GLOBAL PERSPECTIVES
ON LEGAL HISTORY 30

FRANCESCO GIULIANI

Si in evidentem utilitatem

The Congregation of the Council, Religious Orders and the Alienation of Temporal Goods in the Papal States (Marche, 17th Century)



GLOBAL PERSPECTIVES ON LEGAL HISTORY 30

Global Perspectives on Legal History

A Max Planck Institute for Legal History and Legal Theory
Open Access Publication

https://global.lhlt.mpg.de

Series Editors:
Marietta Auer, Thomas Duve, Stefan Vogenauer

Volume 30

Global Perspectives on Legal History is a book series edited and published by the Max Planck Institute for Legal History and Legal Theory, Frankfurt am Main, Germany.
As its title suggests, the series is designed to advance the scholarly research of legal historians worldwide who seek to transcend the established boundaries of national legal scholarship that typically sets the focus on a single, dominant modus of normativity and law. The series aims to privilege studies dedicated to reconstructing the historical evolution of normativity from a global perspective.
It includes monographs, editions of sources, and collaborative works. All titles in the series are available both as premium print-on-demand and in the open-access format.

FRANCESCO GIULIANI

Si in evidentem utilitatem

The Congregation of the Council, Religious Orders and the Alienation of Temporal Goods in the Papal States (Marche, 17th Century)

MAX PLANCK INSTITUTE
FOR LEGAL HISTORY AND LEGAL THEORY
2026

ISBN 978-3-944773-58-2
eISBN 978-3-944773-59-9
ISSN 2196-9752

First published in 2026

Published by Max Planck Institute for Legal History and Legal Theory, Frankfurt am Main

Printed in Germany by epubli, Köpenicker Straße 154a, 10997 Berlin, http://www.epubli.de

Max Planck Institute for Legal History and Legal Theory Open Access Publication
http://global.lhlt.mpg.de

Published under Creative Commons CC BY 4.0 International
https://creativecommons.org/licenses/by/4.0/

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliographie; detailed bibliographic data are available on the Internet at http://dnb.d-nb.de

Cover illustration:
Paul Klee, Hauptweg und Nebenwege (1929)
Museum Ludwig, Köln
Inv.-Nr. ML 76/3253
(Foto: © Raimond Spekking / CC BY-SA 4.0 (via Wikimedia Commons)
https://commons.wikimedia.org/wiki/File:Hauptweg_und_Nebenwege_-_Paul_Klee_-_Museum_Ludwig-7026_(cropped).jpg

Recommended citation:
Giuliani, Francesco (2026), *Si in evidentem utilitatem*. The Congregation of the Council, Religious Orders and the Alienation of Temporal Goods in the Papal States (Marche, 17th Century) (Global Perspectives on Legal History 30), Max Planck Institute for Legal History and Legal Theory, Frankfurt am Main, http://dx.doi.org/10.12946/gplh30

Foreword

This is the second of several volumes in the *Global Perspectives on Legal History* series that are aimed at publishing the results of research conducted at the Max Planck Institute for Legal History and Legal Theory on the history of the Congregation of the Council between the modern and contemporary eras. This research began in 2014 in the Research Group *Governance of the Universal Church after the Council of Trent. Papal Administrative Concepts and Practices as exemplified by the Congregation of the Council between the early Modern Period and the Present* and then, in 2021, converged into the work of the Research Group *Normative knowledge in the praxis of the Congregation of the Council. The production of normative categories and models for the post-Tridentine world*.

Under the guidance of Prof. Dr. Benedetta Albani and in continuous intellectual dialogue with the Institute – in particular with the Department *Historical Regimes of Normativity*, directed by Prof. Dr. Thomas Duve – the Research Group investigates the development of governance structures of global breadth within the Catholic Church by examining the activities of a unique institution, the Congregation of the Council, between the mid-sixteenth century and the first quarter of the twentieth century. The Congregation of the Council was established by Pius IV in 1564 as the first permanent congregation of cardinals after the Council of Trent. Its responsibilities were further defined and expanded by Sixtus V in 1588. It was entrusted with implementing the Council of Trent and its provisions *in universo christiano orbe* and was furthermore given specific competencies related to normative production, maintaining relations with local churches, and gathering information on a global scale. Within a few years, it also assumed responsibility for coordinating the *visitationes ad limina* and approving the decrees of the provincial councils. Additionally, the Congregation for the Council held extensive jurisdictional powers and authority over the granting of papal graces. It had the power of authentic interpretation of the decrees of the Council in the name of the Pope and to adapt them to local conditions. To carry out these responsibilities, the Congregation required a constant flow of information about all aspects of early modern

Catholicism. Given its exclusive authority over interpreting the decrees of the Council of Trent, the Congregation of the Council occupied a prominent position in the Roman network of Congregations and was regularly consulted by other bodies of the Roman Curia.

Despite the long tradition of studies on the Roman Curia, the Congregation of the Council has received relatively little attention from scholars. Research has traditionally focused on isolated aspects, often in a formalistic manner and without adequate engagement with primary sources. Some researchers have indeed made use of the dicastery's rich archival records, but primarily from a local history perspective rather than analyzing the congregation itself. The Research Group has instead sought to develop original intellectual questions and an innovative methodological approach that examines the dicastery in an integrated manner. By bringing together expertise from different disciplines – such as history, legal history, archival science and digital humanities – the group aims to deepen the understanding of the congregation's functioning and global influence. As part of this work, it is developing a new perspective on the Congregation of the Council. Firstly, by considering this dicastery as part of an organic administrative whole – the Roman Curia – and, above all, as an organ of global reach that influenced ecclesiastical institutions all over the world, both directly and indirectly. Secondly, by analyzing the interaction between the Congregation of the Council and a wide range of actors, both within and outside the Holy See, which also facilitates a fuller understanding of the richness of post-Tridentine canon law. This approach, finally, offers the possibility of capturing the modulations of the Council of Trent via the decisions of the Congregation of the Council in the *longue durée*, thus bringing forward the strong dialectic relationship between general norms and individual cases in canon law. This is done by analyzing how the Congregation of the Council used – and even created – normative categories that described the spaces, actors and legal issues of the Catholic world, tracing the patterns of procedures and decisions that were sedimented in the development of the dicastery's task of governing the Catholic Church, and appreciating the congregation's production of normative knowledge and its influence at a global scale. Indeed, studying the Congregation of the Council provides a lens through which to appreciate the richness and complexity of post-Tridentine canon law. While there was a centralization of authority, this did not lead to rigid standardization in the interpretation and application of laws. Instead,

there was room for adaptation, innovation, and, most importantly, the translation of canon law to accommodate local needs and practices.

