifth century and until a considerably later date in the West.[2] The restriction of popular suffrage in favour of a more rigidly controlled system of appointment began in

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1. Hippolytus, as an example, at the beginning of the third century states that a bishop is to be chosen by all the people (ὑπο παντος του λαοῦ) and that the choice shall be approved by the assembled bishops and presbyters (Apostolic Tradition, I, 2-3 - ed. Dix, pp. 2-3). While attributing a more passive function to popular suffrage Origen, in the same period, wrote, "Requiritur enim in ordinando sacerdote et praesentia populi, ut sciant omnes et certi sint quia qui praestantior est ex omni populo ... " (In Leviticum Homilia, VI, 3 - G.C.S. "Origenes Werke", Vol. VI, pp. 362-363). In the middle of the century St. Cyprian claims the system of shared suffrage to have been universal in use: "Ut ad ordinationes rite celebrandas, ad eam plebem cui praepositus ordinatur episcopi eiusdem provinciae proximi quique conveniant et episcopus deligatur plebe praesente" (Epist. LXVII, 5 - C.S.E.L., III, p. 739).
2. Cf. F.X. Funk, Kirchengeschichtliche Abhandlungen und Untersuchungen, Vol. I, Paderborn, 1897, p. 32.

the East, however, early in the fourth century. The rapid development of provincial organization and the acquisition of jurisdictional rights by the provincial synod and metropolitan resulted in theory, at least, in the attribution of effective suffrage to the body of provincial bishops. This development is clearly reflected in the legislation of the Eastern synods. Canon 18 of Ancyra is concerned with the case of a bishop who has been refused by the church to which he has been appointed, and this implies that the wishes of the community in question were not considered when the appointment was made. Canon 4 of Nicaea grants suffrage only to the provincial bishops, giving the metropolitan the decisive vote, and canons 19 and 23 of Antioch carry this development a step farther by introducing the provincial synod as the effective appointing body. In the West, on the other hand, limitation of popular suffrage, even in principle, did not take place until a much later period. With reference to the present discussion evidence for the continued acceptance of the older system of episcopal appointment during the fourth and fifth centuries is provided by Pope Siricius,[1] St. Jerome,[2] Rufinus' account

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1. Epist., I, 10 (P.L., XIII, col. 1143) "Exinde iam accessu temporum, presbyterium vel episcopatum, si eum cleri ac plebis edecumarit electio, non immerito sortietur."
2. Commentarius in Ezechiel, X, 33 (P.L., XXV, col. 319A). "Speculator autem Ecclesiae, vel episcopus, vel presbyter, quia a populo electus est ... ".

of the election of St. Ambrose,[1] Pope Celestine[2] and Pope Leo.[3] As in most other matters pertaining to provincial organization, the canons of the period make no mention of the method to be used for episcopal appointment.

The Greek version of the Sardican canon clearly reflects the newly developing elective system of the East, and is in fact nearly an exact paraphrase of the 19th Antiochene Canon, being particularly concerned with the dissenting bishop mentioned in its final clause. Latin canon 5 stands completely outside this context and it might be consequently argued that there is more likelihood of the Greek version being the original. This was the opinion of Tillemont who considered the situation described by the Latin text to be so improbable as to point towards textual corruption.[4] The historical evidence, however, may be turned equally well the other way. The Latin text represents the contemporary electoral principle of the West as closely as the Greek represents that of the East.

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1. Hist. Eccles., II, 11 (P.L., XXI, cols. 521-522).
2. Epist., IV, 5 (P.L., L, col. 434) Nullus invitis detur episcopus. Cleri, plebis et ordinis, consensus ac desiderium requiratur.
3. Epist., XIV, 5 (P.L., LIV, col. 673) "Cum ergo de summi sacerdotis electione tractabitur, ille omnibus praeponatur quem cleri plebisque consensus concorditer postularit."
4. L. de Tillemont, Mémoires pour Servir à l'Histoire Ecclésiastique des Six Premiers Siècles (2nd edition), Brussels, 1732, Vol. VIII, p. 48.

In the situation described by the Latin canon the election of the bishop is not discussed. Popular election is undoubtedly presumed, and the only problem with which the canon deals is how in the circumstances envisaged the bishop elect is to be ordained.

At the time of Sardica an intensely practical problem demanded just such a solution as the Latin version of the canon provides. This problem arose from the Eusebian efforts to gain control of the orthodox episcopates through the deposition and banishment of their bishops. This as a general Eusebian policy was nowhere more thoroughly carried out than in Egypt and Libya, if we may believe Athanasius. He states in his Apologia de Fuga that more than thirty Egyptian bishops had fled from the persecutions of Gregory of Cappadocia, the usurper at Alexandria.[1] The Sardican letters to the churches of Egypt and Libya allude to the same situation and it is probable that the Eusebian policy brought nearly as disastrous results in other provinces as well. Pope Julius related that many bishops and presbyters from Thrace, Coele-Syria, Phoenicia and Palestine sought redress for their injuries at the Roman Synod of 340.[2] Through

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1. Sec. 7 (P.G. XXV, 653A).
2. Pope Julius' Letter to the Eusebians, 18 (P.L., VIII, col. 902B).

systematic persecution, the Orthodox party had been forced out of large areas of the East, but it is evident from their Encyclical Letter that the bishops at Sardica, as those assembled at Rome before them, recognized the exiled Orthodox as the true bishops of the affected sees and regarded their Eusebian successors as usurpers.[1]

The Latin version of canon 5 seems to be directed towards the maintenance of the Orthodox episcopate in provinces harassed by persecution and from whence the majority of the bishops were in exile. The situation described is a plausible reality of the times (Si contigerit in una provincia in qua plurimi fuerint episcopi unum forte remanere episcopum...). The canon thus constitutes an agreement upon the course of action to be followed in the event that an episcopal election should take place and no provincial bishop should be available to effect the consecration. It was deemed justifiable that in such an emergency the local church should call upon bishops from outside the province.[2] Schwartz has given a similar

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1. Cf. Sec. 8 (C.S.E.L., LXV, pp. 122-123).
2. An interesting parallel to this ruling is provided by the early fourth century Apostolic Church Order. It is stated in sec. 16 that if there are too few in a place to elect a bishop (12 people) they should write to nearby churches in order that others may join them in the election (J.P. Arendzen, "An Entire Syriac Text of the 'Apostolic Church Order'", in J.T.S., Vol. III, 1901, pp. 67-69).

interpretation to the Latin reading of the canon, but has suggested that it was intended to apply to the maintenance of the Catholic episcopate against Donatist encroachments in Africa.[1] However applicable the canon may have been to the African situation, the problems arising from Arianism in the East were unquestionably the foremost concern of the synod and it is from their consideration that the canon seems to proceed.

This interpretation of canon 5 brings it into greater harmony with the Sardican legislation as a whole, framed as it is in the historical context of the Orthodox-Eusebian contest. That this was the original sense of the canon is also given support by the consistent absence from the canons as a group of the more advanced Eastern concepts of provincial organization which are expressed in the Greek canon VIa. The prerogative of popular suffrage pre-supposed by Latin canon 5 is consistent with the clear implication of this practice in canon 2,[2] whereas the Greek canon VI explicitly specifies synodal appointment and hence represents a different tradition.

If the foregoing interpretation of canon 5 is correct the history of its Greek counterpart is yet to be explained.

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1. art. cit. (Der griechische Text), p. 20.
2. See above, p. 132.

It is suggested that the primitive Greek text, corresponding in meaning to the Latin, was changed by the two successive later editors whose work is discussed above in Chapter III. The canon as it originally stood would at a later date have had little meaning to one unacquainted with the problem considered. May we not suppose that its concern with the negligent bishop suggested a situation similar to that envisaged by canon 4 of Nicaea and that the first editor revised the canon accordingly? The version of canon 5 preserved by the Theodosian text stands midway between the Latin and Greek in meaning and seems to provide an indication of the stages by which the overall development from the primitive to present Greek readings took place. Schwartz, in arguing for the priority of the Latin text, has supposed that the key to the divergence between the Latin and Greek is found in the first editor's interpretation of the verb "remanere". Its original meaning in the sense of "survive" was missed, Schwartz suggests, and consequently it was translated as "stay away" with ἀπομεῖναι. [1] The Theodosian version shows, however, that the cause of the first editor's mystification was the original Greek counterpart of the Latin

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1. art. cit. (Der griechische Text), pp. 20-21.

phrase, "una provincia in qua plurimi fuerint episcopi." Apparently this phrase and its key verb "fuerint", which introduces the essential problem of the entire canon, was, because of its unintelligibility, changed to "una provincia in qua plures sunt episcopi (ordinandi[1])".[2] The negligent bishop with whom the canon is concerned was consequently thought, as Schwartz suggests, to "remain" in the sense of "stay away", but it appears that the Greek verb used was not changed by the first editor, for "remanere" is found in the Theodosian. The editor then quite naturally proceeded to bring the remainder of the canon into intelligible conformity with the newly constructed introductory phrase. The original reading (as found in the Latin) directs that after the people have assembled the bishops of the neighbouring province, those bishops shall write to the "remaining" bishop informing him of the necessity that an ordination should take place: " ... et populi convenerint episcopos vicinae provinciae; debere illum prius convenire episcopum qui in eadem

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1. The addition of "ordinandi" is unique to the Theodosian and of course changes the entire meaning of the phrase. As this word is not found in the Greek, and as the only effect of its deletion is to bring the Theodosian reading into closer harmony with the Greek it is presumed that it was added after the Theodosian text left the main stream of Greek development.
2. Representing the Greek μιᾷ ἐπαρχίᾳ ἐν ᾗ πλεῖστοι ἐπίσκοποι τυγχάνουσιν.

provincia moratur ... ". It is evident from the Theodosian that "populi convenerint" was disassociated from its subject-object relationship with "episcopos vicinae provinciae" so that the object of the verb "assemble" became the people who demanded a bishop, and the bishops of the neighbouring province were introduced as a subsequent and separate thought. At the same time in the place of the bishops of the neighbouring province, whose presence was no longer necessary in the newly created situation, the Greek editor substituted the metropolitan of the first province. Not only did these two alterations give an intelligible meaning to the newly constructed context, but they were also consistent with the editor's desire to introduce Eastern provincial institutions. Exactly the same substitution - provincial metropolitan for the bishops of the neighbouring province - was made in canon 17 by the same editor.[1] This first revision altered the entire meaning of the canon, but the differences between the Theodosian and the present Greek text show that further changes were made in a second revision. The present Greek describes the negligent bishop as one who will not assemble with the provincial

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1. See below, p. 208.

bishops - or in other words will not attend the provincial synod - and who will not assent to the appointment made by them. The Theodosian (noluerit convenire et ordinationi adesse episcoporum) suggests that "be present at" was changed to "assent to" in the second revision. Thus, while the first editor introduced the idea of the provincial synod, the second editor made the synod the appointing as well as the ordaining body and brought the canon into conformity with the hardening electoral practice of the East represented by canon 19 of Antioch. The final clause of canon VIa, which was allowed to stand in the first revision, was also changed by the second editor from "let them (the bishops) come together from the neighbouring province and ordain the bishop" to "the bishops of the neighbouring province should be assembled for the installation of a metropolitan."

2. CANON 6

This short canon, which in the Greek forms canon VIb, is a restrictive clause affecting consecrations made possible under the provisions of the preceding canon. It forbids the bishops assembled from the neighbouring province (or the provincial bishops as a body as according to the Greek text) to consecrate bishops for small towns

where presbyters would suffice, unless they are places where bishops have been previously established or are communities sufficiently populous to be worthy of them. It is stated that the reason for this restriction is to prevent the cheapening of the name and authority of the bishop.

It has been frequently suggested that the ruling is concerned with the chorepiscopus, or country bishop, dealt with by a number of canons framed by Eastern synods of the early fourth century.[1] It is doubtful, however, that this identity can be made. Canon 14 of Neocaesarea likens the chorepiscopi to the Seventy Disciples, thus implying a contrast between this office and that of the Apostolic episcopate, and canon 8 of Nicaea pre-supposes their subjection to the episcopate itself. Canons 13 of Ancyra and 10 of Antioch allow the chorepiscopi to ordain presbyters and deacons only with the consent of the city bishops to whom they are subject. The latter canon restricts the right of appointment of chorepiscopi to city bishops under whose jurisdiction they will remain, and also implies that these country pastors were often presbyters and not ordained to the episcopate at all. Al-

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1. This identity is assumed by F. Gillmann, Das Institut der Chorbischöfe im Orient, Munich 1903, pp. 40-41 and by T. Gottlob, "Der abendländische Chorepiscopat", in Kanonistische Studien und Texte, Vol. I, 1928, p. 9.

though local variations in this office undoubtedly existed, that which is consistently represented is a stationary suffragan with limited episcopal powers in charge of a rural Christian community which was dependent upon a near-by city church.

It seems probable that in the fourth century East there were two distinct types of country bishops resident in small towns.[1] Turner has argued that the chorepiscopus, as it is understood by the above mentioned canons, was a local institution confined to the area of the inland provinces of Asia Minor. The chorepiscopi of these provinces were, in Turner's opinion, appointed by city bishops and given limited and dependent jurisdiction in order to provide episcopal ministration in thinly populated areas.[2] Gillmann on the other hand has identified this country bishop with a remnant representative of an

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1. Cf. E. Kirsten, "Chorbischof" in Reallexikon für Antike und Christentum (ed. T. Klauser), Vol. II, Stuttgart, 1954, cols. 1105-1110.
2. C.H. Turner, Studies in Early Church History, Oxford, 1912, pp. 63-66. In support of this view see K. Müller, Kirchengeschichte (3rd edition), Vol. I, Tübingen, 1941, p. 324 and J. Parisot, "Les Chorévêques", in Revue de l'Orient Chrétien, Vol. VI, 1901, pp. 157-160. Considerable light may also be thrown on this earlier problem by the conclusions of A.H.M. Jones concerning the Cappadocian chorepiscopate of the later fourth century. Numerous village episcopates were apparently created at this time by Basil of Caesarea in his jurisdictional struggle with Anthimus of Tyana (The Cities of the Eastern Roman Provinces, Oxford, 1937, pp. 184-186.

older independent village episcopate which had, by the fourth century, come under the domination of the city bishops, and was in the process of being suppressed.[1] Turner does not deny the existence of specific cases of this sort but would differentiate them from the local institution in Asia Minor and would depreciate their numerical significance. In both situations, however, the position of the country bishop in the East during the fourth century was the same; the office was rapidly being deprived of the episcopal character which it possessed and during the fifth century it would virtually disappear.

The country episcopate found in the West, on the other hand, is indistinguishable from the city episcopate in that it maintained an independent authority within the boundaries of its own limited jurisdiction.[2] During the fourth century there were apparently many rural bishops in the Western provinces, particularly in Africa and peninsular Italy,[3] and although attempts were made to reduce their numbers it seems that no limitation of their authority or restriction of their dependence took

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1. Op. cit., pp. 12-49.
2. Cf. G. Bardy, op. cit., p. 262.
3. Cf. J. Lebreton and J. Zeiller, The History of the Primitive Church (English trans.), Vol. IV, London, 1948, p. 982.

place.[1]

The office described in Sardican canon 6 shares the characteristics of this Western country episcopate rather than the Eastern, for what is implied in connection with canon 5 is an independent episcopate enjoying full authority in its own right with the bishop elected by the local church, and not a restricted subject office with the incumbent appointed by a local higher authority. It is of significance that the canon does allow the consecration of such bishops if the communities desiring them are sufficiently populous to warrant their appointment. A canon designed to eliminate or restrict the office would hardly allow this possibility. It is furthermore unlikely from the standpoint of geographical representation that the question of the Eastern chorepiscopate should have been raised at Sardica. While Turner convincingly shows the office to have been a predominantly local institution, the geographical location of the councils which treated it gives evidence that the concern with its limitation was a problem confined to the same area.[2] At Sardica,

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1. See for example canon 5 of the synod at Carthage under Genethlius in 390; Canon 5 of the synod held at Carthage in 397 (canon 53 of the Codex Canonum Ecclesiae Africanae - Harduin, I, col. 890); and Pope Leo, Epist., XII, 10 (P.L., LIV, col. 654).
2. Ancyra in Galatia; Neocaesarea in Pontus; Antioch in Coele-Syria; and Nicaea in Bithynia.

the two bishops from Palestine and Arabia were the only members of the synod who could have had any direct interest in the question thus viewed.

The general movement towards restriction of the number of sees, however, was common to East and West and it is in this larger historical context that the Sardican canon finds its place. It may have been partially occasioned by the Eusebian appointment of Ischyras as bishop of the Alexandrian suburb, Mareotis, which had always before been under a presbyter. This appointment was condemned by Pope Julius[1] and by the Sardican Encyclical[2] and it is clear that St. Athanasius regarded it as a useless duplication.[3]

Apparently no alteration was made in this canon (VIb) by the first Greek editor as the Theodosian reading agrees with the Latin, but in the present Greek text it has been brought into conformity with the previous section (VIa) by the substitution of οἱ τῆς ἐπαρχίας (the body of ordaining bishops) for "illi ex alia provincia invitati."

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1. Letter to the Eusebians, 12 (P.L., VIII, col. 895 B).
2. Sec. 5 (C.S.E.L., LXV, p. 116).
3. Apol. contra Arianos, 85 (P.G. XXV, 400 B). It is explicit that Athanasius regarded Ischyras as claiming full jurisdiction in an independent episcopate and not as dependent upon Alexandria as a chorepiscopus.