From a methodological perspective, the Research Group considers it essential to approach the study of the Congregation of the Council from both local and Roman dimensions. This requires the use and comparison of sources from both local and papal archives to avoid an imbalance of either central or peripheral dynamics. Furthermore, by drawing on legal-historical, diplomatic, and palaeographical expertise developed by the Research Group, the research offers insights into the intricate workings of an administrative body and the structural patterns underlying its functioning. Thanks to the group's efforts in organizing and describing the archives of the Congregation of the Council, which are now preserved in the Vatican Apostolic Archive, the works to be published in this series have been able to utilize previously unpublished or unexplored sources. It is hoped that these methodological reflections and contributions to the study of the Congregation of the Council will inspire further research on this and other dicasteries and, more broadly, enhance our understanding of the complex system of congregations and other bodies that have characterized the Roman Curia from the early modern period to the present day.

This series presents individual and collective works developed in various ways within the framework of the aforementioned Research Groups.

Benedetta Albani
Frankfurt am Main, January 2026

Table of Contents

Acknowledgements XIII

Acronyms (archives and sources) XV

Abbreviations XVI

Introduction 1

The structure of the book 5
Transcription standards 6

Chapter 1
The Congregation of the Council and the Marche Region (16th–17th century): A Preliminary Survey 9

1.1 The Roman Curia and the congregation system 14
1.2 The Congregation of the Council: institution, functions and sources 20
1.3 The Ecclesiastical geography of the Marche 28
1.4 Data collection method: a systematic approach 36
1.5 Quantitative analysis: the workload of the Congregation of the Council 40
1.6 Thematic survey: outcomes 46

Chapter 2
The *De rebus regularium non alienandis*: A Post-Conciliar General Degree 61

2.1 The historical and normative background 61
2.2 The promulgation of the *De rebus regularium non alienandis* 69
2.2.1 Alienations and exchanges 80
2.2.2 Leases *ad longum tempus* and ecclesiastical emphyteusis 80
2.2.3 Contracts of *censo* 82
2.3 The triple competence of the Congregation of the Council 86
2.3.1 The granting of alienation licences 90

2.3.2 Resolving cases of *dubium alienationis*. 93
2.3.3 Absolution for unlawful alienations 95
2.3.4 The Congregation of Bishops and Regulars: overlapping or shared tasks? 101

Chapter 3
The *Iter si in evidentem*: A Voluntary Jurisdiction Procedure 107

3.1 Methodology and framework 111
3.1.1 Methodological issues. 111
3.1.2 Selected cases: an institutional and constitutional framework 114
3.1.2.1 Monastic orders 117
3.1.2.2 Mendicant orders. 125
3.1.2.3 Clerics regular 129
3.2 The local chapter stage 131
3.3 The Roman stage. 140
3.3.1 The superiors general of religious orders 140
3.3.2 The procurators general of the orders: representatives and intermediaries 144
3.3.3 On the content of supplications and memorials . . . 153
3.3.4 The decision-making practices 160
3.3.4.1 The business style 164
3.3.4.2 Clarification requests: *litterae pro informatione*. 169
3.3.4.3 The technique of rescripts *si in evidentem*: delegated dispensations. 175

Chapter 4
The Diocesan Stage 189

4.1 The diocesan *processus si in evidentem*: voluntary episcopal jurisdiction 191
4.2 The entanglement of alienation practices at diocesan level . . 196
4.3 Document format and archival series 199
4.4 The professionals 202
4.4.1 The bishops as judges delegate 203
4.4.2 The vicars general 210

4.4.3 The vicars forane 212
4.4.4 The fiscal procurator 215
4.4.5 Notaries and chancellors 217
4.5 The court procedure 219
4.5.1 The presentation of the rescript 221
4.5.2 The edicts 225
4.5.3 The examination of witnesses and technical assessments 229
4.5.4 The rejection of the licence 234
4.5.5 The judgement 236
4.6 Final remarks 238

Overall Conclusions 241

Appendix 247

Charts 247
Images 248

Documentary Annex 255

A. Decree *De rebus regularium non alienandis* 255
B. Decree *De celebratione missarum* 256
C. Apostolic Constitution *Ambitiosae cupiditati* 259
D. A *Breve si in evidentem* 260

Sources and Bibliography 263

Archival Sources 263
Printed Sources 265
Bibliography 268

About the Author 307

Acknowledgements

As always happens at the end of a long period of work, one remains indebted to the many people encountered along the way. First and foremost, I would like to express my sincere gratitude to Prof. Dr. Benedetta Albani for offering me the opportunity to be part of her research group *Governance of the Universal Church after the Council of Trent* at the Max Planck Institute for Legal Theory and Legal History in Frankfurt. I thank her for her willingness, her methodological rigor, her critical observations, and her constant support in following my research path.

Sincere thanks go to Prof. Dr. Hiram Kümper and the University of Mannheim for welcoming and supporting this project, offering timely guidance and food for thought.

I would like to express my heartfelt thanks to the Max Planck Institute for Legal Theory and Legal History, above all Prof. Dr. Thomas Duve, Prof. Stefan Vogenauer, and Prof. Dr. Marietta Auer. The years I spent in Frankfurt, thanks to the human and professional exchange with my colleagues, were highly stimulating and have certainly left me with fond memories.

I would also like to thank all the staff at the various archives and libraries where I conducted my research; special thanks go to the management of the Vatican Apostolic Archives and to the staff who assisted me on numerous occasions with extreme helpfulness and courtesy.

Finally, my heartfelt thanks go to the editorial staff of the Global Perspectives on Legal History (GPLH) book series, for their accurate editorial work as well as for their helpfulness and constant dialogue during the process of editing and publishing the manuscript.

Francesco Giuliani

Acronyms (archives and sources)

AAV	Archivio Apostolico Vaticano, Vatican City
ACCSBI	Archivio della Congregazione Cistercense di S. Bernardo in Italia, Chiaravalle Milanese (Milan)
AGOC	Archivio Generale dell'Ordine dei Carmelitani, Rome
ARSI	Archivio Generale dell'Ordine dei Gesuiti, Rome
ASAF	Archivio Storico Arcivescovile di Fermo, Fermo
ASAn	Archivio di Stato di Ancona, Ancona
ASCC	Archivio Storico Comunale Cupramontana, Cupramontana (Ancona)
ASCMC	Archivio Storico della Congregazione Camaldolese di Monte Corona, Monte Porzio Catone, Sacro Eremo Tuscolano, Frascati (Rome)
ASDJ	Archivio Storico della Diocesi di Jesi, Jesi (Ancona)
BC	Ferraris, Lucio (1885–1899), Prompta Bibliotheca canonica iuridica moralis theologica, nec non ascetica, polemica, rubristica, historica, 9 vols., Romae: Ex Typographia Polyglotta
BR	Bullarium Romanum (1857–1872). Bullarum diplomatum et privilegiorum Sanctorum Romanorum Pontificum Taurinensis editio, 24 vols., Augustae Taurinorum: Seb. Franco et Henrico Dalmazzo editoribus (from 1867 A. Vecco et sociis)
COD	Alberigo, Giuseppe et al. (eds.) (2013), Conciliorum Oecumenicorum Decreta, Bologna
DSE	Moroni, Gaetano (1840–1861), Dizionario di erudizione storico ecclesiastica da San Pietro ai nostri giorni, specialmente intorno ai principali santi …, 103 vols., Venezia: Dalla Tipografia Emiliana

Abbreviations

b., bb.:	*busta*, *buste* (box, boxes)
c.:	canon
cap.:	*caput* / *capitulum* (chapter)
cf.:	compare
f., ff.:	*foglio*, *fogli* (sheet, sheets)
fasc., fascc.:	*fascicolo*, *fascicoli* (file, files)
n.:	number
n. f.:	no foliation (sheet without number)
pars:	part / section
r.:	*recto* (front of a manuscript sheet)
t.:	tome
tit.:	*titulus* (title)
v.:	*verso* (reverse of a manuscript sheet)
vol., vols.:	volume, volumes
£:	Symbol used by the author to indicate the graphic sign used in manuscript sources to express the ancient coins 'scudo / scudi' and 'fiorino / fiorini'

Introduction

> In omnibus pariter alienationibus bonorum Ecclesiasticorum, super quibus petitur Apostolicum beneplacitum, apponitur illa tam salubris clausula, *in evidentem Ecclesiae cessuram esse utilitatem*: Pro cuius clausulae elucidatione in memoriam reducendum esse puto, quod postquam per priscos Canones statutum fuit ne amplius bona Ecclesiae distrahantur, cum postea ex aliquo accidenti illa alienare permissum fuit semper utilitatem Ecclesiae considerandam esse tam illi antiqui, quam moderniores Canonistae iusserunt.[1]

"Salubris", understood as advantageous, is the adjective used in 1676 by Tommaso De Rosa, jurist and bishop of Sant'Angelo dei Lombardi and Bisaccia, to define the clause *in evidentem utilitatem*, regularly inserted in apostolic *beneplacita* used by the Apostolic See to grant licences to alienate ecclesiastical goods.[2]

This Latin clause is a legal technicality that that serves as *leitfmotif* for the present book.[3]

The renewal impulse within the Catholic Church after the Council of Trent (1545–1563), aimed at reaffirming a pastoral and disciplinary control over the clergy and society, also brought with it a more stringent way of controlling and safeguarding the patrimony accumulated over the centuries. This included lands, real estate, credits, valuable movable property, and more generally everything that had been amassed over time by donation or otherwise.

1 De Rosa (1676) 115 (emphasis in the original).

2 Ibid.

3 The work presented here is the result of PhD research carried out within the former Research Group "Governance of the Universal Church after the Council of Trent. Papal Administrative Concepts and Practices as Exemplified by the Congregation of the Council between the Early Modern Period and the Present" led by Prof. Dr. Benedetta Albani at the Max Planck Institute for Legal History and Legal Theory in Frankfurt am Main.

The general decree *De rebus regularium non alienandis*, issued by the Congregation of the Council (*Sacra Congregatio Concilii*, hereafter SCC) in 1624, served to remedy the chaos of exemptions and special privileges enjoyed by the regular clergy, a veritable jungle that risked endangering or otherwise impoverishing the assets owned in common by monasteries, convents and hermitages.

This book uses the above-mentioned general decree as a lens through which to investigate the governance structures of the Church in the early modern age. This norm, which regulated ecclesiastical alienations, can be used to shed light – from a legal-historical perspective – on the complexity which both bound and characterised central and local institutions. If it is true – as has been put forward by various authors – that Church sources are useful for economic history, the opposite is also true, namely that economic and patrimonial records can be valuable aids for gaining a deeper understanding of the history of Church institutions.[4]

The peculiarity of these alienation procedures was that they involved multiple entities; the SCC, religious orders and diocesan bishops were closely connected through complex legal practices. Having overcome an approach that saw in the dichotomy of centre and periphery merely the domination of the former over the latter, historiography today is more inclined to consider the various institutions of the Church in the *ancien régime* as parts of the same whole that interacted, negotiated and related with each other in a dialectical as well as complementary manner.[5]

From a methodological point of view, research of this kind has investigative implications; it is necessary to put the complex internal legal procedures of Roman congregations into relation with those of religious orders. At the same time, one should take into account the normative production of central and peripheral ecclesiastical bodies; and finally, the analysis must also consider certain aspects of diplomatics concerning the style in use at the Roman Curia and at the diocesan curias.

In the general panorama of the Roman Curia, the SCC is recognised as the institutional outcome of the Catholic Reformation, which in the mid-

4 Cf. Palese (2004); Taccolini (2003).

5 Marcella Campanelli has undertaken pioneering work in this direction: Campanelli (2003).

16th century marked a watershed in the history of the Church and also had much wider-reaching consequences. More precisely, the establishment of the SCC was motivated by the need to apply and correctly interpret the normative corpus that came out of the Council of Trent.

In spite of its central position in the governance of the universal Church, the SCC – for reasons we will explore in more detail – certainly cannot be counted among the most studied dicasteries,[6] if we exclude a few contributions dedicated to its specific topics.[7] The SCC was a large governing body whose tasks encompassed various spheres that were not rigidly subdivided; it dealt with gracious, judicial, administrative and interpretative matters, which nowadays would be the prerogative of different institutions.

The investigation of the topic of alienations in this book is an attempt to analyse the SCC's internal decision-making practices, the normativity produced by this particular dicastery, and the latter's relationship with other central as well as local bodies.[8]

The practice generated by this alienation decree, as we will learn, involved several institutions. The custom of granting dispensations of alienation must be legally framed within the sphere of ecclesiastical gracious (or voluntary) jurisdiction. It is precisely the world of licences – which, compared to the contentious jurisdiction typical of the courts, has received less attention – that profoundly permeated the structures of the *ancien régime* in the vertical relationship between subject and sovereign and thus proves an effective approach for delving into the day-to-day complexity of ecclesiastical institutions.