3. CANON 13

It is agreed that if a wealthy man, a public advocate, or a civil official[1] be desired as bishop he shall not be ordained to that high office until he has passed through each successive grade of the ministry - reader, deacon, and presbyter - and has been found worthy. In this way his faith, restraint, gravity and modesty may be tested and merit proved. By way of justification Hosius stated that it is forbidden by the Apostle,[2] and discipline does not allow, that a novice should be rashly ordained bishop, priest, or deacon.

There is abundant evidence for the "disciplina" cited by the canon, for from the earliest times bishops had been chosen for their piety and ability from among the presbyters and deacons. There is no indication before the fourth century however, of any prescribed order of ascent to the highest office having been observed or even expressed as desirable. The only exception to this is in the category of fact rather than opinion. St. Cyprian in describing the ascent of Pope Cornelius writes, "non iste ad episcopatum subito pervenit, sed per omnia ecclesiastica officia promotus."[3] In the Roman Church

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1. "ex administratore" - this is omitted in the Greek text.
2. 1 Timothy 3:6.
3. Epist., LV, 8 (C.S.E.L., III, p. 629).

during the early period a new bishop was usually chosen from among the deacons,[1] and it was the custom at Alexandria to select the bishop from among the presbyters.[2] Diverse examples of the omission of one or more offices on the way to the episcopate may be cited, and these are not exceptional cases. St. Cyprian was apparently ordained presbyter and then bishop without having been a deacon or having passed through any of the lower orders,[3] and, contrary to local custom, St. Athanasius was a deacon of Alexandria at the time of his election. More exceptional but still in evidence are cases in which laymen or those in minor orders were elevated to the episcopate.[4] The "disciplina" then seems to have been simply a universal concern for the worthiness and ability of candidates for the three higher orders.

Canon 2 of Nicaea ordered a period of trial after baptism for recent converts from paganism before ordination to the presbyterate or episcopate and, as the Sardican canon, based this ruling upon Apostolic precept, but

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1. Cf. J. Lebreton and J. Zeiller, op. cit., Vol. IV, p. 977.
2. Cf. St. Jerome, Epist., CXLVI, 1 (C.S.E.L., LVI, p. 310).
3. Cf. Pontius, Vita S. Cypriani, 3 (P.L., III, col. 1544A).
4. Silvanus of Cirta was only a subdeacon at the time of his contested election (Gesta apud Zenophilum, 10 - M.J. Routh, Reliquiae Sacrae, Oxford, 1846, Tom IV, pp. 321-335) and Pope Fabian a layman (Eusebius, Hist. Eccles., VI, 29 - P.G., XX, col. 588 C).

no recommendation was made that such candidates should pass through successive grades of the ministry. Similarly, later in the century section 5 of the Canones ad Gallos Episcopos specified only that hasty appointments should not be made, and canons 3 of Laodicea and 80 of the Apostolic Canons made no further specification than that those recently baptized should not be ordained to the episcopate. There is evidence that the period of probation was frequently thought of in terms of an age limit. The Didascalia[1] directs that a candidate for the episcopate must be 50 years of age, and canon 11 of Neocaesarea that a presbyter should not be ordained until thirty years of age. In the late fourth century Pope Siricius wrote that those chosen of the Lord should, after being readers until puberty, remain acolytes or subdeacons until their thirtieth year, and be deacons and presbyters for five years each before being allowed to advance to the episcopate.[2]

The Sardican decree appears as the earliest enactment of its kind and, indeed, the earlier unregulated system of advancement was to continue in many quarters until much

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1. II, 1 (ed. Funk, p. 30).
2. Epist., I, 9 (P.L., XIII, cols. 1142-1143).

later.[1] It is plain from the wording of the canon that the fulfilment of each successive office was thought by Hosius to be an assured means of probation rather than a stepping stone to the next rank (ut per singulos grados si dignus fuerit ascendat ad culmen episcopatus). Although the development of the "stepping stone" concept is ultimately connected with the shift from a functional view of orders to a hierarchical view, the contribution which this Sardican agreement made towards the general tightening of discipline in the West may have been considerable.[2]

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1. St. Ambrose was a layman at the time of his election to the episcopate (Paulinus, Vita Sancti Ambrosii, 5-6 - P.L., XIV, cols. 30-31); St. Basil passed from the readership to the presbyterate (St. Gregory Nazianzen, Oratio, XLIII, 27 - P.G., XXXVI, col. 533); and St. Augustine was apparently a layman at the time of his elevation to the presbyterate (Possidius, Vita Sancti Aurelii Augustini, Prefatio, 4 - P.L., XXXII, col. 37). In the mid fifth century Pope Leo I wrote of the election of metropolitan bishops, "ex presbyteris eiusdem Ecclesiae vel ex diaconis optimus eligatur" (Epist., XIV, 6 - P.L., LIV, col. 673).
2. The statement of Pope Siricius, cited above, reflects the principle underlying the Sardican regulation as does his subsequent charge concerning those who enter the ministry of the Church in later years. He states that such persons are to be lectors or exorcists for two years; acolytes and subdeacons for five years; and then deacons for such time as shall be judged proper before appointment as presbyters or bishops (Epist., I, 10 - P.L., XIII, col. 1143). The same stipulation is made by Pope Zosimus (Epist., IX, 3 - P.L., XX, cols. 672-673).

The mention of the readership in canon 13 as the initial probationary order is of particular interest. The readership, mentioned both by St. Justin[1] and Tertullian,[2] was the first of the minor orders to come into being, and was an important liturgical office, for it was the reader who read the lections at the Mass of the Catechumens. During the course of the third century the subdiaconate first emerged as inferior to the readership but by the beginning of the fourth it had gained a superior place in a crystallizing hierarchy.[3] This may be demonstrated from a number of sources. In the Apostolic Tradition of Hippolytus the reader is mentioned before the subdeacon,[4] in a descending scale, and in the Didascalia the reader is given a place with the presbyters and deacons at the Agape with no reference to the subdeacon.[5] In the mid third century Pope Cornelius, listing the numbers of Roman clergy in a letter to Fabian of Antioch, placed the readers in the position in which they would remain in the West beneath the subdeacons,

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1. I Apology, 67 (P.G. VI, col. 429).
2. De praescriptionibus, 41 (P.L., II, col. 69A).
3. Cf. A. Harnack, Sources of the Apostolic Canons (English trans.), London, 1895, excursus "On the Origin of the Readership and of the Other Lower Orders", pp. 54-92.
4. Secs. 12 and 14 (ed. Dix, pp. 21 and 22).
5. II, 28, 5 (ed. Funk, p. 108). See also R.H. Connolly, op. cit., pp. xli-xlii.

acolytes, and exorcists and only above the porters.[1] The displacement of the reader is shown clearly by the fourth century Apostolic Constitutions. His ordination is treated after that of the subdeacon[2] and his assigned place at the Agape is now no longer with the presbyters and deacons but with the singers and doorkeepers.[3]

The hierarchical displacement of the reader, however, was accompanied by a development which is important for the later history of the office in the West. St. Cyprian makes mention of those whom he has appointed to the readership with the view of their advancement to the presbyterate[4] and by the fourth century in both the West and the East very young aspirants to higher orders were admitted to the office.[5] At the same time the readership at Rome was developing towards what would later be known as the

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1. Eusebius, Hist. Eccles., VI, 43 (P.G., XX, col. 621A).
2. VIII, 22 (ed. Funk, p. 528).
3. This is of particular interest as the first six chapters of this work are patterned closely upon the Didascalia and it is evident that the passage in question (Apost. Const., II, 28, 5 - ed. Funk, p. 109) was purposefully reworded.
4. Epist., XXXIX, 4 (C.S.E.L., III, p. 584).
5. In the fourth century Popes Liberius, Damasus and Siricius (cf. D.A.C.L., Vol. VIII, col. 2249); the Emperor Julian (St. Gregory Nazianzen, Oratio, IV, 33 - P.G., XXXV, col. 552A) and St. Basil (St. Gregory Nazianzen, Oratio, XLIII, 27 - P.G., XXXVI, col. 533B) were all readers as young boys.

"schola lectorum", or "junior seminary".[1] At the time of Sardica the position of the reader varied considerably from place to place, but this general development of the office into the first serious step towards higher orders undoubtedly provides the background for its mention in the present canon.

The canon is also directly concerned with those who by virtue of worldly success and notoriety were elected to the highest office of the Church. The necessity for purity of life in candidates for the episcopate and other grades of the ministry finds frequent emphasis in the early fourth century,[2] and the Sardican enactment coincides with this tightening of discipline. On the other hand, it seems also to be directed against the appointment of various questionable candidates by the Eusebians. St. Athanasius tells us that after the deposition of Eustathius

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1. L. Duchesne, Christian Worship (5th ed. - English trans.), London, 1919, pp. 346-349; Erik Peterson, "Das jugendliche Alter der Lectoren" in Ephemerides Liturgicae, Vol. XLVIII, 1934, pp. 437-442; and Balthasar Fischer, "Der Niedere Klerus bei Gregor dem Grossen", in Zeitschrift für Katholische Theologie, Vol. LXII, 1938, pp. 64-65.
2. See canons 30 of Elvira; 13 of Arles; 3, 10 and 12 of Ancyra; 8-12 of Neocaesarea; and 1, 2, 9 and 10 of Nicaea. In a parallel period of the Church's life, following the cessation of persecution, St. Cyprian had complained of a moral relaxation similar to that which is reflected by these canons (De Lapsis, 6 - C.S.E.L., III, pp. 240-241).

those who had previously not been admitted to orders at Antioch because of their impiety were ordained and many made bishops.[1] Of these he names Leontius and Stephen of Antioch, George of Laodicea, and Eudoxius of Germanicia. Athanasius' bias is not to be denied, but it was a bias shared by the bishops at Sardica. The elevation of Athanasius' accuser Ischyras to the episcopate may again have been of influence in the formulation of this canon for one of Pope Julius' objections to his appointment was the fact that he had not been a presbyter,[2] and this fact is also mentioned in the Sardican Encyclical.[3] It is probable that the canon has direct bearing upon the ordination of Gregory of Cappadocia who was hastily ordained from lay status and intruded into the see of Alexandria in 339.[4] Gregory's background before appointment is obscure but it is likely that he was an educated layman who had won the favour of Constantius. Athanasius describes him as "my successor from the court".[5]

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1. Historia Arianorum, 4 (P.G., XXV, col. 700).
2. Pope Julius, Letter to the Easterns, 12 (P.L., VIII, col. 895B).
3. Sec. 5 (C.S.E.L., LXV, p. 116). See also the reference made in the Sardican Letter to the Church of Alexandria (Athanasius, Apol. contra Arianos, 37 - P.G., XXV, col. 313B).
4. The case of Gregory is mentioned specifically in section 8 of the Sardican Encyclical (C.S.E.L., LXV, pp. 122-123), and in the Letter to the Church of Alexandria (P.G., XXV, col. 316C).
5. Athanasius, Epistola Encyclica, 2 (P.G., XXV, 225B).

CHAPTER VI

THE APPEAL CANONS

The historical importance of the Council of Sardica for the churches of the West, quite apart from its effect upon future relations between the two halves of Christendom, is pre-eminently centred in the appeal canons. These exhibit an undeniable influence upon the subsequent jurisdictional position of the institutional papacy as may be seen for example from their contribution to the ninth century false decretals of Popes Clement I to Melchiades. Much has been written on the subject of the appeal canons, and the prerogatives contained in them have been a frequent battleground of controversy from the ninth century discussions of Hincmar of Rheims, through the Gallican and Ultramontane controversies of the seventeenth and eighteenth centuries and into the present century. For the purpose of discrediting or vindicating the support which the canons may provide for papal claims, the controversy has been carried successively from questions of interpretation to that of their binding authority and finally to their genuineness. The question of oecumenical authority does not concern us here and, as the genuineness of the canons has been previously discussed, we

need only be concerned with the problem of interpretation. Unfortunately the interpretational treatment of the canons has frequently been tendacious with inadequate attention given to the historical facts which surround them or for the contemporary jurisdictional concepts from which they proceed.

Considerable difficulty arises from the natural division of the appeal material into three proposals or canons. If each canon is thought of as a separate formal decree of the synod it is reasonable to search for a resolution of the differences, and various interpretational combinations can obviously be devised if the controlling emphasis is placed upon one or another of the canons thus viewed. This approach has been, as we have seen, a recurrent mistake of many commentators and canonists, and a truer picture of the appeal material appears if it is reviewed rather as representing three phases of the verbal process. This is not to disavow the existence of problems in interpretation, but it does to a large extent undercut the basis of many arguments which have been put forward.

1. THE JURISDICTIONAL AND HISTORICAL CONTEXTS

While the motivating factors behind the appeal canons are to be rightly found in the historical situation, the depths of this context are not plumbed solely by an analysis of the complexity of events. Underlying concepts of ecclesiastical authority and the way in which it should be exercised play an important role in determining the pattern of circumstance. The historical situation with all of its confusion and conflict was an unavoidable product of unprecedented internal strife in an age of constitutional transition. The Church was at the same time attempting to re-establish peace within herself by older regulatory methods now rendered ineffective by forces too powerful to be controlled, and by new methods adapted to present needs but in reality yet unaccepted by herself. The older methods operated through the medium of mutual agreement among bishops towards a commonly desired end, cognizant of binding ecclesiastical law only as expressed in terms of universal tradition. The new method of administration, on the other hand, operated through the medium of synodal legislation and the establishment of a rule by law, the process being borrowed from civil government and to a degree being forced upon the Church from

without.[1] The conflict between the Nicene and Arianizing parties may be profitably viewed in terms of an extravagant interplay between these methods with each faction reaching out in turn for assistance from the new but falling back in turn in reliance upon the old. In the final analysis the acts of the fourth century synod or council were only as binding as they were representative of the judgement of those concerned,[2] while in a new idiom of jurisdiction, as a search for a standard of authority, they laid claim to observance by all. In this context the older covenant of excommunication sought recognition as an authoritative force, yet the Eusebians demanded acquiescence to the depositions at Tyre while not acknowledging those of Nicaea. Rule by mutual agreement was developing towards a rule by law, yet at Sardica Hosius founded his tour de force upon "si vobis placet, sanctissimi Petri apostoli memoriam honoremus".

Canon 5 of Nicaea had directed that the provincial synod should act as a court of appeal from a disputed

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1. Caspar, in contrasting these systems of administration calls them "charismatic" and "legislational" (art. cit., p. 167). See also Dom Gregory Dix, "Jurisdiction, Episcopal and Papal, in the Early Church", Laudate, Vol. XV, 1937, pp. 157-173 and 232-250, and Vol. XVI, 1938, pp. 107-118.
2. Cf. E. Caspar, art.cit., p. 167 and P. Batiffol, art. cit. (M. Babut sur l'Authenticité des Canons de Sardique), p. 203.

sentence pronounced by an individual bishop. It is thus implied that the provincial episcopate as a body had acknowledged authority to sit in judgement upon the acts of individual bishops resident within the province. The Canons of Antioch further reveal that the authority of the provincial synod, under the presidency of the metropolitan,[1] had become well established in the East several years before the time of Sardica. Canons 14 and 15 of Antioch are designed both to augment the authority of the provincial synod as a trial court and to insure the integrity of its operation. Canon 3b and c of Sardica show that also in the West the trial of a bishop was the affair of his comprovincials. The more rigid organizational concepts of the East are lacking, but also at Sardica the protection of the provincial body from outside interference was of specific concern.[2] In both the East and the West, however, the ever pressing question was still to be answered as to what recognized authority a petition for the review of a sentence once pronounced might be addressed.

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1. There can be no provincial synod without the metropolitan and it is he who assembles the synod (Canon 20) and is its presiding officer (Canon 16). All provincial affairs are submitted to his supervision, and the bishops are to take no collective action without him (Canon 9).
2. Canon 3b reads, "si in aliqua provincia forte aliquis episcopus contra fratrem suum episcopum litem habuerit, non ex his unus ex alia provincia advocet episcopos".

The Church in the East, with the rapid development of a defined system of provincial administration, operating through the medium of the synod, found itself not unsuited to a further extension of this same principle. Thus we find that the Eastern answer to the problem of disputed episcopal sentences was at least in theory expressed in terms of collective judicature.