Monasteries, convents, hermitages and colleges belonging to both long-established and new religious orders and congregations were the entities primarily involved in these procedures, as beneficiaries of dispensations.

6 The terms "congregations" and "dicasteries" are used synonymously in this book; in the context of the Roman Curia, they will sometimes also be referred to as "department".

7 Cf. Schutte (2011).

8 For the most recent research proposals for the study of Roman congregations see Giannini / Giordano (2019). In this respect, interesting new developments will come from the international collaboration project 2024–2026 "Governing by congregations. The Roman Curia: a complex organism between theories and practices (mid-16th to early 20th century)" directed by Benedetta Albani (Max-Planck-Institute for Legal History and Legal Theory), Massimo Carlo Giannini (Università degli Studi di Teramo) and François Jankowiak (Université Paris-Saclay, Sceaux).

The world of the religious offered an extreme institutional variety, which also translated into the complexity of their internal governance structures and the diversity of their nomenclature. After a period during which the regular clergy was the exclusive preserve of in-house specialists, who sometimes promoted a hagiographic interpretation, lay scholars have been interested in the regular world from various perspectives for several decades now. Numerous in-depth studies with a socio-economic slant have shed light on the role of the regular clergy in the economy and finance of the European states of the 17th century, as well as on their methods of estate management and accounting.

This book, which adds to that of scholars who have focused on the link between individual members of religious communities and institutions on the one hand and Roman congregations on the other, analyses the centrality assumed by the SCC in the daily life of monks and friars, particularly in the administration of their goods.

As mentioned, the alienation procedures based on the *si in evidentem* clause also involved the diocesan ordinaries, especially in their final stage. Ecclesiastical justice in the periphery, and in particular the diocesan tribunals across the peninsula,[9] are still the great absentees in historiography today, but they remain crucial to the understanding of the pastoral action of reception and translation of the Tridentine in the local sphere. The present study of the praxis of ecclesiastical alienations in the local dimension offers to shed light on the office of the judge delegate, the relationships between bishops and regular clergy, the structures of local administration, the internal praxis of the tribunals, and the actors who operated in these areas.

The geographical context that provides the backdrop for this study and in which to observe the dynamics between the various institutions of the Church is the *Marca Anconitana*.[10] This province on the periphery of the Papal States was characterised by a particular and almost unique jurisdictional tangle;[11] it is precisely here that the dual nature of the "Papal Prince"

9 In this book, I use the terms "peninsula" and "Italian peninsula" to describe the geographical region that today roughly encompasses the Italian state.

10 The old Italian term *Marca Anconitana* (or *Marchia*), as will be seen in more detail in section 3.1, is used to identify the territory which largely corresponds at least geographically to the current Marche region. In this book, the three terms are used synonymously.

11 See Santoncini (1994).

described by Paolo Prodi manifested itself in an overbearing manner.[12] This was a region in which the distinction between secular and ecclesiastical, temporal and spiritual power took on an entirely relative meaning, partly different from the classical one valid for any other political structure on the peninsula. Despite recent developments, ecclesiastical justice in the Marche region remains a field that is still little explored but rich in opportunities, also thanks to the abundance of local archives.[13]

This book is a modest attempt to approach the study of a Roman congregation not only from a purely central or local perspective. With the knowledge that the history of the SCC *reste à faire*, this work uses the dual theme of alienation and dispensation to investigate the multi-layered system of governance of the Church of Rome in the early modern age.

The structure of the book

The book begins with a systematic survey of an archival series of the SCC, in order to provide a general overview of the SCC's activity between 1564 and 1681 (chapter 1). This approach creates a first impression not only of the Tridentinum and post-Tridentine themes that most characterised the SCC in relation to the Marche, but also of the weight assumed by the decree *De rebus regularium non alienandis* in the overall workload of the dicastery.

The second chapter deals in more detail with this general decree, framing it within the vast and still little-known field of the SCC's normative production and the general administrative jurisprudence of the Roman congregations.[14] Special attention will be paid to the promulgation phase, the legal cases subject to prohibition, and the multiple jurisdictions the SCC had over this particular post-Tridentine norm (chapter 2).

The third chapter goes into the details of the procedure *si in evidentem*. For methodological and archival reasons, the thesis limits the case studies to two dioceses, those of Jesi and Fermo. We follow, step by step, the procedures that convents, monasteries and hermitages in the Marche were required to follow when requesting alienation licences from the SCC. The

12 Prodi (2013).

13 On ecclesiastical justice in the Marche in the early modern age, see Lavenia/Pedrini (eds.) (2018).

14 Concerning the jurisprudence of the Congregation of the Council, see Fantappiè (2013).

analysis includes the diligent description and interpretation of the role of actors, intermediaries, internal procedures and legal institutions; the working methods of the SCC and its style receive particular attention (chapter 3).

The final chapter examines the diocesan stage, which began with the moment when the licences of the SCC passed into the hands of the bishops. In this section, the text delves into how a decree issued by the SCC is translated into the local context, describing the particular procedure of voluntary jurisdiction to alienate ecclesiastical property as applied in diocesan courts (chapter 4).

Transcription standards

From a methodological point of view, the analysis of complex practices that involved several bodies requires, as can easily be imagined, building relationships with numerous archives, in a continuous linking of central and local sources. Due details on the status of the records and their respective archives will be provided in the course of the text. Reference will often be made to palaeography and diplomatics, which prove useful not only for the mere interpretation of sources, but also for deciphering the *ratio* behind certain legal practices. This book also makes use of pragmatic normative literature[15] to support the archival findings.

This book uses a method of transcribing 17th-century Italian and Latin sources in an attempt to achieve two results; on the one hand, to ensure a high degree of fidelity to the original text, and on the other hand – since this is not a critical edition – to facilitate fluent reading of the documents cited both in the body of the text and in the footnotes. Consequently, brachy-

15 This expression is commonly used to refer to those sources, printed or manuscript, that served a practical purpose, such as handbooks, manuals, treatises, summaries, or compendia, which produced normative knowledge. They were instruments that facilitated the daily work of those for whom they were intended; they served to find the most suitable legal solution for a specific case. On the Church's pragmatic normative literature, see Duve (2020) esp. 20–25. The present work makes frequent use above all of printed forms *(formulari)*, i. e. collections of legal *formulae* compiled by jurists or practitioners, which are particularly useful for untangling the complex internal procedures of Roman dicasteries, chancelleries and diocesan courts. On printed forms, see Sinisi (1997); Astuti (1961). Of course, other tools will also be drawn on, such as collections of legal judgments and treatises that facilitate the understanding especially of decision-making practices.

graphic elements, i. e. the abbreviations by truncation or by contraction, as well as contracted or acephalic endings, i. e. abbreviative signs with their own meaning, have been written out in full. This does not apply to the most common and easily understood ones (e. g. N.S. = *Nostro Signore*, EE.VV. = *Eminenze Vostre* etc.).