Canon 14 of Antioch directs that in the event of disagreement among the members of the provincial synod over the case of an accused bishop, the metropolitan shall call in bishops from a neighbouring province who shall add their judgement and resolve the dispute. Canon 15 adds that if the judgement of the provincial bishops be unanimous the accused shall not again be judged by others (τοῦτον μηκέτι παρ' ἑτέροις δικάζεσθαι) and that the decision of the provincial synod shall remain. The ambiguity of this final phrase has led a number of scholars to interpret canon 15 as forbidding any appeal of sentence and particularly to exclude recourse to Rome.[1] The objections against this interpretation are considerable. First, it may be observed

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1. See for example: P. Batiffol, op. cit. (La Paix Constantinienne), p. 440 and in the cited article, "M. Babut sur l'Authenticité des Canons Sardique", p. 206; also J. Turmel, Histoire du Dogme de la Papauté, Paris 1908, pp. 240-241.

that canons 4 and 12 of Antioch make specific provision for the appeal of sentence. Also, as the question of appeal to Rome did not arise until 339, while the canons of Antioch can scarcely be dated later than 330, interference by the Roman See can hardly have been a problem at the time of their formulation. There is, in fact, no necessary reference in this canon to the principle of appeal at all. As Batiffol points out, the neighbouring bishops called in under the provisions of canon 14 are not to form a new council but are to assist in the judgement in the event of a divided provincial synod. The canon therefore seems to be concerned with the effective operation of provincial trial courts by granting that certain extraordinary measures may be taken at the discretion of the metropolitan, or provincial president. The exclusion of foreign bishops (or "the judgement of others") in the case of a unanimous decision bears no reference to appeal, but simply to the insurance of integrity to provincial jurisdiction. Canon 12 on the other hand does insure certain rights to the condemned in that it speaks of the right of a deposed bishop, presbyter or deacon to submit his case to a larger synod composed of more bishops. This principle is echoed by canon 4 of the same series which states that one deposed

who performs any function in the Church may no longer hope for reinstatement by another synod nor for permission to defend himself.

It is thus evident that insofar as the Easterns recognized the possibility of appeal to a higher authority from the court of the first instance, that authority was thought of in terms of a larger council. Stated in another way, the right of one synod to overrule the decisions of another rests upon the number of bishops which compose it. This principle of appeal from synod to synod is the same in substance as that cited by Pope Julius as proceeding from the agreement of the bishops at Nicaea.[1] Whatever their motives may have been, we see a concrete application of this principle shortly after Athanasius' return from his first exile, in 337/338, in the representations made to Pope Julius by the Eusebians for the convocation of a new general synod in interest of a final settlement of the Athanasian

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1. "The bishops who assembled at the great Council of Nicaea agreed, not without the will of God, that the decisions of one council should be examined in another, to the end that the judges, having before their eyes that other trial which was to follow, might be led to investigate matters with the utmost caution." (Epistle to the Eusebians, 2 - P.L., VIII, col. 882C). Caspar (op. cit., pp. 148-149) and Turner (art. cit. - Genuineness - p. 393) consider this to be a misinterpretation of canon 5 of Nicaea.

affair.[1]

The four intervening years between this representation on the part of the Easterns and the deliberations of the bishops at Sardica are a critical period, for the events which took place created the conditions which evoked the Sardican answer to the question of appeal.[2] The controlling factor in these developments is seen to be the ultimate refusal of the Eusebians to allow the principle of appeal from synod to synod to be put to practical use.

Not long after their request for a general council the Eusebians ordained Gregory of Cappadocia as bishop in Alexandria. With Gregory's entrance into Alexandria

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1. According to Julius, Eusebius and his supporters requested him to call a council in order that a just judgement might be given in the presence of all parties (Epistle to the Eusebians, 2 - P.L., VIII, cols. 882C-883A). Socrates tells us that they begged Julius to take cognizance of the charges against Athanasius and order a judicial investigation in his presence (Hist. Eccles., II, 11 - P.G., LXVII, cols. 205-208). Athanasius claims that they wished to frighten him and requested Julius to call a council, he himself being the judge if he so wished (Apol. contra Arianos 20 - P.G., XXV, col. 280C). In view of these reports and the fact that the Encyclical Letter in defence of Athanasius by the Egyptian Council of 338 had been issued a short time before, the representation appears to have been primarily a bid for Julius' support.
2. The historians Socrates and Sozomen show great confusion over the sequence of the events. The order followed here is that established by Schwartz ("Zur Geschichte des Athanasius": IX, Nachrichten, 1911, Philol.-Hist. Klasse, pp. 480-486).

at Easter 339, Athanasius was forced to withdraw and fled to Rome upon the invitation of Julius. The Pope had in the meantime made arrangements for the requested council but it soon became evident that the Eusebians had changed their mind. In a letter addressed to Julius they declined his invitation and stated that by receiving Athanasius he had insulted their synod (Tyre) and abrogated its decrees, and that it was against ecclesiastical right that he should interfere in a purely Eastern affair.[1] The true reason for this reversal is nowhere stated, but undoubtedly it was the same as that underlying the subsequent refusal of the Eusebians to meet with the Orthodox at Sardica; the realization that they had no chance of Julius' support, and that the decision of a general assembly would most certainly go against them now that both their charges at Tyre and Athanasius denial of them were generally known.[2] This reversal of policy, which was consistently maintained, was justified by its authors in terms flatly contradictory to the principle of appeal previously expressed at Antioch. In

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1. The letter is not extant, but its contents are summarized by Sozomen (Hist. Eccles., III, 8) and may be pieced together from Julius' reply.
2. These had been made public through the Encyclical of the Synod of Alexandria in 338 (Athanasius, Apol. contra Arianos, 3-19) and through Athanasius' Encyclical in 339.

reply to Pope Julius the Eusebians claimed that the acts of each synod had reversible force and that the first judges are dishonoured if their sentence is examined by others.[1] In their Encyclical Letter published at Sardica they also wrote,

> " ... ecclesiae regula sanctaque parentum traditio atque iudicia in perpetuum firma solidaque permaneant nec novis emergentibus sectis traditionibusque perversis, maxime in constituendis episcopis vel in exponendis ... ".[2]

The denial of the right of the condemned to appeal to a larger synod was a development of extreme importance for, as subsequent events show, it drove a decisive wedge between East and West, put a temporary end to the developing jurisdictional authority of collective judgement, and forced the papacy into a more active participation in the controversy.

The synod met at Rome as planned. It was composed of about fifty Western bishops who, under the leadership of Julius, cleared Athanasius, Marcellus and others of the charges which had been made against them. After the synod Julius replied to the Eusebians informing them of what had been done at Rome and justifying the proceedings not only with the contention that the Synod of Tyre had

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1. Julius Epistle to the Eusebians, 3 (P.L., VIII, col. 883B).
2. Sec. 1 (C.S.E.L., LXV, p. 49). See also sec. 26 (ibid., p. 65).

no real authority and that the charges made there were false, but also that the Eusebians had disregarded certain prerogatives which he himself possessed. Thus he wrote,

> "Do you not know that it is customary first to write to us that just judgement may be given from here? ... For what we have received from the blessed Apostle Peter, that I signify to you."[1]

Julius did not rest his case on this personal note, however, for he also charged the Easterns that if the offence of the deposed was a real one

> "against the Canon of the Church, word should have been written of it to us all, for the sufferers were bishops and the Churches of no ordinary note, but those which the apostles themselves had governed."[2]

This admonition evoked no response from the East. The next move was made at Antioch in 341 where some ninety bishops gathered for the dedication of a church built by Constantius. The opportunity for deliberation was not missed, and in addition to the publication of three conciliatory statements of faith the assembled bishops confirmed the previous condemnation of Athanasius at Tyre.[3]

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1. Sec. 22 (P.L., VIII, col. 906B). It is the first of these phrases which Socrates inaccurately paraphrases as, "ecclesiastical law required that the churches should pass no decisions contrary to the views of the bishop of Rome." (Hist. Eccles., II, 17 - P.G., LXVII, col. 220A).
2. Sec. 22 (P.L., VIII, col. 906B).
3. Caspar is of the opinion that this synod was representative in attendance of the whole body of the

2. FACTORS CONTRIBUTORY TO THE FORMULA OF APPEAL.

Paragraph "a" of canon 3 has been previously considered in connection with canons 1 and 2, and its relevance to the subject of appeal extends no farther than to provide a background for the following section of the canon. For clarification we may recall that it forbids a bishop to enter another province unless invited to do so by his brethren in that province.

Paragraph "b" is at the same time a restrictive clause to the above and an entirely new proposal in its own right. It states that if in any province two bishops should have a matter or dispute between them, neither of them shall summon bishops from another province (to arbitrate). As canons 14 and 15 of Antioch, 3b does not bear reference to appeal but to maintaining the jurisdictional rights of the provincial synod over its own affairs. It does not presuppose a judgement to have been pronounced, but only that an episcopal offence has been charged. It is not unlikely that the paragraph is framed with reference to the beginnings of the Athanasian affair in the

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Eastern episcopate and not only of bishops in sympathy with Eusebius (op. cit., p. 154). Although the Eusebians dominated the synod it must not be forgotten that Athanasius was viewed with suspicion throughout this period by the majority of the non-Arian Eastern bishops.

controversy between Athanasius and the Meletians, which was so well used by the Eusebians in their efforts against him.

In the question of appeal from this provincial decision the Western answer departed radically from the Eastern. We have seen that the answer at Sardica was to a large degree conditioned by previous events, but as we have also considered, the structure of the Western Churches did not easily lend itself to the synodal system. The frequent synods of the East were at this time unknown in the West, and if greater synods were rarely held for matters of prime importance it cannot have been seriously considered that they should be held to review a contested provincial decision. Under these circumstances the attention of the Sardican bishops was not unnaturally focussed upon the Bishop of Rome. Turner writes, "The thoughts of Hosius and of other Western churchmen could not fail to be drawn to the Roman See, with its large body of clergy, its central position, its immemorial antiquity, its acknowledged primacy, and to find in the Roman bishop a natural arbiter in the thorny question of episcopal appeals."[1]

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1. C.H. Turner, art. cit. (Genuineness), p. 387.

In an attempt to analyse the factor of papal leadership contributory to the Sardican appeal formula, it is difficult to determine how much weight should be assigned to the personal influence of Julius in the historical situation on the one hand, and to the recognized primacy of the Roman See on the other. It is not within the scope of the present study to enter into this most controversial question, but at least in its broad outlines it is necessarily relevant to the interpretation of the canons. That from a much earlier period a certain undefined and occasionally exercised primacy of leadership was attributed to the See of St. Peter and St. Paul is difficult to deny,[1] but a fallacy perpetuated by many of those representing both sides of the controversy lies in the assumption that the papal question in general and the Sardican prerogatives in particular involve a question of jurisdiction in the legalistic sense of the word. As the foregoing discussion has attempted to show, jurisdictional concepts were at this time only beginning to be expressed and the appeal canons represent a step backward in this development in as real a sense as they represent

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1. One of the most impartial analyses of Roman primacy is to be found in A. Harnack's History of Dogma (English trans. from the 3rd German edition), Vol. II, London, 1896, pp. 149-168. See also T. Jalland, The Church and the Papacy, London, 1944, Chapter III.

a step forward. No attribution of legalistic jurisdiction is here involved. The Canons constitute an agreement that papal leadership shall have particular application under certain conditions. Both the application and the conditions later came to be viewed in exclusively juridical terms, but what was done with the Sardican Canons in the fifth and sixth centuries and beyond bears little relation to what they were in the minds of those who instituted them.

Precedent was not entirely lacking when Athanasius and the other bishops deprived of their sees by the Eusebians sought support and assistance from Julius.[1] Socrates tells us that at the Synod of Rome they "laid their cases individually before Julius, and he by virtue of the privileges enjoyed by the Roman Church, ... restored them each to their own sees."[2] This is undoubtedly both an overstatement and an over-simplification of the case, for it was just previous to this time that Julius had acceded to the Eusebian request for a review of the case of Athanasius

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1. A previous example of deposed bishops seeking the aid of the Roman bishop is found in the case of the two Spanish bishops, Basilides and Martial (cf. Cyprian Epist., LXVII); Fortunatus, the Novatian, sought recognition from Rome as the rightful bishop of Carthage (cf. Cyprian Epist., LIX). Such appeals while assuming no extraordinary jurisdiction at least illustrate the influence of the Roman bishop in circumstances similar to those of 340.
2. Hist. Eccles., II, 15 (P.G., LXVII, col. 212B).

in particular, and it would have been to the advantage of all in similar straits to bid for his support.

The Sardican phraseology, however, exhibits a deference to the Roman See specifically in terms of its primacy. The whole subject of appeal is introduced in canon 3 with "Sanctissimi Petri Apostoli memoriam honoremus", and the Sardican Epistle to Pope Julius includes the phrase,

> "Hoc enim optimum et valde congruentissimum esse videbitur, si ad caput, id est ad Petri apostoli sedem, de singulis quibusque provinciis domini referant sacerdotes."[1]

It remains to be emphasized, however, that the leadership of the Roman See was not seized upon at Sardica as a prop for the case in question. The appeal canons themselves faithfully reflect the procedure already followed at Rome

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1. Sec. 1 (C.S.E.L., LXV, p. 127). Caspar with others considers this phrase to be a later interpolation into the text for the reasons that it is thought to be irrelevant to the context and that the expression "referre ad sedem Petri" was first used in the decretals of Innocent I (op. cit., p. 587 - additional note to page 159). It is to be noticed, however, that this is not cited as an established custom but as a fitting practice and that the idea is remarkably similar to that set forth by Julius himself in his letter to the Eusebians. T.G. Jalland is of the opinion that the authenticity of the phrase is probable and that abundant precedent exists for the use of "referre" in the present sense (op. cit., p. 222). It may be observed that the word is similarly employed in canon 9 of Sardica (quae inpetraverit celerius poterit referre) and that the fitness of reporting to the See of the Apostles is also expressed in the letter to Pope Sylvester from the bishops at Arles in 314 (E.O.M.I.A., I, pp. 382-383).

in 340/341. In this sense the personal influence of Julius was considerable, for he provided a pattern for the formula which was to follow. This factor seems to be over-emphasized by Caspar who implies that Julius virtually directed the formulation of the canons,[1] but he is undoubtedly correct in showing them to have been at least partially a conscious vindication of the proceedings at Rome.

Stein has suggested that the pattern for the Sardican appeal formula is found in an edict published by Constantine in 331 which provided for the right of appeal to the Emperor by a praetorian prefect after trial by his peers.[2] Hosius' close association with Constantine and his consequent familiarity with the institutions of civil government may well have given him a knowledge of this provision, but the immediate historical and jurisdictional contexts of the Sardican formula which have been considered clearly obviate any necessary connection with the civil process.

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1. art. cit., p. 168.
2. E. Stein, Review of E. Caspar's Geschichte des Papsttums, in Byzantinische Zeitschrift, Vol. XXXII, 1932, p. 120 (cf. E. Stein, Geschichte des spätrömischen Reichs, Vol. I, Vienna, 1928, p. 179). This suggestion has been viewed with interest by A. Steinwenter, art. cit., pp. 84-85.

3. INTERPRETATION OF CANONS 3c, 4, AND 7.

Section "c" of canon 3 provides that if a bishop shall have been judged[1] in some matter (in aliqua causa) and he considers himself to have good reason for a re-consideration of his case, those who have judged him shall (at his desire) write to the bishop of Rome.[2] If the Roman bishop feels that the case is needful of reconsideration[3], he shall appoint judges from among the bishops of the neighbouring province,[4] but if not,"that which he shall have determined shall be approved" (quae decreverit confirmata erunt).

In the Latin this latter clause seems to refer to the permanence of the pope's decision as to the need for

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1. It may be safely assumed that the judges are the bishops of the province. The following canon (4) refers back to the judges in the case as "episcop(i) ... qui in vicinis commorantur locis", and canon 7 similarly to "episcopi regionis ipsius". That these are comprovincial bishops, and that the judicial process is the same as that outlined by canon 14 of Antioch is also evident from the foregoing section 3b. The phrase reflects the informality of Western provincial organization (cf. C.H. Turner, art. cit. - Genuineness - p. 387).
2. The Latin text alternatively allows the neighbouring bishops to write to the Roman bishop. For the justification of following the Greek text on this point see below.
3. The Latin is specific, but the Greek text only implies that it is the Roman bishop who is to decide as to the necessity of a fresh investigation.
4. The specification of bishops of the neighbouring province is unique to the Greek text and as a derivative reading is present in the Theodosian version and the Dionysius Latin recension. For the justification of following the Greek on this point see below.

re-trial.[1] Its slight ambiguity has led to the interpretation that it refers to a second review, or third instance, conducted by the pope alone, but this meaning seems improbable as will be shown below. The corresponding clause in the Greek insures the permanency not of the pope's decision, but of the findings of the first court in the event that he does not approve of a re-trial.[2]

According to the Latin text the sentenced bishop may appeal his case either through the provincial judges or through the bishops of a neighbouring province, but in the Greek only the judges are named in this capacity. The Greek, however, stipulates that in the case of a new trial the pope is to select judges from among the bishops of the neighbouring province while the Latin does not specify from whence they are to be chosen. It is to be noted that the different reading in each of these contexts is due to the presence or absence of the phrase, "ab episcopis qui in provincia proxima morantur". It seems probable then that this phrase is misplaced in

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1. One manuscript of the Vatican collection - Codex Vaticanus 1342 - as also other manuscripts of lesser importance, reads with greater clarity, ... quae decreverit romanus episcopus confirmata erunt (E.O.M.I.A., I, p. 457, note to line 27).
2. τὰ ἅπαξ κεκριμένα μὴ ἀναλύεσθαι, τὰ δὲ ὄντα, βέβαια τυγχάνειν.

the one text or the other. Hefele, assuming the Greek text to present the correct reading, has proposed that the phrase in question was included as a marginal note in an early Latin manuscript and that in the process of the subsequent transcription it was inserted one line too soon.[1] From evidence provided both by the Latin text of canon 7[2] and from an analysis of canon 3 itself it appears that the Greek text is probably correct in this reading and the early Latin texts are in error.[3] This explanation resolves both noted differences between the Latin and Greek texts and brings canon 3c into greater harmony with the appeal material as a whole. It seems likely that the judges would normally be expected to be chosen from a neighbouring region for the sake of convenience, if for no other reason, and that in accordance with section 3b, neighbouring bishops would be jealously excluded from what would remain a provincial affair until such time as the case was extended by the Roman bishop.

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1. Hefele, II, p. 115, note 1.
2. " ... scribere (the Roman bishop) his episcopis dignetur qui in finitima et propinqua provincia sunt, ut ipsi ... iuxta fidem veritatis definiant."
3. The Theodosian version seems to agree with the Greek with, "et scribatur ab his qui iudicaverunt causam damnati episcopi Iulio episcopo Romae per vicinos episcopos provinciae, et si oportet innovari iudicium, renovetur et iudicem ipse praebebit."

Canon 4, being a protective amendment proposed by Gaudentius of Naissus, provides that if a bishop has been deposed by judgement of his comprovincials, and shall have appealed to the Roman bishop for revision of his case, another bishop shall not be appointed to the see until the worthiness of the condemned bishop's cause be determined by the judgement of the Roman bishop. This stipulation is framed in probable reference to Gregory of Cappadocia, the Eusebian appointee to the see of Alexandria in 339.

By reason of its somewhat ambiguous wording in both the Latin and Greek texts canon 4 has frequently been interpreted independently from canon 3 and viewed as creating a second court of appeal wherein the pope himself may give final judgement upon a case.[1] Thus, the phrase "proclamaverit agendum sibi esse negotium in urbe Roma", and even more plausibly its counterpart in the Greek - καὶ φάσκῃ πάλιν ἑαυτῷ ἀπολογίας πρᾶγμα ἐπιβαλεῖν - has been construed to mean that the case itself is to be tried in Rome, and the final phrase, "nisi causa fuerit iudicio Romani episcopi determinata", to mean that the judgement is to be delivered by the pope alone. In

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1. Two modern exponents of this view are Hankiewicz (art. cit., pp. 63-72) and Caspar. See below, p. 204 ff.

accordance with this exposition of the canon the phrase, "episcoporum iudicio qui in vicinis commorantur locis", has been viewed as a reference not to the original trial of the bishop by his comprovincials, but to the court of the second instance provided for by canon 3c. The nature of canon 4 as a protective amendment to canon 3c, however, is made evident by its place in the verbal process, by its introductory clause[1] and by the fact that the consideration expressed by the main clause - that the vacant see may not be filled while the appeal is pending - proceeds directly from the circumstances envisaged by the former canon. As the two clauses in canon 4 which bear reference to the process of appeal are grammatically dependent upon this main clause, it would seem that they must be interpreted within the frame of reference provided by the initial proposal in canon 3c.

Canon 7(V) states that if a bishop who has been deposed by a gathering of neighbouring bishops (the rudimentary provincial synod) has appealed his case, taking refuge with the Roman bishop, and wishes to be given a hearing,[2] let him (the Roman bishop), if he considers a

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1. "Addendum, si placet, huic sententiae quam plenam sanctitatis protulistis."
2. So signifies Turner's reconstruction of the Latin text (... et appellasse videatur et confugerit ad beatissimum ecclesiae Romanae episcopum, et voluerit audiri).

fresh examination to be justified, write to those (bishops) who are in the neighbouring and adjacent province that they may diligently inquire into the matter and give true judgement. But if the appellant by his entreaty shall move[1] the Roman bishop to send presbyters[2] "e latere", they shall have the authority to do what (or, to judge according as) he wills or determines. And it shall be his privilege to decide whether some having his authority should be sent who, if present, may judge together with the bishops. But if he shall consider the bishops[3] to be sufficient to conclude the matter (without the presbyters) let that be as he shall determine by his most wise judgement.

While reiterating much of canon 3c this final resolution supplements the initial proposal and more fully outlines the procedure for setting up the court of appeal.

The Chieti version as one important variant reads, " ... Romanae episcopum, eum voluerit audiri(e?)" which is patent of the meaning conveyed by the Greek, "and he (the Roman bishop) be willing to give him a hearing", and is considered by Turner as possibly correct (E.O.M.I.A., I, pp. 460-461, note to line 8). The Greek reading has been used as evidence in support of the supposed right of appeal to the pope alone as a court of third instance.

1. "depraecatione sua moverit"; the Greek here reads, κινεῖν δόξῃ.
2. The Latin text gives the singular, "praesbyterum", in this instance and the plural later in the canon. The Greek uses the plural in both clauses which is evidently the sense of the provision.
3. The Greek gives the singular ἐπισκόπου.

Canon 3c is intended to provide an appeal through the judges of the first court to the Roman bishop in all cases in which a sentenced bishop so desires. Canon 7 on the other hand grants the prerogative of appeal directly to the one sentenced. The reasons underlying this are evident. Little consideration could be expected from the judges of Athanasius and others similarly deposed. If the appeal provisions were to have any realistic application for the furtherance of justice it was evident to Hosius that approval must be had for their exercises by the appellant himself and not through his judges. This is the course which had in fact been already followed by the refugees at Rome in 340/341.

The provision for personal representation of the Roman bishop by delegates invested with his own authority has little effect upon the nature of the court of revision in that his personal opinion in any given case would find expression in his choice of judges. It is the opinion of Hefele that the papal delegates would normally preside in the court,[1] but there is no indication of this in the text of the canon and it seems to be an unwarranted assumption. The stated purpose of the provision for papal delegates

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1. Hefele, II, p. 120.

is to ensure a fair appraisal of all facts of the case in the event that the appointed judges are considered incompetent for the task. A precedent for the presence of two presbyter papal representatives at regional or general synods had apparently first been set at Arles, and we find them again at Nicaea and at Sardica,[1] not as presiding officers but representing the person and interest of the Roman bishop.

There is no need to discuss the various interpretations given to the Sardican appeal canons in the extensive controversies of the seventeenth and eighteenth centuries[2] between the Gallican and Ultramontane canonists, as the main points of debate are admirably treated by Hefele,[3] and the one contention which calls for further consideration has been presented by several writers of the present century. This latter is the supposition con-

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1. The names of these appear in the papal subscription to the acts of each of the councils (Harduin I, cols. 266, 311, and 670).
2. The Gallicans argued: (1) The rights ascribed to the Roman bishop in these canons were first recognized at Sardica. (2) The rights were temporary and assigned personally to Pope Julius. (3) No real appeal is granted, but only a revision of sentence. The Ultramontanes on the other hand maintained: (1) The appeal prerogative stated in canon 7 is by divine right. (2) Canon 3c is not concerned with appeal but with revision. (3) The pope had a right to personally decide any case when the decision of the court of revision was appealed.
3. Hefele, II, pp. 121-128.

sidered above that canons 4 and 7 establish the right of a second supplication, or third instance, in case of episcopal deposition wherein the Roman bishop, through his presbyters or alone, may render a final decision.

The most recent and also most ingenious and forceful presentation of this interpretation is that of Caspar who, accepting the principal conclusions of Hankiewicz, bases his argument upon the assumed priority of the Greek text. The main outlines of his exposition are as follows.[1] Canon IIIc stands in isolation from canons IV and V and is concerned not with the formula of appeal, but with a process of revision for the reason that in a case of true appeal the person addressed renders the judgement whereas in the present canon this condition is not fulfilled. IIIc, he maintains, provides for the revision of all cases of litigation and was proposed for the purpose of vindicating the restoration of Athanasius by the Synod of Rome. In support of this contention Caspar argues that the phrase, "let those who tried the case write to Julius bishop of Rome",[2] is a conscious reflection of the similar phrase in Julius' letter to the Eusebians, "it is customary first to write to us that just judgement may be given from here."[3]

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1. art. cit., pp. 164-177.
2. Caspar accepts the "Julius" reading of the Greek text as authentic.
3. τοῦτο ἔθος ἦν, πρότερον γράφεσθαι ἡμῖν, καὶ οὕτως ἔνθεν ὁρίζεσθαι τὰ δίκαια (sec. 22 - P.L., VIII, col. 906B).

Caspar maintains that canons IV and V, on the other hand, are concerned only with the special case of deposition, and make provision for appeal in the third instance to the pope alone who may decide the case through his presbyters or in person. Thus he argues that, as canon IIIc supports the action taken by the Synod of Rome, canon V is a vindication of Sardica, for there the personal judgement of Julius was ratified having been made known through the two Roman presbyters, Archidamus and Philoxenus, who represented his full authority. The decision at Sardica to restore Athanasius to his see was therefore a conscious assent to the "just judgement of Julius" referred to in the synodal letter to the Churches of Egypt and Libya,[1] and the canon itself was similarly a seal of approval upon Julius' decision and a recognition of the prerogatives of universal authority inherent in his office.

A preliminary objection to Caspar's exposition is his rejection of the essential relationship between canons III and V as initial proposal and redacted resumé. More fundamental, however, is the fact that there is no previous or contemporary evidence that such extraordinary authority as complete jurisdiction over all cases of deposition was

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1. See below, p. 206 , n. 1 .

anywhere or at any time conceded to the Roman bishop. Even the prerogative claimed by Julius himself, quoted by Caspar in connection with canon IIIc, is not this extensive. To claim as Caspar does that canons IV and V are a recognition of Julius' right to act as sole judge is completely lacking in historical evidence and is in fact vitiated by the phrase called upon to support it. Rather than acclaiming the "just judgement" of Julius the Sardican bishops write, "it became evident that the decision of our brother and fellow bishop Julius (concerning communion with Athanasius) was a just one."[1] Surely nothing is here implied about either the ability or licence of Julius to judge in any capacity other than that of a fellow bishop.

The evidence provided by the canons themselves also leaves his interpretation without support. We may admit that the last clause of canon IV is ambiguous with respect to what decision the Roman bishop is to render, although to interpret it in another sense than that of IIIc means reading a great deal into the text as it stands. It is difficult to see, however, where in canon V Caspar, as

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1. Sardican Epistle to the Bishops of Egypt and Libya (Athanasius, Apol. contra Arianos, 41 - P.G., XXV, col. 320A). ἐκ δὴ τούτου φανερὰ καὶ δικαία καθέστηκεν ἡ κρίσις τοῦ ἀδελφοῦ καὶ συνεπισκόπου ἡμῶν Ἰουλίου.

others before him, can find a clause implying sole judgement by the Roman bishop which is not followed by a clause excluding it. Even if the Greek reading of canon V - καὶ βουληθείη αὐτοῦ διακοῦσαι δίκαιόν (= Romanae episcopum, eum voluerit audire)- is acknowledged to be correct, the nature of the hearing which the appellant is to receive is clearly shown by comparison with canon 3c to be a papal decision as to whether the case is worthy of revision. This is made unequivocal by the following, "et iustum putaverit ut renovetur examen; scribere his episcopis dignetur ... ".

The canon explicitly associates the Roman presbyters with the appointed court of bishops, in the case that presbyters are sent, and does not leave an open possibility for the presbyters to judge without them. For this reason the distinction between appellate jurisdiction and the process of revision does not seem valid for the present problem of interpretation, nor can an essential difference in this respect between canon IIIc and canon V be forced from unwilling evidence on the assumption that it does exist.

Caspar's line of approach to the problem of interpretation, however, must be valued, for he admirably demonstrates the fallacies inherent in the assumption that the canons

are simply a legislative donation of new authority and rightly shows them to reflect the full historical context from which they arise.

4. CANON 17.

This canon assures the right of appeal to any presbyter or deacon hastily cast out by his bishop for, as it is stated, those who are innocent must not be condemned nor excluded from communion. A presbyter or deacon who has been removed from office may appeal to the neighbouring bishops (finitimos) for a hearing of his case. The bishop who rejected him, whether justly or unjustly, must patiently accept the inquiry in order that his judgement may either be approved or corrected. It is added that until the matter has been concluded no one shall admit the appellant to communion.[1]

In place of the Latin "habeat potestatem eiectus ut finitimos interpellet" the Greek directs that the deprived cleric should take refuge with the metropolitan of the province, but that if he is away he should seek the aid of a neighbouring bishop.[2] This reading is parallel to the

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1. See canon 16, pp. 144-145 above.
2. εἰ δὲ ὁ τῆς μητροπόλεως ἄπεστιν ἐπὶ τὸν πλησιόχωρον κατατρέχειν might be interpreted to mean the metropolitan of a neighbouring province, but this does not seem likely either from the context or from the jurisdictional problem to which such action would give rise.

other hierarchical changes in the Greek text and it is therefore suggested that it is the result of a later editorial alteration. From evidence provided by the Theodosian version we may suppose that it is attributable to the first editor. The Theodosian reads, "Electus habeat licentiam apud metropolitanum episcopum eiusdem provinciae vicinum confugere." The Ballerini first noticed the difficulty caused in this phrase by "vicinum" and made the plausible suggestion that "vel si metropolitanus abest, ad" should be inserted after "provinciae".[1]

The canon is an expanded repetition of the provisions contained in canon 5 of Nicaea. The difference between the canons rests only in the greater degree of provincial organization reflected by the Nicene ruling whereby a twice yearly provincial synod for the examination of such cases is directed. The same right of appeal for clerics is assured by canon 6 of Antioch[2] which in addition forbids the restoration of the excommunicate by his own bishop, as well as his reception to communion by others, before his case has been judged by the synod.[3] This

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1. P. and J. Ballerini, "Vetus Interpretatio Latina Canonum", in S. Leonis Magni opera omnia, III (P.L., LVI, col. 837, note c).
2. See also canons 4 and 12 of Antioch.
3. Canon 20 of Antioch repeats the Nicene stipulation that synods for this purpose are to be held twice yearly.

operation of the provincial synod shows a development of the judicial process within the framework of Eastern provincial organization which is in no way equalled in the West at this time. Canon 11 of the Council at Carthage in 345, for example, stipulates that deacons under accusation are to be heard by three neighbouring bishops, presbyters by six, and bishops by twelve fellow bishops (consacerdotibus). This panel of trial judges is by no means the provincial synod, nor we may suppose is that suggested by canon 17 of Sardica.

CHAPTER VII

EPISCOPAL VISITS TO THE IMPERIAL COURT

1. EPISCOPAL REPRESENTATION AND IMPERIAL FAVOUR

Considerable discussion took place at Sardica on the subject of episcopal visits to the Imperial Court. Canons 8 to 12 are a record of the agreements which were made and impose definite limitations upon the practice. It was the concern of the synod to prohibit ambitious or questionable representations by individual bishops, to define causes of petition which should be considered legitimate, and to regulate the way in which these allowed representations might be made. In canon 8 we are told by Hosius that excessively frequent solicitation and unjust petitions on the part of certain ones who had made repeated visits to court had resulted in a lack of trust and regard for the episcopate.[1] Especially to blame, Hosius continues, were the Africans who (as the synod had apparently learned) scorned and depreciated the "wholesome counsel of Gratus".[2]

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1. "fecerunt nos non tantam habere nec gratiam nec fiduciam" is indefinite in its reference and, as will be shown below, is patient of interpretation both as indicating popular disapproval and mutual suspicion among the bishops themselves.
2. The Greek credits Gratus with having made this report against his fellow Africans.

It is evident, however, that this and the four subsequent proposals were not made only for the castigation of the disobedient and ambitious African bishops. Inasmuch as the problem outlined by Hosius was common to the Church as a whole, this specific reference was probably included by way of illustration as well as of rebuke.

The type of petition considered throughout the discussion seems to be that of the designing favour seeker who, "against the judgement of all has wished to serve ambition rather than God",[1] and has sought "even to obtain worldly dignities and offices for certain persons".[2] It is acknowledged that such requests cannot be made "without reproach and without the ill will of all",[3] and that "because of the shamelessness of a few the holy and reverend episcopal name has frequently been judged adversely".[4]

The historical background for this situation is found in the yet unregulated and confused relationship between Church and State. The emperor who had until recently been the persecutor of Christ was now His protector and was also found, to the detriment of ecclesiastical discipline, to be a provider of advancement for those bishops who gained his

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1. Canon 11.
2. Canon 8.
3. Canon 10.
4. Canon 11.

favour. This abuse which is condemned by the canons is but one aspect of the whole problem of the new Church-State relationship which threatened to undermine the authority of the Church in the management of his own affairs. The intervention of Constantine in the Donatist controversy at the request of the schismatics made settlement impossible through the normal operation of episcopal censure and disciplinary action within the Church. The doctrinal agreement at Nicaea, however truly representative of the mind of the Church, must give a large measure of credit for its initial success to the fortunate incidence of imperial approval. The long period of doctrinal uncertainty which ensued, dominated as it was by personal issues, owed the height of its intensity to an ecclesiastical authority rendered ineffective by the fact that its operation was limited, and also determined, in the larger issues by the policy which recommended itself to the secular power. In these circumstances he who gained the favour of the emperor was in a position of decisive advantage. Thus, Eusebius of Nicomedia and Theognis of Nicaea, both exiled shortly after the Council due to their recantation of their subscription to its decisions, were restored to their sees a few years later by Constantine at the expense of their legally appointed successors. The same emperor was turned

against Athanasius and also Eustathius of Antioch through the influence of Eusebius and his followers. The rise of the Eusebian party and the continuance of controversy can to a great extent be attributed to the relationship of Eusebius of Nicomedia to the Imperial family. With the death of Constantine and the subsequent division of the empire among his heirs the problem became even more acute, for the sympathies of Constantius in the East lay with the Eusebians and those of Constans and Constantine II in the West with the Orthodox. While Athanasius returned to Alexandria in 337 with the support of the Western authorities, the interloper, Gregory, was ushered into the city two years later by the troops of Constantius. Eusebius of Nicomedia was translated to the more important see of Constantinople with the backing of this patron of the Arians, and we have seen that the failure of Sardica to meet as a general council was due in part to its intended supervision by the officers of Constantius.