Dubious or unclear abbreviations, on the other hand, are given in their abbreviated form, using a symbolism as close as possible to the original graphic sign. Parentheses (…) inserted within the quotation indicate that the handwriting is incomprehensible or indecipherable. Square brackets […] denote an intervention by the author, either to eliminate sentences (or words) that are not useful for understanding the text or to supplement it with precise explanations. Punctuation and the use of capital letters remain faithful to the original text. Diacritical marks have been modernised.

The reference numbers of archival records comply with the original Italian version, which can be found in the finding aids – indexes and inventories – of the archives to which they belong.[16] This makes it easier for the reader to physically find the document in question. Unfortunately, very often archival documentation, such as the sheets that make up a file, is not properly numbered; to enable the reader to identify the cited source as far as possible, there are additional references in square brackets, added by the author.

As for personal names (proper and family), these are transcribed according to dictionaries, biographical repertories and works of local erudition. If, as in most cases, the names are unknown, they remain as they appear in the sources, whether in Latin or the vernacular. In the case of members belonging to religious orders, the religious name is given.

Historical places that had different names from their current ones are specified from time to time, in accordance with the local historical toponymy.

The quotations from the *Corpus Iuris Canonici* are taken from the edition edited by Friedberg.[17]

16 For an exact translation of technical archival terminology from Italian to English, please refer to Walne (ed.) (1984). Unless specified otherwise, in this book all translations into English (including quotes originally not in English, rendered "verbatim" by way of quotation marks) are by the author.

17 Friedberg (ed.) (1959).

Chapter 1
The Congregation of the Council and the Marche Region (16th–17th century): A Preliminary Survey

In recent years the historiographical debate on the Council of Trent (1545–1563) and the developments it set in motion has moved in many directions, casting doubt on previous interpretations and posing new but frequently problematic questions. Three conferences organised on the occasion of the 450th anniversary of the Council's conclusion served to take stock of the situation and to envisage new scenarios.[1]

Among the many issues that continue to hold sway is the concept of the 'Tridentine Church'.[2]

As is widely known, the path outlined by the Silesian priest and historian Hubert Jedin (1900–1980) in his famous pamphlet "Reformation oder Gegenreformation?"[3] was followed by his Italian disciple Paolo Prodi (1932–2016). Prodi, borrowing Jedin's apologetic approach and integrating it into his own studies on the history of law and the history of institutions, defined the concept of the 'Tridentine paradigm' as a periodising category. In fact, the historian from Bologna identified the Council of Trent as such a pivotal reforming moment that an entire epoch of Church history, as well as the Church itself, was identified as 'Tridentine'.[4]

1 Walter / Wassilowsky (eds.) (2016); Catto / Prosperi (eds.) (2017); François / Soen (eds.) (2018).

2 For a very effective overview on the subject, see Emich (2015). See also, for an extensive bibliography, Firpo (2022).

3 Jedin (1946). On Jedin's binomial, see the remarks of Prodi (1980). At the end of the 1970s in Germany, Wolfgang Reinhard went beyond both denominations, considering them insufficient for deciphering the complexity of the historical phase. For this reason, the German historian introduced the category of "konfessionelles Zeitalter" (confessional era) and "Konfessionalisierung" (confessionalisation) to analyse the developments and processes that, in Catholic, Lutheran and Calvinist contexts, led to the construction of the modern state. See Reinhard (1983); Schilling / Reinhard (eds.) (1995).

4 Prodi (2010). Cf. Alberigo (1980).

More recent studies have critically revised this interpretation, asserting that to speak of a post-Tridentine era would imply that this long period was strongly conditioned and shaped by the Council's own intentions.[5]

The Jesuit historian John O'Malley, who with his all-encompassing category of "early modern Catholicism" tried to overcome the age-old binomial Catholic Reformation / Counter-Reformation, warned against the risk of confusing what the Council of Trent had actually approved with what was attributed to it *a posteriori*.[6] O'Malley pointed out that the papacy, in order to make up for the shortcomings and questions left open by the Council, took care to enact certain measures such as the promulgation of the Catechism of the Council of Trent, the Index of Forbidden Books, and the Tridentine Profession of Faith, to name but a few. O'Malley believes that these actions, combined with some others, implemented the authority of the papacy unintentionally.[7]

As Birgit Emich has pointed out, the papacy largely contributed to the creation of the myth of Trent, using the Council as a source of legitimacy to promote a centralisation of authority in its hands by artificially identifying its own measures as "Tridentine".[8]

Added to the limitations and compromises of the decisions that came out of the Council of Trent, which the 16th-century Venetian theologian and historian Paolo Sarpi had already warned about,[9] was the actual failure of

5 Cf. Emich (2015) 40.

6 See O'Malley (2018) 58.

7 See O'Malley (2018) 64–66.

8 Emich (2015) 50–51. Cf. Wassilowsky (2018) 91.

9 Pecchioli (ed.) (1966), vol. I, 3–4: "Racconterò le cause e li maneggi d'una convocazione ecclesiastica, nel corso di 22 anni per diversi fini e con varii mezi da chi procacciata e sollecitata, da chi impedita e differita, e per altri anni 18 ora adunata, ora disciolta, sempre celebrata con varii fini, e che ha sortita forma e compimento tutto contrario al dissegno di chi l'ha procurata et al timore di chi con ogni studio l'ha disturbata: chiaro documento di rasignare li pensieri in Dio e non fidarsi della prudenza umana. Imperocché questo concilio, desiderato e procurato dagli uomini pii per riunire la Chiesa che comminciava a dividersi, ha così stabilito lo schisma et ostinate le parti, che ha fatto le discordie irreconciliabili; e maneggiato da li prencipi per riforma dell'ordine ecclesiastico, ha causato la maggior deformazione che sia mai stata da che vive il nome cristiano, e dalli vescovi sperato per racquistar l'autorità episcopale, passata in gran parte nel solo pontefice romano, l'ha fatta loro perdere tutta intieramente, riducendoli a maggior servitù; nel contrario temuto e sfugito dalla corte di Roma come efficace mezo per moderare l'essorbitante potenza, da piccioli principii pervenuta con varii progressi ad un eccesso illimitato, gliel'ha talmente

the reform efforts resulting from the CT due to the lack of a leading role that theoretically should have fallen to the bishops. Massimo Firpo has pointed out that studies on the Italian episcopates have revealed how the implementation of the conciliar decrees in the Italian dioceses was in fact particularly slow, uneven, and above all far removed from the original conciliar aspirations.[10]

Firpo has recently strongly reaffirmed the value of the historical category of 'Counter-Reformation', understood as the struggle that the papacy put into practice between the 16th and 17th centuries not only against the Protestant heresy, but above all against the internal renewal of the Church.[11] In this sense, he emphasises the centrality of the Roman Inquisition's action especially in the Italian scenario.

The papacy and Roman (or curial) centralism thus appear to be primarily responsible for the hollowing out of the original reform thrust of the Council of Trent.

Even the most recent historiography on the effects of the Tridentinum, not through negligence but through a lack of actual studies on the subject, has been unable to properly take into account the importance of that dicastery, the SCC, which was erected precisely to safeguard the authentic interpretation of the decrees and canons of the Council of Trent and their execution. Due in part to the inaccessibility of some fundamental archival series, studies have limited themselves to investigating the work of the SCC in relation to the dicastery's competence in procedures concerning the fulfilment of visits *ad limina*, or in the revision of provincial councils. Also, for this reason, the SCC has been identified as the dicastery responsible for the instrumentalisation of the Council of Trent.[12]

It becomes apparent that the SCC is still a field largely to be explored, especially with regard to its daily work between the 16th and 17th centuries and its relationship with the plurality of local, ecclesiastical and secular institutions. Particularly in regard to the question of the dicastery's action in instrumentalising or 'Romanising' the corpus of norms that came out of

stabilita e confermata sopra la parte restatagli soggetta, che non fu mai tanta, né così ben radicata."

10 See Firpo (2022) 216.

11 See Firpo (2022) 13.

12 See Fattori (2014) 846; Emich (2015) 54–63.

Trent, there are still many open questions: did the SCC actually play a restraining role with respect to the attempts at moral and pastoral renewal that came from the episcopates? Was the SCC a mere instrument in the hands of the pope, helping to erode the power of the bishops with a view to centralisation?[13] Did the local clergy consult the SCC predominantly in order to evade episcopal authority? What kind of relationship existed between the SCC and the papacy in the day-to-day administrative activities of the Roman Curia? What degree of autonomy did the dicastery enjoy?

Roman (or curial) centralism has in fact often been identified simply with the domination of the centre over the periphery, or as the application *sic et simpliciter* of Roman provisions in the local sphere. However, the relationship of the congregations with the – numerous – local institutions does not appear to be exclusively impositional, but also dialectical, complementary, tending towards negotiation and compromise.

Trying to understand the functioning of the SCC, both in its internal procedures and in its relationship with external entities, certainly cannot answer such broad and complex questions. To think that by delving into a single Roman dicastery, albeit a central one in the application of the Tridentinum's outcomes, one can understand how the Council of Trent was 'translated' in the Italian dioceses, is utopian. However, it is undeniable that one cannot overlook the role of this dicastery in the history of the Church after Trent, especially in relation to the phenomenon of Roman centralisation.

This book, which examines the activities of the SCC in a specific period and geographical context, is intended to be a modest contribution in this regard.

As far as the episcopates of the Marche in the early modern period are concerned, the conference *Le Diocesi delle Marche in età Sistina*, organised in 1986 on the occasion of celebrating the fourth centenary of the pontificate of Sixtus V (1585–1590), elaborated an initial assessment of the state of the dioceses in the Marche after Trent.[14] The picture that emerged, albeit incomplete, showed that some bishops, such as Gabriele Del Monte in Jesi (1554–1597) or Ottavio Accoramboni in Fossombrone (1579–1610), tried

13 Cf. Firpo (2022) 209.

14 Le Diocesi delle Marche in età Sistina (1988). In addition to the essays collected in that publication, see also Moltedo (1970); Zenobi (1979).

to leave a specific mark on their government, that of Trent: they were concerned with the disciplining and training of the clergy, assistance and pastoral care of their communities. The fact that some of these bishops had personally participated in the Council was certainly a major incentive for the desired Catholic renewal.[15] Despite these first authoritative and encouraging assessments produced at the 1986 conference, the history of the local churches in the Marche region in the 17th century still remains largely to be done.

The 'filter' of the SCC can be a way to look at a cross-section of the local church and at the same time to understand the SCC itself. This also means trying to integrate, as far as possible, sources from the central archives with those from the local archives and so making full use of their potential.[16] What was the role of the SCC in the Marche context? What characterised its work over the long term?

The following chapter seeks to fulfil a primarily declarative purpose in the structure of this book, namely to present the database extrapolated from the sources of the SCC, which constitutes the starting point of the entire investigation. In the first paragraph, a brief account will be given of the historical and institutional context of the Roman Curia in the second half of the 16th century, when the system of cardinals' congregations was established. We will then move on to the SCC and the institutional steps that led to its foundation and the definition of its competencies; at the same time, essential information will be provided on the structure of the archives of the dicastery and the main archival series that comprise it. For the purposes of collecting data and understanding how the SCC governed and above all conceived the territory under its jurisdiction, the ecclesiastical geography of the Marche region and the main changes it underwent between between the 16th and 17th centuries will be examined.

The method used in the systematic analysis of the *Libri Decretorum* archival series will be described next, listing both its limitations and the opportunities. A quantitative analysis will make it possible to assess the workload of the SCC from 1564 to 1681, as well as any changes that have occurred in space and time. The qualitative survey, on the other hand, will attempt to

15 Cf. Prete (1950); Giombi (2010).

16 On the potential of the sources in the Vatican Apostolic Archive about the Marche region, see Gualdo (1985).

identify which conciliar themes engaged the SCC in relation to the Marche region. Graphs will supplement this first chapter so as to make the numerical data more assessable.