Irrespective of their intended applications, the canons of both Sardica and Antioch demonstrate an awareness in the West and in the East that this confusion of jurisdictional rights was in need of clarification, and that the ultimate re-establishment of ecclesiastical authority, no less than the settlement of the personal issues, depended upon the

limitation of secular intervention whether solicited or spontaneous. Canon 11 of Antioch, parallel to canon 8 of Sardica, declares that any bishop, presbyter or other cleric who shall go to the emperor without the consent and letters of the provincial bishops and metropolitan shall be deposed. Canon 12 deprives the right of further hearing to one deposed by a synod who shall have appealed to the emperor. While the bishops declined to lay claim to total independence from imperial supervision, the synodal letter of Sardica to the Emperor Constantius[1] reflects this awareness of the necessity for jurisdictional clarification. In this letter a request is made for the non-interference by civil officials in ecclesiastical affairs, and also for the return of exiled bishops to their sees. Continuing, the letter points to the injustice of spreading falsehood by force.

> "Intellegit singularis et ammirabilis sapientia tua non decere, non oportere cogi et conpelli invitos et repugnantes, ut se his subiciant et addicant vi oppressi, qui non cessant adulterinae doctrinae corrupta semina aspargere."[2]

Also in complaint against the methods of the Eusebians the bishops write,

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1. See above, p. 25 .
2. Part I, sec. 2 (C.S.E.L., LXV, p. 182). Wilmart has suggested that "qui non cessant ... aspargere" is a reference to Ursacius and Valens (art. cit., pp. 167-168).

> "auctoritate etiam nominis sui in errorem imperatorem transducunt ... quaestiones poscunt, iudiciorum subsidia desiderant, auctoritatem regiam implorant".[1]

We see therefore, that the bishops at Sardica were not inarticulate about the underlying causes of the disciplinary problem which the canons treat, and it is quite possible that the canons themselves also have intended application to the larger problem. This is the opinion of Schwartz[2] who feels that they are directed against the African petitions for imperial aid towards the suppression of the Donatists as well as against the Eusebians. It must be observed, however, that the canons refer specifically to personal petitions and not party lobbying.

2. CANON 8.

While the presentation of frequent and ambitious petitions at court is condemned, a clear distinction is drawn between the evil of this and the propriety of intercession for the poor and the oppressed and for widows and orphans.[3] In addition it is agreed that petitions for pardon should be presented on behalf of those who suffer

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1. Part II, sec. 1 (C.S.E.L., LXV, pp. 185-186).
2. art.cit. (Der griechische Text), p. 4.
3. "Laity" (λαικοις) in the first instance in the Greek text, undoubtedly due to a mistaken reading of "populis" from "pupillis" in the Latin. See above p. 70.

injustice, who are condemned to exile, or receiving any kind of sentence flee to the mercy of the Church seeking succour.

Although the right of asylum in Christian churches was not legally recognized until the late fourth century under Theodosius I, it is probable that it became an established custom by the middle of the fourth century.[1] It is the opinion of Martroye that the phrase "ad misericordiam ecclesiae confugiant" of the Sardican canon provides an early reference to this privilege of sanctuary.[2] Although his interpretation has been rejected by Wenger,[3] presumably on the grounds that a reference to sanctuary could not have been made at this early date, its probability is supported both by the conclusions of Herman and by a parallel reference at Carthage in 399. A synod convened in that year decided that two bishops should be sent to the Emperor with the request,

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1. Cf. E. Herman, "Zum Asylrecht in Byzantinischen Reich", in Orientalia Christiana Periodica, Vol. I, 1935, pp. 204-208, and articles cited below.
2. F. Martroye, "L'asile et la législation impériale du 4e et 5e siècle", in Mémoires de la Societé Nationale des Antiquaires de France, 8e serie, Vol. V, 1918, pp. 160 and 168-169. See also, H. Leclercq, "Droit d'Asile", D.A.C.L., Vol. IV, 1920, col. 1551.
3. L. Wenger, "Ὅροι Ἀσυλίας" in Philologus, Vol. LXXXVI, 1931, p. 435.

> "ut pro confugientibus ad ecclesiam, quocumque reatu involutis, legem de gloriosissimus principibus mereantur, ne quis eos audeat abstrahere."[1]

In addition to the restriction imposed upon the types of petitions which may be made it is agreed that no bishop may go to the court unless he is invited by the emperor or summoned by letter. The means by which petitions for approved causes may be presented is stipulated in the following canon.

3. CANON 9.

In the opening clause of canon 9 it is stated,

> "Whoever may have or receive petitions such as mentioned above should send them by his deacon, since the person of a minister will not be envied, and what he shall have obtained may be more quickly reported."

The Latin text continues,

> "and this seems to follow, that from every province bishops should send petitions to their brother and our fellow bishop[2] who is in the major city, that is the metropolis; that he (in turn) may send both the deacon of the petitioning bishop[3] and the supplications, bestowing commendatory letters, by equal reason, to our brothers and fellow bishops who at that time are staying in those regions and cities in which the auspicious and blessed emperor[4] governs the state."

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1. Cf. Codex Canonum Ecclesiae Africanae, canon 56 (Harduin, I, col. 894).
2. "ut de qualibet provincia episcopi ad eum fratrem et coepiscopum nostrum praeces mittant."
3. "ille et diaconum eius et supplicationes destinet."
4. The Greek reading here is ὁ εὐσεβέστατος βασιλεύς.

The Greek text differs from this in that instead of "from every province" it reads "in whatever province",[1] and stipulates not that the petitioner's deacon should be sent on to the court, but the deacon of the bishop of "the major city, that is the metropolis."[2] Schwartz is of the opinion that an initial translation of the Latin "qualibet" to the weaker οἱᾳδηποτοῦν shifted the emphasis to the following clause making the sending of the deacon the focal point of the sentence, and that this resulted in its alteration concerning the identity of the deacon sent.[3] This change in the person of the deacon, however, seems to have been made at a considerably later date as the reading found in the Theodosian version agrees with the original Latin.[4] The reading in the older printings of the Greek version weakens the strong recommendation of the Latin still farther by the inclusion of if, (εἰ or ἐάν).[5] Hefele, working from these editions, gives a corresponding interpretation to the Greek.[6] Turner, however, omits the conjunction "if" in his critical edition of the Greek

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1. ἐν ῳἱᾳδηποτοῦν ἐπαρχίᾳ.
2. αὐτος καὶ τὸν διάκονον αὐτοῦ καὶ τὰς δεήσεις ἀποστέλλοι.
3. art. cit. (Der griechische Text), p. 8.
4. "Ipse (the metropolitan) et diaconum et preces eius destinet."
5. Harduin, I, cols. 643(-644)C; Mansi, III, col. 12E; Pitra, I, p. 474.
6. Hefele, II, p. 140.

text,[1] and we see that it is not found in the Theodosian version.[2] It is therefore suggested that Hefele is incorrect and that the proposal is to be interpreted in the Greek also as a recommendation rather than merely an optional alternative.

Hefele also presumes that according to both texts the petitions are to be sent through the metropolitan of each province, but it seems probable that the two versions are not in agreement upon this. It is generally agreed that the office of the provincial metropolitan had not yet developed in the West at this time.[3] For this reason we should hardly expect the office to be mentioned in this context and particularly when conspicuously absent from the Latin canons as a whole. Certainly, if included at all, the institution of metropolitan would be expected to be found in canon 5 or in the appeal canons. The Latin

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1. E.O.M.I.A., I, 506.
2. ibid., p. 507.
3. Until the late fourth century an effective primacy was exercised in Africa only by the Bishop of Carthage and in Italy by the Bishop of Rome. In Egypt a similar pre-eminence seems to have been accorded to the Bishop of Alexandria, and in Spain and Gaul a hierarchical metropolitan jurisdiction did not emerge until the fifth century. Although in Africa and Spain a prerogative of leadership was enjoyed during the fourth century by the senior bishop of the province, this primacy was honorific rather than hierarchical. Cf. K. Müller, op. cit. (Kirchengeschichte), pp. 566-569; P. Batiffol, op. cit. (La Paix Constantinienne), pp. 128 and 132-134, and P. Wagner, Die geschichtliche Entwicklung der Metropolitangewalt, Offenbach, 1917, pp. 17-19.

text itself makes it clear that it is not a provincial metropolitan which Hosius had in mind in canon 9. The canon undoubtedly reflects a tendency in the West towards a hardening of provincial organization, but not the accomplished fact. It states, "de qualibet provincia episcopi ad eum fratrem et coepiscopum nostrum praeces mittant qui in maxima civitate, id est metropoli, consistit." The use of the preposition "de" entails a significantly different meaning from the Greek ἐν , for as the latter represents the petitions as being submitted for approval and commendation within the province, the former represents them as being sent from the province itself to a more distant and important see. This we might suppose would mean Carthage for all of Africa, Rome for all of Italy, and perhaps beyond, and Alexandria for all of Egypt and Libya; for it is acknowledged that in lieu of a more rigid provincial organization these sees enjoyed an effective primacy over the areas mentioned. As the Sardican "court" canons were in part directed against the more ambitious bishops of Africa who had spurned the advice of Gratus, it is almost certain that the "bishop of the metropolis" in this case would have been the bishop of Carthage. Should we not then interpret "coepiscopum nostrum ... qui in maxima civitate, id est metropoli" as the bishop of a primatial see,

to whom petitions should first be sent from the provinces? In other words, it seems that the phrase should be interpreted in geographical rather than hierarchical terms.

This interpretation is supported by canon 10a which states, "qui vero Romam venerint, sicut dictum est, sanctissimo fratri et coepiscopo nostro Romanae ecclesiae praeces quas habent tradant." "Sicut dictum est" identifies the Roman bishop as the "coepiscopus" of a "maxima civitas", thus illustrating that it is not a metropolitan bishop in the more advanced Eastern sense which Hosius had in mind. The possible interpretation of "sicut dictum est" as identifying the Roman bishop with "coepiscopos nostros qui illo tempore in his regionibus et urbibus morantur" in canon 9b is an unlikely alternative. These latter bishops should be understood as belonging to the court retinue, or at least as being temporarily resident in the proximity of the emperor.[1] Their status and function in the present context is parallel to that of the "amicos in palatio", mentioned in the final clause of canon 9b, who also may be approached for their intercessions through the deacon of the petitioning bishop.

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1. Similar use is made of the verb "moror" in canons 15, 20, and 21. The impermanent nature of the residence in the present context is confirmed by "eo tempore."

If this is the correct interpretation of the Latin text the Greek reading is an interesting variation, for there is little doubt that it is the Eastern provincial metropolitan which is represented in the present Greek text. "In" is also found in the Theodosian and, although it may have been the original reading in the primitive Greek text, it seems probable that the ἐν was changed from ἀπό (de) by the first reviser who may have quite naturally supposed the reference to be to the provincial metropolitan, with which he was familiar, and have corrected the preposition accordingly.

4. CANON 10.

Section 10a stipulates that, as has been stated (sicut dictum est), petitions which are sent to Rome should be delivered to the bishop of the city for approval and commendation, and if they are found worthy he himself should forward them to the court. The Greek text (canon IXb) specifies the name of Julius as in canon III.

Omitted by the Greek, the Latin text continues with a short statement in resumé of canon 8 made by Alypius, bishop of Thessalonica.

5. CANON 11.

It is suggested by Gaudentius that the provisions which the bishops have made can only be enforced if fear (of punishment) is added to the judgement, and it is therefore proposed that if anyone should be so moved to serve ambition, contrary to the judgement of all, he ought also to know that he must declare his cause and lose his office and rank.

It is added that this can only be put into effect if those bishops who are resident on the highway[1] ascertain the purpose and destination of bishops who pass. If one is found to be going to the court by invitation he may be allowed to proceed, but if his journey is motivated by ambition his letters shall not be signed nor shall he be admitted to communion. This section is out of sequence in the Greek text and is included as canon XX.

6. CANON 12.

Canon 12 is an amendment of moderation to the previous canon to the effect that if a bishop should come to a city

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1. "in canali" = ἐν ... καναλίῳ The same expression is used prefacing the signatures to the Sardican Encyclical of those bishops living "on the highway of Italy" - (Athanasius, Apol. contra Arianos, 50 - P.G., XXV, col. 340B). Cf. C.H. Turner, E.O.M.I.A., I, p. 488, notes.

on the highway while travelling to the court and be found ignorant of the decrees of the synod, he should be advised as to their provisions that he may send his deacon on to the court and return himself to his diocese. The temporary nature of this proposal undoubtedly provides the explanation for its omission from the Greek.

APPENDICES

APPENDIX I

CHARTS

CHART A: THE NUMBERING SYSTEMS OF THE SARDICAN CANONS

CHART B: SUMMARY OF THE SARDICAN VERBAL PROCESS

CHART C: THE OCCURRENCE OF ACCLAMATION CLAUSES

CHART A

THE NUMBERING SYSTEMS OF THE SARDICAN CANONS

Turner	Latin incipit	Latin	Greek	Theodosian
I	Non magis mala	1	I	T1
II	Etiam si talis	2	II	T2
III	Illud quoque, ut	3a	IIIa	T3
	Illud quoque providendum	3b	IIIb	T4
	Quod si aliquis	3c	IIIc	T5
	Addendum, si placet	4	IV	T6
IV	Si contigerit	5	VIa	T8
	Sed licentia	6	VIb	T9
IIIb	Placuit autem	7	V	T7
V	Inportunitas, nimia	8	VII	T10
VI	Hoc quoque providentia	9a	VIII	T11
	Et hoc consequens	9b	IXa	T12
	Qui vero Romam	10a	IXb	"
	Si enim propter	10b	om.*	om.
VII	Ea quae salubriter	11	XX	T25
	Sed et moderatio	12	om.	om.
VIII	Et hoc necessarium	13	X	T13
IX	Et hoc quoque	14	XI	T14
	Memini autem	"	"	T15
X	Et quia nihil	15	XII	T16
XI	Hoc quoque omnibus	16	XIII	T17
	Quid me adhuc	17	XIV	T18
XII	Illud praeterea	18	om.	T19
	Et hoc universi	19	XV	T20
XIII	Non ignoratis	20	XVI	T21
	Suggerente autem	21	XVII	T22
		om.	XVIII	T23
		om.	XIX.	T24

* omitted

CHART B

SUMMARY OF THE SARDICAN VERBAL PROCESS

Canon	Author	Nature
1	Hosius	relatio-sententia
2	Hosius	relatio-sententia
3	Hosius	relatio-sententia
4	Gaudentius	amendment to 3
5 & 6	Hosius	relatio-sententia
7	Hosius	redacted resolution on subject of 3
8	Hosius	relatio-sententia
9 & 10a	Hosius	relatio-sententia (two separate proposals according to the Greek)
10b	Alypius	sententia on subject of 8
11	Gaudentius	relatio-sententia (two separate proposals according to the Greek)
12	Hosius	amendment to 11
13	Hosius	relatio-sententia
14	Hosius	relatio and separate(?) sententia
15	Hosius	relatio-sententia
16	Hosius	relatio-sententia (approved sententia contained in acclamation clause?)
17	Hosius	relatio and separate sententia
18	Januarius	relatio-sententia (approved sententia contained in acclamation clause)
19	Hosius	redacted resolution on subject of 18
20	Aetius	relatio (approved sententia contained in acclamation clause)
21	Hosius	redacted resolution (relatio and approved sententia omitted)
XVIII	Gaudentius	personal comment (outside verbal process)
XIX	Hosius	sententia on the subject of the previous

CHART C

THE OCCURRENCE OF ACCLAMATION CLAUSES
(★ indicates occurrence)

Canon	Latin	Greek	Theodosian
1	★	★	★
2	★	★	★
3	★		
4			
5			
6	★	★	★
7		★	
8	★	★	★
9a		★	
9b & 10a	★	★	★
10b		canon omitted	canon omitted
11 1st paragraph		★	
11 2nd "			
12		canon omitted	canon omitted
13	★	★	
14	★	★	
15	★	★	
16	★	★	★
17		★	★
18	★	canon omitted	★
19		★	
20	★	★	
21		★	
XVIII	canon omitted		
XIX	canon omitted		

APPENDIX II

THE DATE OF THE COUNCIL OF SARDICA

Until the discovery of the Verona Codex LX(58) in the eighteenth century and the Festal Letters of St. Athanasius in the nineteenth, the generally accepted date of Sardica was that given by Socrates as the year of the consulship of Rufinus and Eusebius,[1] or 347. As a result of these discoveries and of more recent scholarship it may now be said with strong probability that the Council of Sardica convened in the autumn of 343 and dispersed early in 344. Although the date of 342 which Schwartz assigned to the synod has found continued support from such scholars as Lietzmann and Dr. Telfer, the year 343 has been accepted by a majority of modern authorities among whom are numbered Caspar, Stein, Zeiller and Bardy.