1.1 The Roman Curia and the congregation system

The historical processes surrounding the creation of the Roman congregations are necessarily intertwined with the history of the Roman Curia,[17] the papacy and the Papal States.[18] These dicasteries, which characterised the history of the government and administration of the universal Church and the papal monarchy for centuries, came onto the scene as early as the first half of the 16th century.[19] In the beginning, they were in fact commissions, i. e. small groups of cardinals who performed an auxiliary or advisory function towards the pope. These bodies were set up by the pope in accordance with the needs that came with governing the Church; they were (at least initially) of a non-permanent nature and closely linked to the consistory. These commissions, convened to resolve individual issues *(ad hoc)*, were dissolved once they completed their task. The formal change of commissions into congregations with stable and permanent structures can be traced back to a series of institutional changes that affected the Church in the 1500s. Historiography has identified a number of key elements that contributed to the change in the organisation of power at the central level: the affirmation of papal supremacy as the main authority in the Church, the redefinition of the role of the cardinals and consistory as an instrument of governance, and the need to respond to the growing technical complexity of governing the

17 In the early modern period, the term Roman Curia denoted both the people who worked most closely with the pope, such as the papal court and the papal family, and the institutions, the dicasteries that assisted the pope in governing the universal Church and the Papal States. The adjective Roman, unlike what one might at first think, does not refer to the fact that the curia was actually located in Rome, but to the fact that the pope was bishop of Rome, as the successor of Peter. See Del Re (1988) 18–19.

18 For an exhaustive reconstruction of the historiographical orientations of recent decades regarding the Roman Curia and the papacy, see Pásztor (1971); Menniti Ippolito (2007) esp. 104–131; Rosa (2013) esp. 3–23; Fattori (2014).

19 See Naz (1949a) 207. Among the earliest descriptions of the early modern Roman Curia, see Lunadoro (1635); De Luca (1697). On De Luca's work, see Ermini (1980). For a general overview of treatises on the Roman Curia over the centuries, see the recent work by Fantappiè (2023).

universal Church with an adequate and competent system of collegiate-type dicasteries.[20] These factors also intersected with and depended on the geopolitical framework of an era characterised by very significant historical changes; the Church had to cope with the strong acceleration of historical developments, and this necessarily brought new challenges, also of an institutional character. One thinks for example of the consequences of gaining access to the 'New World', the spread of Lutheran theories, or the need to consolidate the temporal dominion in central Italy and make it efficient. From a practical point of view, this meant adapting administrative and judicial bodies and improving their efficiency with a view to global governance. Within a short period of time, the congregations found themselves dealing with numerous requests from all over the Catholic world, with all the consequences that this entailed. This required the adoption of new working methods, recruitment and professionalisation of the staff employed, and new ways of cataloguing the documentation and managing its volume.[21]

Progress on the path towards the Sistine reform, that is, towards the affirmation or rather the formalisation of a new model of power management, was gradual. As Silvano Giordano has pointed out, we must be careful not to consider the intervention of Sixtus V as an event out of context and out of time, but rather as part of a long process that can be traced back to the late Middle Ages (14th century), during which the papacy, depending on historical and political circumstances, had to deal with the management of the Church and the State.[22] This shaping of governing bodies did in fact continue afterwards.

The heretical emergency resulting from the Protestant Reformation, which had already taken wide root in Europe and risked spreading to Italy, prompted Pope Paul III, born Alessandro Farnese, to issue the bull *Licet ab Initio* on 21 July 1542.[23] This bull established a commission of six cardinals, initially of a temporary nature with expertise in faith and doctrine, which would later take the name *Congregatio Sancti Officii*.[24] This dicastery, pre-

20 See Giordano (2019) 228–230. Cf. Menniti Ippolito (2007) 112–117.

21 On the role of papal archives as instruments of power and governance, see Poncet (2007).

22 See Giordano (2019) 239–240.

23 See BR (1860), t. VI, 344–346.

24 See Del Re (1988) 97. It is not possible to summarise here the enormous amount of work undertaken to study the Roman Inquisition. On the establishment of the Holy Office, see Seidel Menchi (2003).

cisely because it was created to combat what was seen as rising hereticism, had a pre-eminent role in the curial context, as evidenced by the fact that its presidency was in the hands of the pope. It was endowed with universal jurisdiction over the entire Catholic world and exercised its activity mainly across the Italian peninsula, where it could rely on an intricate network of local tribunals as well as a dense array of collaborators, which guaranteed widespread control of the territory.

First established as a section of the Inquisition and then developed progressively during the Council of Trent, another important dicastery, the Congregation of the Index, was officially erected only in 1571 by Pius V with the aim of overseeing the publication of works suspected of being of a heretical nature.[25]

The conclusion of the Council of Trent led to the foundation of the commission of cardinals that would later be known as the Congregation of the Council (1564), the SCC, which would be responsible for the control and execution of the canons of the Council of Trent.[26]

During the pontificate of Paul III's successor Gregory XIII (1572–1586), further new commissions arose, such as the Congregation of Germany to safeguard and support German Catholics, and the Congregation of the Greeks (1573) devoted to the evangelisation of eastern peoples.[27] Finally, in 1576, the same pope also created the Congregation of Bishops in order to respond effectively to the issues that the bishops encountered in the governance of their dioceses, and which they transmitted to Rome.[28]

The interventions briefly sketched here denote an increasing use of congregations as instruments of governance. On 22 January 1588, responding to a need for greater institutional organicity, Sixtus V issued the bull *Immensa Aeterni Dei*[29] and so initiated a general reform of the Roman Curia that involved the entire system of church government. In this regard, precisely

25 See Del Re (1988) 325. On the Congregation of the Index see Frajese (2006); Fragnito (2019).

26 The next paragraph describes in more detail the foundation of the SCC. As a starting point for a general overview of the Congregation of the Council see La Sacra Congregazione del Concilio (1964).