The Verona Codex contains two sources of evidence which have direct bearing upon the date of Sardica. One, known as the "Historia Acephala", is a fragmentary chronicle of Alexandrian origin covering the years 346 to 373, and is essentially a biography of Athanasius beginning with his return to Alexandria at the end of his second exile.[2] The

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1. Hist. Eccles., II, 20 (P.G., LXVII, col. 236).
2. Edition - E.O.M.I.A., I, pp. 663-671.

other is a brief historical fragment which while unidentified is usually associated with the Historia Acephala. The relevant passage in the latter reads, "et congregata est synodus consolatu Constantini et Constantini apud Sardicam".[1]

Speculation over the meaning of "consolatu Constantini et Constantini" was begun by the Ballerini brothers who suggested that this reading must be a scribal error and should instead be "Constantii IV et Constantis III", or the year 346.[2] Schwartz, with the aid of the Athanasian Festal Letters, corrected the interpolations to read "Constantii III et Constantis II",[3] or 342, and it is largely from this hypothesis that he has placed the date of Sardica in that year.

The Festal Letters were discovered in Egypt in a Syriac version and first edited in that language by Cureton in 1848.[4] The letters themselves are of considerable evidential value for the history of the Athanasian period, but of even greater importance is the chronological introduction outlining various dates and events for the years of Athanasius' episcopate. In section XV of the Introduction we read, "In this year

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1. E.O.M.I.A., I, p. 637.
2. P. and J. Ballerini, op. cit. (De Antiquis Coll. et Coll.) - P.L. LVI, col. 146.
3. E. Schwartz, "Zur Geschichte des Athanasius": I, in Nachrichten, 1904, Philol.-Hist. Klasse, p. 341.
4. W. Cureton, op. cit. (The Festal Letters of Athanasius).

there was a Synod in Sardica."[1] As has been clearly brought out by the discussions of Schwartz and Loofs, the meaning of "in this year" for the event in question depends upon whether the author calculated on the basis of the Egyptian year beginning on August 29th (1 Thot) or the Roman consular year beginning on January 1st. Schwartz has put forth the thesis that the chronological base is not constant for the series, but varies between the two systems of reckoning,[2] and is of the opinion that the base of calculation for this section was that of the Egyptian calendar. That Sardica convened in the autumn seems definite from the fact that the episcopal delegates from the synod arrived at Antioch during the Paschal season.[3] Schwartz therefore concludes that the Synod met at the beginning of "this year" according to the Egyptian calendar, or in the Autumn of 342. Loofs on the other hand has argued that the chronological reckoning throughout the Introduction is on the basis of the consular year making Sardica then fall in the autumn of 343.[4] As this problem now stands

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1. W. Cureton, op. cit., p. lii.
2. art. cit. (Zur Geschichte des Athanasius: I), pp. 338-344 and article IX of the same series; Nachrichten, 1911, pp. 515-522.
3. St. Athanasius, Hist. Arian., 2- (P.G., XXV, col. 717A).
4. F. Loofs, "Die chronologischen Angaben des sog. 'Vorberichts' zu den Festbriefen des Athanasius", in Sitzungsberichte der Königlich Preussischen Akademie der Wissenschaften, 1908, pp. 1021-1022; and art. cit. (Zur Synod von Sardica), pp. 294-295.

its solution is unfortunately dependent to a large degree upon a previous determination of the dates of recorded events within the controverted years.

The evidence provided by the Introduction to the Festal Letters and by the fragmentary historical passage in the Verona Codex has, however, reduced the problem of dating the Sardican Synod to a choice between the years 342 and 343. Considering this evidence alone, the probable date would seem to be 342, but other chronological data, more definitely established by the documents mentioned above, make its acceptance difficult. The facts which have been thus established are the generally accepted limits of Athanasius' second exile - Easter 339 to October 346. An analysis of the movements of Athanasius and of contingent events within the period defined by these limits points strongly towards a Sardican dating of 343.

The main outlines of the period are presented by the following facts. 1) Section XI of the Introduction to the Festal Letters states that Athanasius left Alexandria on 23 Phamenoth (19 March) 339.[1] 2) Section XVIII of the Introduction to the Festal Letters tells us that Athanasius returned to Alexandria on 24 Paophi (21 October) 346,[2] and

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1. Cureton, op. cit., p. xlviii.
2. Ibid., p. liv.

the Historia Acephala concurs in this date specifying that he had been absent from Alexandria for six years: " ... et ingressus est Alexandriam Paophi XXIV consilibus Constantino IV et Constanti III, hoc est post annos VI".[1] 3) Athanasius was summoned to Milan by the Emperor Constans in the fourth year of his Italian sojourn.[2] 4) Socrates informs us that a year and a half elapsed between the calling of Sardica and its assembling.[3] 5) It is recorded in sections XVI-XVIII of the Introduction to the Festal Letters that Athanasius spent three Easters away from Alexandria after the adjournment of Sardica.[4] 6) Gregory of Cappadocia died on 2 Epiphi (26 June), 345,[5] ten months after the cessation of Constantius' persecution of the followers of Athanasius at Alexandria.[6] These statements are of course only as trustworthy as their sources, but their reliability is enhanced by their substantial agreement one with another.

Schwartz supposes that the Eastern delegates visited Trêves early in 342 and that this was quickly followed by

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1. Section 1 (E.O.M.I.A., I, p. 663). It is to be noted that this report erroneously fixes Athanasius' departure from Alexandria in 340.
2. St. Athanasius, Apologia ad Constantium, 4 (P.G. XXV, col. 600C-D).
3. Hist. Eccles., II, 20 (P.G., LXVII, col. 237A).
4. W. Cureton, op. cit., pp. liii-liv.
5. Sec. XVIII of the Introduction to the Festal Letters.
6. Athanasius, Hist. Arian, 21 (P.G., XXV, col. 717).

Athanasius' visit to Milan and by the assembling of the bishops at Sardica in the autumn of the same year.[1] This, however, seems to be too short a period of time to contain the succession of events which took place. It is generally agreed that the request for a general council on the part of the Western leaders followed the attempted rapprochement at Trèves, and we shall accept Schwartz' supposition that this meeting took place early in 342. Before the bishops were ordered to assemble at Sardica, in accordance with the Orthodox petition, Constans sought agreement with Constantius that a council might be held.[2] If Schwartz is correct, this agreement must have been made and the summons issued by May or June of 342 at the latest, for we are told that the Eastern bishops did not hurry to Sardica but held a number of synods as they went.[3] It is probable, however, that the invitation had not yet been made at the time of Athanasius' arrival in Milan, for he learned there that Constans had sent letters to his brother requesting that a council might be held.[4] Athanasius, in writing to Constantius, states that having come to Rome and

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1. E. Schwartz, art. cit. (1911), pp. 513-515.
2. Socrates Hist. Eccles., II, 20 and Athanasius Apologia ad Constantium, 4.
3. The Orthodox Sardican Encyclical, 7 (C.S.E.L., LXV, p. 120).
4. Loc. cit. (P.G., XXV, col. 601A).

having laid his case before the Church he passed his time innocently in public worship. Then he states, "When three years had passed away he (Constans) wrote to me in the fourth year."[1] From this it would appear that Athanasius had spent three years and a few months in Rome before his summons to Milan. In that he left Alexandria on March 19, 339 his meeting with Constans could hardly have been before the mid-summer of 342.[2] The earliest likely time for the general summons to Sardica to have been issued is therefore several months later than would have been necessary for bishops to have assembled at Sardica in the autumn of the same year. If we assume that the answer from Constantius was received by the late summer of 342, Socrates' reported interval of a year and a half between the calling of Sardica and its assembling can be reconciled with a dating of late autumn 343 for the arrival of the bishops in Sardica. On no account, however, can Socrates' testimony be reconciled with Schwartz' hypothesis.

These considerations make it difficult to date Sardica as early as the autumn of 342 and the events which

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1. Loc. cit. (P.G., XXV, col. 600C-D).
2. O. Seeck places this meeting as late as November (Regesten der Kaiser und der Päpste für die Jahr 311 bis 476 N. Chr., Stuttgart, 1919, p. 191).

followed the synod point even more convincingly towards the autumn of 343. Sections XVI and XVII of the Introduction to the Festal Letters report that after leaving Sardica Athanasius spent Easter 344 at Naissus[1] and Easter 345 at Aquileia. Section XVIII tells us that he entered Alexandria on 24 Paophi (21 October), 346, without mentioning his whereabouts at Easter of that year. This date of return is confirmed by the Historia Acephala and accepted by Schwartz. These movements of Athanasius are more fully described in his own writings. He states that from Sardica he went first to Naissus and then to Aquileia, after which he returned to Gaul upon the invitation of Constans before seeing Constantius at Antioch and returning to Alexandria.[2]

Schwartz accepts the information provided by section XVIII of the Introduction to the Festal Letters to the effect that Gregory, the usurper at Alexandria, died on 2 Epiphi (June 26th), 345. We are told by Athanasius that Gregory died about ten months after the cessation of Constantius' persecution of the Athanasian party at Alexandria. According to Athanasius, a direct cause

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1. "As Athanasius was returning from the synod he celebrated Easter Day this year at Naissus" (Cureton, op. cit., p. liii).
2. Apol. ad Constant, 4 (P.G., LXVII, col. 601).

underlying this change in the Emperor's policy was a widespread reaction against the treatment which the Sardican delegates to the court of Constantius received at the hands of Stephen, Bishop of Antioch.[1] Dr. Telfer has argued that there is no necessary connection between these events and that they were separated by more than the short period of time (ὀλίγον) reported by Athanasius.[2] There seems, however, little reason to doubt the word of Athanasius on this point, and it may be supposed that the deposition of Stephen occurred in the late spring of 344 following his shameful reception of the Sardican delegates who had arrived at Antioch shortly after Easter of that year.

The main argument advanced by Dr. Telfer for the 342 dating of the synod is based upon evidence found in an early chronicle, the origin of which he assigns to the Church of Constantinople.[3] In this it is recorded that Paul of Constantinople was summoned to attend the Sardican Synod, but that his own supporters would not allow him to leave the city. In that the Paulinist assassination of Constantius' officer, Hermogenes, and the subsequent re-

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1. Hist. Arian., 20-21 (P.G., XXV, col. 717A-B).
2. W. Telfer, "Paul of Constantinople", in The Harvard Theological Review, Vol. XLIII, 1950, pp. 91-92.
3. art. cit. (Paul of Constantinople), pp. 77-80 and 92; see also pp. 31-43 for background discussion.

taliation against Paul took place in the autumn and winter of 342, the invitation of which the chronicle speaks must have been received a short while before these difficulties began. This does not, however, necessarily affect the sequence of events as previously outlined for it has been suggested above that the general invitation to Sardica was issued in the late summer of 342, and it is to this summons that the chronicle actually refers and not to the synod itself. Dr. Telfer further suggests that the silence of the Western Sardican Encyclical with respect to the problems of Paul was due to the fact that it was written in 342 before his difficulties at Constantinople and consequent final exile had begun. There are, however, several considerations unfavourable to this interpretation. The Eastern Encyclical, while abounding in anti-Pauline sentiment, implies that Paul's own case had already been brought to a close. It makes no allusion to Paul as an active opponent; he is only referred to as having imparted guilt to Hosius, Maximin of Trêves, Asclepas and others by association. Surely if his tenure at Constantinople had been a fact at the time the Easterns would not have neglected to denounce it, nor should we

expect the Westerns to have refrained from praising such a determined supporter of the Orthodox cause.[1]

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1. For a brief discussion of Paul and the Sardican encyclicals see above, pp. 27-29.

APPENDIX III

THE SARDICAN CANONS IN THE EARLY LATIN CANONICAL COLLECTIONS

A brief consideration of the transmission and development of the Sardican textual tradition in the Western canonical collections is here offered as a sequel to the textual studies in Chapter III above. While no attempt will be made to supplement the critical edition of the Latin Text published by C.H. Turner in 1930, and while an overall comparative study of the variant readings found in the most important recensions is best made from his own Monumenta, some account of the problems which he faced in restoring the primitive Latin text, as well as being of interest in itself, is necessary for a full appreciation of the value of his contribution to Sardican studies. The way in which this account will be given is by a parallel presentation of the variant readings which have occurred in one particular canon through its successive redactions from the primitive text. Canon 17 has been selected for this because it is the only canon available both in the versions represented by the commonitorium of Pope Zosimus and by the Justel Codex. The redactions used in illustration have been so chosen as to show the

most important phases of development, and the particular manuscript versions quoted have been selected from among those consulted during the preparation of the present study.

An investigation of the growth and development of the early Western canonical collections confronts the student with an immense and intricate problem. Not only is the archetypical version of each represented by varied manuscript traditions, but the available manuscripts themselves show that a continuous cross-current of influence has taken place between the basic versions in the formations of their later recensions. No detailed account of the collections and major recensions can be attempted here, but a presentation of the broad outlines of their development provides a necessary background for the specific considerations of the Sardican textual tradition. The subject is fully treated in Friedrich Maassen's Geschichte der Quellen und der Literatur des Canonischen Rechts in Abendlande bis zum Ausgänge des Mittelalters (Vol. I, Gratz, 1870), which remains the most authoritative and comprehensive work in the field. Important contributions have been made by more recent scholars - most notably by Turner and Schwartz - and these will be referred to for specific points.

It may be recalled from the previous discussion in

Chapter III that a copy of the Sardican Canons taken to Rome shortly after the synod was presumably joined to a document which contained the primitive Latin translation of the Canons of Nicaea. This combined Nicene-Sardican corpus is generally acknowledged to be the earliest Western collection of canon law if, for the purpose of discussion, it may be given that title. While at the same time a growing assortment of African canons was preserved in the archives at Carthage, the canons preserved at Rome provided the foundation for the earliest systematic Western collections.

We have seen that this primitive Nicene-Sardican corpus was not infrequently invoked by the Roman Church during the late fourth and early fifth centuries under the sole authority of Nicaea. The controversy with Carthage over the affair of Apiarius made two important contributions regarding the origins of canon law in the West: one with respect to its history and the other with respect to its development. It is of invaluable assistance to the modern student of the early Latin texts that Pope Zosimus quoted canons 7 and 17 of Sardica in full. As we have observed, it is evident upon comparison that the version of the Sardican text known to Pope Zosimus in 418 is very close to that represented by the ninth century Chieti

manuscript;[1] it is equally certain on other grounds that the Chieti text of the Nicene canons bears the same relation to the primitive Roman version.[2] Although the Nicene-Sardican corpus was supplanted during the fifth and sixth centuries by other collections it had an undeniable influence upon their formation. The Nicene text was revised and modified in the first and subsequent systematic collections with the aid of the Greek, but the Sardican was not thus affected for yet another century.

Schwartz is of the opinion that during the pontificate of Innocent I the primitive Greek corpus consisting of the canons of Nicaea, Ancyra, Neocaesarea, Gangra, Antioch and Constantinople was received at Rome.[3] If this is correct, it provided the basis for the first Latin translation of the Greek code which Turner has suggested took shape at Rome c. 425.[4] This first collection, which is falsely

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1. Codex Vaticanus Reginae 1997. The Chieti version is also represented by the Freisingen MS. (Codex Monacensis lat. 6243, fol. 6a ff.).
2. Cf. C.H. Turner, "Chapters in the History of Latin MSS. of Canons; VI. The Version Called Prisca (b) The Chieti MS.(=I), Now Vatic. Regin. 1997", in J.T.S., Vol. XXXI, 1929, pp. 11-13 and E. Schwartz, art. cit. (Die Kanonessammlungen der alten Reichskirche), p. 53.
3. art. cit. (Zweisprachigkeit in den Konzilsakten), p. 251 and art. cit. (Der sechste nicaenische Kanon auf der Synode von Chalkedon), p. 639.
4. C.H. Turner, "Chapters in the History of Latin MSS. of Canons; V. The Version Called Prisca (a) The Justel MS.(J) Now Bodl. E. Mus. 100-102, and the editio princeps (Paris, 1661)", in J.T.S., XXX, 1929, p. 339.

ascribed to St. Isidore of Seville and called "Corpus Canonum Romanum I" by Schwartz, contained a large amount of Nicene material received from the East in answer to the inquiries made at the time of the Apiarian controversy; a series of the canons of Ancyra, Neocaesarea, Gangra, Antioch and Laodicea numbered continuously from 21 to 160 after the canons of Nicaea; the canons of Constantinople numbered separately; and the Sardican Canons under the title "Incipit concilium Nicaenum XX episcoporum (insert "regularum") quae in Graeco non habentur sed in latino inveniuntur ita". The collection, although in no sense official, was preserved in the Roman archives and during the course of time appeared in various developed recensions which enjoyed widespread use. Of these the late fifth century Gallican Quesnel Collection and the mid-seventh century Hispana in Spain are outstanding examples. The primitive, or Vulgate, Isidore is still extant in three important manuscripts: the Verona Fragment,[1] and the related Freisingen[2] and Würzburg[3] manuscripts, to which pair together with two other manuscripts Turner has ascribed the generic title Sylloge dicta Friderici Maassen. In the primitive Isidore the received Sardican text was

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1. Contained in Codex Verona LIX(57).
2. Codex Monacensis lat. 6243 (fol. 36b ff.).
3. Codex Wirceburgensis Mp. th. f. 146.

separated from the Nicene Canons under the significant heading noted above.

The Quesnel Collection, so named for its first editor Pasquier Quesnel, consists of a group of related Gallican manuscripts, mainly of the 9th to 11th centuries, and is valuable for its preservation of the Sardican and Nicene Canons as a continuous series in a modified form of the Isidorian vulgate. The canons appear under the one heading, "Canones Nicaeni Concilii sub titulis XLVI".

The first official corpus canonum of the Roman Church, and consequently of the greater part of the West, was the Collection of Dionysius Exiguus published in two versions during the first half of the sixth century. Both were in effect new translations of the Greek Code, although the majority of the Greek series were to a lesser or greater extent influenced by the Latin Isidore. The first redaction contained in the following order the Canons of the Apostles; Nicaea; Ancyra; Neocaesarea; Gangra; Antioch; Laodicea; Constantinople; Sardica; the acts of the first sitting of the Carthaginian synod of 419 with the documents of the Apiarian controversy, and the material subsequently received at Rome from Constantinople and Alexandria; and the Canons of Chalcedon. The second redaction, while similar to the first, utilized a new translation of the Greek

canons and incorporated the remaining acts of the 419 synod at Carthage together with the Codex Canonum Ecclesiae Africanae established by that synod. The Dionysius to a large degree replaced the earlier collections which had circulated in the West. This is notably true of the Dionysio-Hadriana recension which was received in Gaul in 744 and subsequently became the official code of the Gallican Church. For our present purposes it is relevant to note that the Sardican prototype used by Dionysius was the Isidore of the Quesnel recension. At the same time, however, Dionysius was the first collector to be influenced by the Greek text of the Sardican Canons. This influence is made strikingly apparent by the introduction of the name "Julius" in canons 3 and 9. Also in this collection the Sardican Canons for the first time stood under their own name with the heading, "Incipit Canones Synodi Serdicensis XXI".

As a conclusion to this rapid resumé we must return to mention the version known as Prisca. This version, which is represented in its most primitive form by the Chieti MS., appeared in Italy between the dates of the primitive Isidore and Dionysius. It apparently originated, as the Isidore, in an unofficial collection of Roman authorship, and as would be expected is more closely related to the Isidore than to the Dionysius. The collection includes

an independent translation of the Greek corpus, the documents concerning the Apiarian controversy, and the Sardican Canons in the primitive Roman version. It is also represented by the Justel Codex[1] and in certain series, among which Sardica is included, by two other groups of manuscripts: the Vatican Collection and the closely related St. Blaise Family. The Prisca is of particular importance to the present inquiry in that the main outlines of the process of early textual development may be easily observed from a comparison of its representatives.

The recensions and manuscript versions of Canon 17 given below are as follows:

The Primitive Latin Text

1. The critical edition of C.H. Turner (E.O.M.I.A., I, pp. 480-482).

Pope Zosimus

2. The version of the commonitorium read at the May 25th sitting of the Synod of Carthage in 419 (Critical edition of C.H. Turner - E.O.M.I.A., I, p. 578). The citation ends at emendetur sententia.

Prisca

3. As represented by the early ninth century Chieti MS.: Codex Vaticanus Reginae 1997 (Sardican Canons fol. 44b ff.).

4. As represented by the late sixth or early seventh century Justel Codex: Codex Bodleianus e Mus. 101 (Sardican Canons fol. 25a ff.).

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1. Codex Bodleianus e Mus. 101.

5. As represented by the Vatican Collection: The ninth century Codex Vaticanus Barb. lat. 679 (Sardican Canons fol. 70a ff.).

6. As represented by the Vatican Collection: The tenth century Codex Florentinus Laurentianus bibl. aedil. eccl. 82 (Sardican Canons fol. 45b ff.).

Isidore

7. The Isidorian Vulgate as represented by the late sixth century Codex Veronensis bibliothecae Capitularis LIX(57) (Sardican Canons fol. 222a ff.).

8. The Hispana recension (critical edition - F.A. Gonzales, Collectio Canonum Ecclesiae Hispanae, Madrid, 1808, cols. 39-40.

9. The recension of the Quesnel Collection (critical edition - P.L., LVI, cols. 409-410).

Dionysius

10. The first recension (critical edition - A. Strewe, Die Canonessammlung des Dionysius Exiguus in der Ersten Redaction, Berlin and Leipzig, 1931, pp. 68-69).

11. The second redaction as represented by the tenth century Codex Bodleianus e Mus. 103 (Sardican Canons fol. 30b ff.).

1. Primitive Text - sic designata

2. Zosimus - (sic designata)

3. Chieti - [sic designata]

Quid me adhuc moveat reticere non debeo: [qui] si episcopus (quis) forte iracundus, quod esse non debet, cito (aut) [et] aspere commoveatur adversus (praesbyterum)

[presbiterum] sive diaconum suum et exterminare eum de ecclesia voluerit, providendum est ne innocens damnetur aut perdat communionem; habeat potestatem (eiectus) [eiectos] ut [episcopos] finitimos interpellet ut causa eius audiatur et diligentius tractetur, quia non oportet ei negari audien[tiam](-tia) roganti; et ille episcopus qui aut iuste aut iniuste reiecit patienter accipiat ut negotium discutiatur, (ut aut probetur eius aut emendetur)[1] sententia.[2]

Prius tamen quam omnia diligenter et fideliter fuerint examinata, qui communionem non habet ante cognitionem nullus debet praesumere ut eum recipiat et communioni societ. Qui autem convenerint, si perviderint clericorum esse fastidium et superbiam, quia non decet ut episcopus aut iniuriam aut contumeliam patiatur, s[a]everioribus verbis eos castigent ut oboediant honesta praecipienti [recipienti]; quia [qui] sicut ille ministris sincerem amorem debet caritatis, ita quoque vicissim ministri infucata debent episcopo suo exhibere obsequia.

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1. Omitted from the Chieti through homoeoteleuton? Cf. E.O.M.I.A., I, p. 481, note to line 32.
2. The text of canon 17 quoted from Zosimus' commonitorium ends here.

4. Justel Codex - sic designata

5. Codex Vaticanus - (sic designata)

6. Codex Florentinus - [sic designata]

Quid [(Quod)] me adhuc moveat [(movet)] reticere non debeo. Si episcopus quis forte iracundus, quod esse non debet, cito (aut) [et] aspere moveatur adversus presbyterum sive diaconum suum, et exterminare eum de ecclesia voluerit, providendum est ne innocens damnetur, aut perdat communionem, [(et ideo)] habeat potestate [(-tem)] [(iste qui)] eiectus [(est ut)] finitimos (rogare) [roget] episcopos, ut eius cau[sam](-sa) audiant, et diligentius tractent, quia non oportet [ei] negari audientia roganti; et ille episcopus quia [(qui aut)] iuste aut iniuste reiecit [(abiecit eum)] patienter accipiat et [(ut)] negotium discu[tiatur](-tatur) ut [aut probetur] (adprovetur) eius temeritas, aut emendetur (eius) senten[tia](-tiam) [(a plurimis)] (ut emendetur). Prius tamen quam omnia diligenter et fideliter (fuerint) [fuerit] examinata, communionem non debet praesumere, donec ipse [(eum qui (fuerant) [fuerat] a communione separatus ante cognitionem nullus alius debet praesumere ut)] eum recipiat et communioni societ. Qui convenerint autem [(Hi vero qui convenerint ad audiendum)] si (viderint) [viderit] clericorum esse

[fastidium] (studium) et superbiam, quod [(quia)] non decet ut episcopus [(aut)] iniuriam aut contumel[iam] (-ia) patiatur severioribus [(austerioribus)] [eos verbis] (verbis eos) castigari debere [(castigent)] ut obediant honesta recipientes [(praecipienti episcopo)]; et [(quia)] sicut ille ministris sincerem[(-rum)] exhibere amorem caritatis [(debet caritatis amorem)], ita quoque [(vicissim)] minis[tri](-tris) infucata [(infuga(ta)[-tam])] debet episcopo suo exhibere obsequia.

7. Codex Verona LIX(57) - sic designata
8. Hispana - (sic designata)
9. Quesnelliana - [sic designata]

Quid me adhuc (moveat) [movet] reticere non debeo: si [quis] episcopus (quis) forte iracundus, quod esse non debet, cito ut (aut) [et] aspere commo(veatur)[-vetur] adversus praebyterum [(presbyterum)] (aut) [sive] diaconum suum [(et)] exterminare eum de ecclesia voluerit, providendum est ne innocens damnetur aut perdat communionem; et ideo habeat potestatem iste [is] qui eiectus (deiectus) [abiectus] est, ut (finitimos episcopos) [episcopos finitimos] interpellet, et causa eius audiatur (et) [ac] diligentius [re]tractetur, quia non oportet (ei negari) [negari ei] audientiam roganti; et ille

episcopus qui (aut) iuste aut iniuste (abiecit eum) [eum abiecit] patienter accipiat ut negotium discutiatur, (ut) [et] aut [(vel)] probetur sententia eius a pluribus [(plurimis)] aut [(vel)] emendetur. Tamen priusquam omnia diligenter et fideliter (fuerint examinata) [examinentur], eum qui (fuerat) [fuerit] [a] communione separatus nullus alius presumere debet (nullus alius debet praesumere) [ante cognitionem nullus debet praesumere] ut (recipiat et) communioni societ. (Qui autem convenerint) [Hi vero qui conveniunt] ad audiendum, si [viderint] clericorum esse (fastidium viderent(-rint)) [studium] et superbia[(-biam)] quia non decet ut episcopus (aut) iniuriam (aut) [vel] contumeliam patiatur, (austerioribus eos verbis) [severioribus verbis eos] castigent, ut ovediant [(obediant)] honesta pr[(a)]ecipienti episcopo; quia sicut ille [clericis] sincerum (amorem debet clericis exhibere et caritatem) [debet exhibere amorem charitatis], ita quoque vicissim ministri infucata debent episcopo suo (obsequia exhibere) [exhibere obsequia].

10. Dionysius I - sic designata

11. Dionysius II - (sic designata)

Quod me adhuc movet, reticere non debeo, si episcopus

quis forte iracundus, quod esse non debet, cito et aspere commoveatur(-vetur) adversus presbiterum sive diaconum suum et exterminare eum de ecclesia voluerit, providendum est, ne innocens damnetur aut perdat communionem. Et ideo habeat potestatem is qui abiectus est, ut episcopos finitimos interpellet et causa eius audiatur ac diligentius tractetur, quia non oportet (ei) negari audientiam roganti. Et ille episcopus, qui iuste aut iniuste eum abiecit, patienter accipiat, ut negotium discutiatur, ut vel probetur sententia eius a plurimis vel emendetur. Tamen priusquam omnia diligenter et fideliter examinetur eum, qui fuerit a communione separatus, ante cognitionem nullus debet praesumere communioni(-ne) sociare (societ). Hi vero, qui conveniunt ad audiendum, si viderint clericorum esse studium et superbiam, quia non decet, ut episcopus iniuriam vel contumeliam patiatur, severioribus eos verbis castigent, ut oboediant honesta praecipienti(-tes) episcopo, quia sicut ille clericis sincerum exhibere debet amorem caritatis, ita quoque vicissim ministri infucata debent episcopo suo exhibere obsequia.

When these variant readings are compared the differences and the similarities between the recensions and representative

versions reveal a definite pattern of development. The representatives of the Prisca fall into two groups. While the Florence MS. is closer in various readings to the Chieti or to the primitive text than is the Vatican MS., these two members of the Vatican Collection are in general harmony one with another. In the other group the Justel Codex is in generally close agreement with the Chieti and is therefore a better representative of the pure Prisca than the Vatican Collection. Its divergence from the Chieti is in fact primarily characterized by what are apparently accidental errors rather than the essential and developed differences which separate them both from the Vatican group.[1] The most striking readings characteristic to the Vatican Collection are, iste qui eiectus est (line 7), a plurimis (line 14), eum qui fuerat a communione separatus (lines 17-18), hi vero qui (line 20), austeriori-bus (line 24), and praecipienti episcopo (line 26). It must also be observed, however, that the Justel and Vatican share certain peculiarities not found in the Chieti. These are in the use of movere, in place of commovere (line 3), rogare in place of interpellere (line 8), videre in place

1. This is illustrated in the Justel Codex by potestate (line 7), quia derived from qui aut (lines 10-11) and et from ut (line 12); the unique occurrence of communionem non debet praesumere, donec ipse (lines 16-17) and castigari debere (line 25).

of pervidere (line 21) and the insertion of temeritas (line 13) and exhibere (lines 27-28).

The Isidore shares a number of the readings characteristic of the developed Prisca and in this reflects a background of development common to both collections. These are notably the insertion of et ideo (line 7), iste qui eiectus est (lines 7-8), episcopos (lines 8-9), abiecit eum (lines 12-13), plurimis (lines 14-15), qui a communione separatus (line 17), and the use of austeriori-bus (line 25). An even closer harmony may be observed between the Prisca of the Vatican Collection and the primitive Isidore as represented by the Maassen Collection.[1] The Quesnel Collection is more closely allied to the Maassen than it is to the Verona Fragment whereas the reverse is true of the Hispana. This shows that as in the Prisca there are two primitive Isidorian traditions of the Sardican text. Further influence from the tradition common to the Vatican Collection and the Maassen may be observed in the Quesnel with the use of movet (line 1), hi vero qui (line 21), studium (line 23), and the order exhibere obsequia (line 31). In other respects, however, the Isidore is either closer than the Prisca to the primitive

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1. Cf. E.O.M.I.A., I, pp. 480-482, notes, under the symbol "M".

text or reflects a separate process of development. Its agreement with the primitive text against the Prisca is shown in the use of commovere (line 3), interpellere (line 9), the passive voice of tractare (line 10), and qui autem convenerint (lines 20-21); and its own unique developments by tamen priusquam (line 15) the use of clericis (line 27) and the order obsequia exhibere (line 30).

Finally we may mention the close adherence of the Dionysian version to the Quesnel upon which it was based. The parallel readings are easily observed from a comparison of the two texts.

APPENDIX IV

THE DATE OF THE CANONS OF ANTIOCH

It seems quite certain that the Canons of Antioch were not produced by the Synod of the Dedication, in 341, to which they are assigned by tradition. From evidence provided by the early Western canonical collections and by the writings of Pope Innocent and Palladius, Schwartz has called attention to the fact that this origin was ascribed to the canons as early as the end of the fourth and beginning of the fifth centuries, but he has also shown that their identity was not indicated in the early Greek collections and that the Arian collector, Sabinus, assigned them to the Council of Constantinople in 359.[1] The older arguments advanced against the traditional origin of the canons rested partially upon the assumption that a series of canons which was produced by an Arian dominated synod would not have been included in the early Orthodox collections. This contention has been answered, although not as strongly as might be by Hefele, who

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1. E. Schwartz, "Zur Geschichte des Athanasius": VIII, in Nachrichten, 1911, Philol.-Hist. Klasse, pp. 389-391 and 394, and art. cit. (Die Kanonessammlungen der alten Reichskirche), pp. 33-34. A specific example of this identification among the early Western collections may be seen in the Prisca in which we find the heading, "Incipit constituta canonum Anthiocensium in Dedicatione" (E.O.M.I.A., II, p. 228).

defended their assignment to the Synod of the Dedication.[1]

The major objection to the traditionally ascribed origin of the canons arises from an entirely different quarter. The Ballerini first noticed that the list of episcopal subscriptions which accompanies the canons cannot be reconciled with the representation at the Synod of the Dedication either in person or in number.[2] The names of only thirty-two bishops from seven surrounding provinces appear in this list, whereas ninety or more bishops from a much wider area of distribution were present at Antioch in 341.[3] Also, the names of Eusebius of Constantinople, Flaccillus of Antioch and Maris of Chalcedon, certainly present in 341, are missing from the list. Hefele has suggested that the canons were framed after the majority of those present for the dedication festivities and the

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1. Hefele, II, pp. 56-66. Schwartz' conclusion that the basic component of the entire Eastern Corpus was an Arian collection of the late fourth century shows how tenuous the grounds of such an assumption are. Indeed, the party distinctions of 340 soon moved in other directions. By 359 St. Hilary, whatever his immediate reasons, could write of the Dedication Synod in terms of praise for its opposition to Sabellianism: "Volens igitur congregata sanctorum synodus impietatem eam perimere, quae veritatem Patris et Filii et Spiritus sancti nominum numero eluderet." (De Synodis, 32 - P.L., X, col. 504B).
2. Op. cit. (De Antiquis Coll. et Coll.) Pars. I, cap. 2 (P.L., LVI, cols. 35-41).
3. Hilary tells us that there were ninety-seven bishops present (De Synodis, 28 - P.L., X, col. 502), and Socrates reports ninety (Hist. Eccles., II, 8 - P.G., LXVII, col. 196A).

doctrinal discussions had departed, but this does not overcome all the difficulties. It has been pointed out by Schwartz that of the bishops whose names appear on the list Eusebius of Caesarea died in 339, Theodotus of Laodicea and Anatolius of Emesa in 341 or earlier, and Jacob of Nisibis in 337/338.[1] These considerations have caused modern scholars generally to discard the traditional dating and to assign the canons to an earlier synod with which the accompanying subscription list is more compatible.

Although the evidence provided by the list has been interpreted in different ways,[2] it is probable that it records the membership of a synod which met at Antioch within a few years of the Council of Nicaea. If we compare the names of the bishops who attended the synod held at Antioch in 325, with the names of those present at the synod in question, it may be seen that between twenty and twenty-three were present at both.[3] It may further be observed

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1. art. cit. (Zur Geschichte des Athanasius: VIII), pp. 393-394.
2. For an interpretation of this evidence as favouring the 341 dating of the synod see F.L. Cross, "The Council of Antioch in 325 A.D.", in The Church Quarterly Review, Vol. CXXVIII, 1939, p. 62.
3. Cf. G. Bardy, "Antioche (Concile et Canons d')", in Dictionnaire de Droit Canonique, Vol. I, 1935, col. 592. A comparison of the lists may be made with the aid of the subscription list of the bishops at Nicaea (E.O.M.I.A., I, pp. 36-91). The complete list pertaining to the synod with which we are concerned is

that two or three of the bishops present at the later synod were from provinces not represented in 325 (Isauria and Mesopotamia) and this reduces the number in discrepancy to between six and ten. Also, and of greater importance, it may be seen that the proportion of the bishops in attendance at the two Antiochene synods who were also present at Nicaea is about four-fifths for each. Of the thirty-nine sees represented at both Sardica and Nicaea in only nine cases do we find that they were occupied by the same bishops in 325 and in 343. In that the Synod of Dedication took place only two years before Sardica, we should expect that the proportion of bishops present who had also attended the council of Nicaea could not be much more than one in four. This fact, in conjunction with the considerations noted above, shows that the synod in question cannot be identified with the Synod of the Dedication, and indicates that it met not more than five years after 325.

It is possible that the canons do not belong with the

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given by C.H. Turner (E.O.M.I.A., II, p. 313) and that of the Synod of Antioch in 325 is found at the head of the synodal letter (cf. F.L. Cross, art. cit., pp. 71-72). Eusebius of Caesarea, Narcissus of Neronias, and Theodotus of Laodicea were also present in 325, as the letter reports, but because of their refusal to assent to the doctrinal formula drafted by the synod their names are not among those of the subscribing bishops.

subscription list, but this does not seem likely. The Synodal Letter, canons and subscriptions are in visible harmony one with another. The group of provinces represented by the bishops whose names appear in the list is the same as that recorded in the letter,[1] and the letter in turn makes specific reference to the Canons.[2] Furthermore the general theme of the letter concerns the peace of the Church of Antioch and it is apparently this problem which underlies the framing of several of the Canons.[3]

The initial signature in the subscription list of the synod in question is that of Eusebius of Caesarea and none of the other signatories can be identified with any known bishop of Antioch. This has led to the general supposition that Eusebius presided and that the synod was held at a time when the see was vacant. Several authorities, including Lietzmann,[4] have suggested that the synod is that which deposed Eustathius of Antioch in about 328. This solution, however, is attended by the difficulty that the peace of the Antiochene Church, with which the synod was evidently concerned, was initially disturbed by the

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1. Palestine, Phoenicia, Arabia, Mesopotamia, Coele-Syria, Cilicia, and Isauria.
2. Pitra, I, p. 455.
3. Canons 2, 4 and 5 seem to refer specifically to the schismatic communion of the supporters of Eustathius.
4. H. Lietzmann, From Constantine to Julian (English trans.), London, 1950, p. 126.

event of Eustathius' deposition and exile. The troubled conditions at Antioch which the letter and canons reflect should in all likelihood be identified with the situation existent during the early stages of the Eustathian schism.

The synod which framed the canons of Antioch seems then to have met within a year or two of Eustathius' deposition. Assuming that the synod was held while the see of Antioch was unoccupied, the short term incumbencies of Eustathius' immediate successors - probably Paulinus, Eulalius and Euphronius in that order - and the none too certain history of their succession leaves several open possibilities. A letter from the Emperor Constantine to the leaders of the synod which, according to Eusebius, appointed Euphronius is specifically addressed to Theodotus of Laodicea, Theodorus of Heraclea, Narcissus of Neronias and Aetius of Lydda.[1] While Aetius' name does not appear in our subscription list, Schwartz and Bardy have argued that the omission causes no difficulty and that this was the synod in question. Mr. Henry Chadwick is of the opinion that this was not the synod which appointed Euphronius, but instead that which deposed Eustathius. The appointment of Euphronius, he suggests,

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1. Eusebius, De Vita Constantini, III, 62 (P.G., XX, col. 1136).

was made by a different synod a year later and that it is to the later synod that the canons and subscription list should be assigned.[1] In this way, he feels, a suitable period of time is allowed for the episcopates of Paulinus and Eulalius and the difficulty caused by the presence of Aetius as a leader of the first synod is avoided. Schwartz, Bardy and Mr. Chadwick agree, however, that the synod in question was held within two years of Eustathius' deposition, and it seems quite certain that if he was deposed in 328 the date of origin of the Canons of Antioch falls within the period of the years 329 and 330.

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1. art. cit. (The Fall of Eustathius of Antioch) p. 35.

APPENDIX V

THE CONTRIBUTION OF THE BALLERINI TO SARDICAN STUDIES

The Ballerini brothers, Pietro and Girolamo, were born in Verona in 1698 and 1702. After ordination to the priesthood both continued in scholarly pursuits and within a period of a few years had won high respect among the learned both in Verona and farther afield. Nearly all of their labours were undertaken in close cooperation. In that Pietro was a theologian and canonist, and Girolamo an historian and textual critic, their combined abilities allowed a thoroughness and diversity which could scarcely be attained by one scholar working singly. The first work to attract wide attention was their edition of the writings of Cardinal Noris of Verona, published between 1729 and 1733. In 1748 Pietro was engaged by the Republic of Venice to serve on a committee of inquiry which was concerned with a dispute over the electoral rights for the appointment of the Patriarch of Aquileia. As a result of his personal contact with Pope Benedict XIV during the course of this undertaking he received a papal commission to edit the writings of Pope Leo I in refutation of the previous edition published by Pasquier Quesnel. After nine years of labour the Ballerini brothers completed their Sancti Leonis Magni

Romani Pontificis Opera,[1] which appeared in three volumes in 1753, 1756 and 1757.

This work reproduced Quesnel's edition in its entirety and supplemented it with critical annotations and additional material. The third volume, with which we are here concerned, forms an appendix to the rest of the work and is a profound study of the sources of early canon law. In his own edition Quesnel had published the hitherto unedited collection which bears his name, and had advanced the claim that it reflected a less advanced view of papal jurisdiction than the later Collection of Dionysius, and that it represented a primitive corpus of canons known and used by Popes Innocent I, Zosimus and Leo I.[2] The purpose of the Ballerini's third volume was the refutation of this claim. Their object was accomplished with an amazingly thorough analysis of the available manuscript sources in an essay entitled, "De Antiquis Collectionibus et Collectoribus Canonum". This study was the result of much original work and is a contribution of primary importance to the field of canonical studies. The conclusions of the Ballerini concerning the history of the early collections of canons, with few exceptions, have been completely

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1. Reprinted in Migne as P.L., LIV-LVI.
2. "Dissertationes in Codicem Canonum Ecclesiasticorum", XII, 1 and 2 (reprinted in the Ballerini edition).

vindicated by subsequent research. Turner, expressing his admiration for their ability of interpretation, writes,

> "the Ballerini, with far fewer facts at their command, divined what Maassen with his greater knowledge missed, the central position of the Chieti MS. in the process of investigation into the problem of the Prisca."[1]

Through their discernment of the order of formation and pattern of textual development among the Isidore, Prisca and Dionysius,[2] the Ballerini refuted Quesnel's claim for the antiquity of the Quesnelliana, and correctly designated it as a Gallican recension of the Isidore.[3] As Turner has remarked, their evaluation of the Chieti as the best representative of the Prisca anticipated the conclusions of scholars of the present century. The same is true of their assertion that the Nicene-Sardican series in this manuscript was not that of the developed Prisca itself but of the primitive Latin text.[4] A critical edition of the Prisca version drawn from the Chieti, Justel, Vatican and St. Blaise recensions, was set forth by the Ballerini under the title "Prisca Canonum Editio Latina".

From a reference in Pope Innocent's Epistle to the clergy and people of Constantinople,[5] Quesnel asserted that

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1. C.H. Turner, art. cit. (Chapters in the History of Latin MSS. of Canons; V), p. 346.
2. loc. cit., Part II, ch. 2.
3. Ibid., ch. 8.
4. Ibid., ch. 4.
5. Epist. VII, 3 (P.L., XX, col. 506A).

he had been aware of the identity of the Sardican Canons and had knowingly cited them under the authority on Nicaea.[1] The Ballerini rightly defended the honesty of the early identification of the Sardican Canons with the Nicene by tracing their close connection through various early sources,[2] and pointed out that Innocent's allusion to the decrees of Sardica does not pertain to the canons, but to the restoration of Athanasius.[3]

Chapter V, Part I, of the above cited study is devoted specifically to the Council and Canons of Sardica. With regard to the question of textual priority the Ballerini maintained that the large number of Latin speaking bishops present at Sardica, the Latinity of the letter to Julius, and the substantial differences between the Greek and Latin text can only be explained by supposing that both were drawn up at the synod itself.[4] While they supposed that the hierarchical and organizational differences present in the Greek were included in this initial redaction, it is a modified form of their hypothesis which is set forth in the present study. The number of bishops in attendance at the Orthodox Sardican Synod was estimated

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1. Loc. cit. (Dissertationes, XII), 2.
2. Loc. cit. Part II, ch. 1, secs. 11 and 13-20.
3. Ibid., sec. 12.
4. Ibid., Part I, ch. 5, secs. 2-4.

by the Ballerini to be between ninety-four and ninety-seven, and no improvement upon their analysis has since been made.

The Verona Codex LX(58) - known to the Ballerini as Codex 55 - was discovered in the Chapter Library in 1713 by Maffei.[1] The Ballerini were the first to edit a portion of the Collection of Theodosius Diaconus, which the manuscript contains, and included in their edition the valuable version of the Sardican Canons preserved by this collection.[2] While they perhaps wrongly assigned the Theodosian Collection to the Church of Alexandria,[3] the Ballerini were entirely justified in their assertion of its early origin and importance both to Athanasian studies and to the history of early canon law.[4]

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1. A delightful account of the circumstances of this discovery is given by Dr. W. Telfer, art. cit. (The Codex Verona LX(58)), pp. 228-231.
2. In Sancti Leonis Magni Opera, III under the title "Vetus Interpretatio Latina Canonum".
3. Admonitio to "Vetus Interpretatio", sec. 4.
4. See also "De Antiq. Coll. et Coll.", Part II, ch. 9.

APPENDIX VI

A RECENT STUDY OF HOSIUS, BISHOP OF CORDOVA, BY VICTOR C. DE CLERCQ, C.I.C.M.

In view of his recent publication of a thorough study of the person, life and influence of Hosius of Cordova,[1] the present appendix, which was originally planned as a brief appraisal of Hosius' remarkable career, has been modified in its purpose to serve also as an acknowledgement of the relevance of Dr. De Clercq's work to the subject of the present study. While he contributes little new to Sardican studies, Dr. De Clercq devotes one-hundred and fifteen pages, out of a total of five-hundred and thirty, to an excellent survey of the field.

Hosius' life extended over a period of a little more than one hundred years; he was born in 256 shortly before the death of St. Cyprian, and died after the birth of St. Augustine. His episcopate, which began about 295, covered some sixty-three years and witnessed the transition from persecution to peace, the rise and vicissitudes of Donatism and Arianism, and an age of extensive organizational development in the structure of the Church. His subscription

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1. Ossius of Cordova, A Contribution to the History of the Constantinian Period, Washington, 1954.

to its acts shows that he was present at the Synod of Elvira, shortly after 300, and it is supposed that he played a prominent part in the formulation of its canons. In about 313 Constantine appointed him as his "ecclesiastical advisor", and he apparently served continuously in this capacity until after the Council of Nicaea. It is known that while thus engaged Hosius was sent to Africa to mediate in the Donatist controversy, and to Alexandria for an attempted early settlement of the bitter differences between Alexander and Arius. While the exact part played by Hosius at Nicaea is still debated, the occurrence of his name as the first in the list of subscriptions shows that he held a prominent position. It is this fact which has led some scholars, whose ranks Dr. De Clercq joins, to assert that Hosius presided. It is supposed that after the council he returned to Spain and, with the exception of his attendance at Sardica, enjoyed an uninterrupted rule over his flock for a period of forty years. During this time, however, Hosius did not lose contact with the cause of Orthodoxy in the East, nor did he fade from the memory of its opponents as one of the strongest supporters of the Nicene formula. Following the capitulation of Pope Liberius to Arian pressure in 355 or 356, Hosius himself came increasingly under attack. He was summoned to

Sirmium by the Emperor Constantius and ultimately yielded to the Emperor's demands that he subscribe to the Anomoean creed of 357. Hosius' fall has been explained in various ways, but it seems certain that his fateful subscription was not a responsible act. As he was at this time over one-hundred years of age, and had been subjected to continuous pressure while held in a position of virtual imprisonment of at least one year's duration, his wits were obviously no longer a match for those of his enemies. Although no more is heard of Hosius after his fall at Sirmium it is supposed that he was allowed to return to Spain and that he died within a short time.

The career of Hosius is remarkable not only for its length, but for the outstanding abilities of the man himself. His service in the Imperial court gave him an unparalleled acquaintance with the Church at large and provided him with a first hand knowledge of her varied problems. While the acquisition of this experience would have placed any bishop so favoured in a position of prominence, Hosius' initial selection for the post, as bishop of an obscure provincial see, and the subsequent influence which he enjoyed after the severance of his connection with Constantine, can only be explained in terms of his own character and ability. The tribute paid to Hosius by the

bishops at Sardica most clearly illustrates the esteem in which he was held by his contemporaries. They speak of him as a man

> "of venerable old age, who because of his time of life, his confession, and long tested faith, and who for the great labour he has undergone on behalf of the Church is most worthy of all reverence."[1]

Apart from his contribution to the documents of the Sardican Synod, the known writings of Hosius are surprisingly few in number. The only one which remains is a letter written to Constantius in about 356.[2] St. Isidore of Seville mentions a letter, "de laude virginitatis", which Hosius had written to his sister, and a longer work, "de interpretatione vestium sacerdotalium",[3] but these are no longer extant. While his lack of literary activity has led some writers to suppose that Hosius possessed but little learning, Dr. De Clercq has adequately shown that he was both a man of culture and a competent theologian.[4]

Of particular interest for the present study is the unquestionable leadership which Hosius exercised at Sardica at the advanced age of eighty-seven years. It is evident that his presidency was not merely honorary, for we find him at the forefront during the preliminary negotiations

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1. Orthodox Encyclical, 2 (C.S.E.L., LXV, p. 108).
2. Preserved by St. Athanasius, Hist. Arian., 44.
3. De Viris Illustribus, 5 (P.L., LXXXIII, col. 1086).
4. Op. cit., pp. 61-75.

with the Eastern party, as one of the two responsible for the drafting of the Sardican formula of faith, and as the one whose opinion was most highly respected with regard to the questions of order and discipline which were discussed during the legislative sessions.

From the standpoint of the present study there is little to be found in Dr. De Clercq's work which evokes disagreement. On all of the most controversial points regarding the Council or Canons of Sardica essential agreement is found. Dr. De Clercq supports the view that the Eastern party finished its business at Sardica and not in a later assembly at Philippopolis,[1] and he provides an excellent presentation of the case for a 343 dating of the Sardican Synod.[2] Contrary to the interpretation maintained by certain scholars of his own Communion, Dr. De Clercq does not attempt to extend the process of episcopal appeal outlined in canons 3, 4 and 7 to include the prerogative of final judgement by the Pope alone, but adheres to what has impressed us as the only reasonable meaning of the appeal legislation.[3] While Dr. De Clercq declines to suggest a reason for the use of the particular form of publication

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1. Op. cit., pp. 351-354.
2. Ibid., pp. 313-324.
3. Ibid., pp. 394-397.

represented by the Sardican Canons,[1] and while it is beyond the scope of his study to carry the textual questions further than he does, it is interesting to note that he argues in favour of an original dual redaction of the canons as first proposed by the Ballerini.[2]

Although it is agreed that the judgement of Hosius was of primary influence in the formulation of the canons as they stand, it seems to be an exaggeration to say, as does Dr. De Clercq, that they were "almost entirely his own work".[3] It has been shown in the analysis of the verbal process, given above in Chapter II, that the canons in their present form represent the important phases of a series of discussions which were considerably more extensive than would appear at first sight. While the initiative in the formal proposal of subjects for consideration would naturally fall to the president of the assembly, the raising of the successive questions considered may well have been shared by a number of its members. It has been suggested in Part II, above, that several canons seem to reflect problems particularly relevant to the churches of Alexandria and Egypt, and as Athanasius apparently enjoyed

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1. Op. cit., pp. 388-389.
2. Ibid., pp. 384-385.
3. Ibid., pp. 277 and 408.

unqualified membership in the synod, we may scarcely doubt that they were brought to the attention of the assembly by him. Other canons echo questions first raised by Pope Julius' Letter to the Eusebians, and these may well have been broached for consideration at Sardica at his expressed desire.

Additional Note to Page 155

For a recent analysis of suffrage in episcopal elections during the fourth and early fifth centuries, see F.L. Ganshof,

> "Note sur l'élection des évêques dans l'empire romain au IVme et pendant la première moitié du Vme siècle", in Revue Internationale des Droits de l'Antiquité, Vol. IV, 1950, pp. 467-495.

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