27 See Giordano (2019) 237–238.

28 See Del Re (1988) 369. On the Congregation of Bishops, see Borromeo (2018).

29 BR (1863), t. VIII, 985–999.

because it is the affirmation and functional extension of structures that were already at least partly sketched out, Mario Rosa's expression "istituzionalizzazione di una nuova struttura di governo"[30] is particularly apt. Moreover, the bull did not directly touch all the pre-existing curial bodies that had originated in the Middle Ages, such as the Dataria or the Apostolic Chancellery, to name but a few. Pope Sixtus' measure structured the Curia into 15 permanent congregations, remodelling some already existing ones, and creating others *ex novo*. As Maria Teresa Fattori has pointed out, these dicasteries, in the pontiff's intentions, were to serve to functionally govern three large and complex sectors: the universal Church, the Papal States and the diocese of Rome.[31] Although we can broadly distinguish the dicasteries dedicated to temporal government[32] from those dedicated to spiritual affairs,[33] this partition oversimplifies the functions and prerogatives of these congregations, which were often much more intertwined.[34] They often combined administrative and judicial functions, as well as jurisdiction over *forum internum* and *forum externum*, which created a rather complex jurisdictional overlap. In this context, Carlo Fantappiè speaks of a multi-competence system.[35]

The system of permanent congregations produced relevant changes in the balances inside and outside the Curia, as the aforementioned studies by Paolo Prodi and Mario Rosa were the first to demonstrate. From a political point of view, this new institutional form represented a further step on a

30 Rosa (2013) 7.

31 See Fattori (2014) 791.

32 Permanent congregations for the governance of the Papal States: *Congregatio pro viis pontibus et acquis curandis, Congregatio pro typographia vaticana*, *Congregatio pro ubertate annonae*, *Congregatio pro classe paranda et servanda ad Status ecclesiastici defensionem*, *Congregatio pro Status ecclesiastici gravaminibus sublevandis*, *Congregatio pro universitate studii romani*, *Congregatio pro consultationibus negociorum Status Ecclesiastici*.

33 Permanent congregations for the governance of the universal Church: *Congregatio pro Signatura Gratiae*, *Congregatio pro executione et interpretatione concilii Tridentini*, *Congregatio pro consultationibus episcoporum et aliorum praelatorum*, *Congregatio pro consultationibus regularium*, *Congregatio pro erectione ecclesiarum et provisionibus consistorialibus*, *Congregatio pro Indice librorum prohibitorum*, *Congregatio pro sacris ritibus et caeremoniis*, *Congregatio pro sancta Inquisitione*.

34 The bull *Immensa Aeterni Dei* listed the congregations not following a partition between spiritual and temporal ones. See BR (1863), t. VIII, 985–999.

35 See Fantappiè (2011) 188.

path that had already begun to take shape in the first half of the 15th century, towards the emptying of the prerogatives of the consistory and a redefinition of the College of Cardinals,[36] which for a long time had been a particularly important body for determining the political direction of the Church due to the dialectical relationship it held with the reigning pontiff.[37] As Prodi has pointed out, what used to be a co-governing institution that also had mediating functions has become an increasingly Italianised electoral body that only comes into play in times of *sede vacante*, i. e. as the papal conclave, but no longer has the strength that had previously characterised it.[38] The consistory may have lost its centrality; the individual cardinals, on the other hand, retained their relevance to the extent that they were able to be part of the patronage and family network that opposed the papal hierarchy, perhaps with the intention of being placed at the head of some congregation or office of pre-eminence in the Curia; they thus created links of patronage within the court of Rome.[39] The functioning of the bureaucratic-administrative machinery the Church was installing also relied on the institution of the cardinalate; cardinals became high-ranking state officials *(grand commis)* who enjoyed enormous incomes.[40]

There are also other phenomena that help to frame the context in which the congregational system asserted itself and prospered. Between the 1560s and 1590s, the Papal States underwent a process of thorough reorganisation of their administrative structure, also made possible by the political stabilisation resulting from the Peace of Cateau-Cambrésis (1559). This process reshaped the control of the territory by reducing the system of legations and promoting the institutional approach of local governments directly subject to the Holy See.

In this way, the papacy asserted central power by forging ties with the local ruling classes, which became essential in the administrative chain. It was in this context that Sixtus V installed the Congregation of the *Sacra*

36 On the institutional and political role of the sacred College of Cardinals in the early modern period, see Weber (1996); Fattori (2004).

37 See Prodi (2013) 182–191. Cf. Rosa (2013) 6.

38 See Prodi (2013) 185–187.

39 On the early modern papal court see Signorotto/Visceglia (eds.) (1998). On curial careers, see in particular Ago (1990); Reinhard (2000).

40 Cf. Menniti Ippolito (2007) 77–104. On the early modern cardinalate, see Hollingsworth et al. (eds.) (2020).

Consulta,[41] a body with interpretative and judicial functions of final appeal, in charge of resolving disputes or jurisdictional conflicts as well as civil, criminal and mixed cases, and of providing legitimacy judgments on trials held in the local courts of the Papal States.[42]

The fiscal and economic apparatus also needed large-scale functional improvement; the establishment of the Congregation *De bono regimine* (1592), commonly called *Buon Governo*, which supervised the local administrations of the Papal States, was a step in this direction.[43]

The number of permanent congregations grew in the 17th century. Just think of the prominent role achieved by certain dicasteries such as *Propaganda Fide* (1622)[44] and the Congregation of the Immunity (approx. 1626).[45]

The creation of permanent congregations did not prevent temporary dicasteries from also being widely adopted; the practice of appointing small commissions of cardinals, with a high technical and/or legal coefficient and assigned to contingent affairs, continued to survive as a means of resolving particularly serious issues. One example is the Congregation of France (1589).[46]

From a historiographical point of view, the congregational model has long been regarded as merely an instrument in the hands of the pope, rigidly caged in the historiographic paradigm of papal centralism and administrative bureaucratisation.

The established view of a process of institutional centralisation, involving both the spiritual and temporal spheres of the Church, has perhaps prevented a careful evaluation of the nuances and internal dynamics in which the power of governance was organised. However, recently some scholars have focused their attention on the fact that the congregations seem to have constituted individual centres of power, in constant dialogue with each other and with the pope and his entourage. According to Antonio Menniti Ippolito, this is also physically verifiable if one looks at the map of Rome; on one side there is the papal residence, almost perma-

41 Official name: *S. Congregatio pro consultationibus negociorum Status ecclesiastici*.
42 On the competence of the Tribunal, see Del Re (1988) 349–352; Fosi (2007) 166–172.
43 See Tabacchi (2007).
44 See Pizzorusso (2022).
45 See Giannini (2019).
46 See Fattori (2014) 805. Concerning the Congregation of France, see Poncet (2019).

nently located at the Quirinale, and on the other side there are the residences of the cardinals where the weekly meetings of the congregations took place.[47]

In this regard, Maria Teresa Fattori speaks of a polycentric structure of the Curia; in the new congregational model that was gradually being perfected, she sees the attainment in the long run of a fair degree of autonomy and prestige on the part of the individual dicasteries. Such authority could in fact place the congregations, or at least some of them, in a dialectical relationship with the papal entourage.[48] For a better understanding of the congregation model, and more generally on the system of government of the universal Church, also in relation to papal power, further studies should be conducted in several directions. On the one hand, it would be necessary to shed comparative light on the phases of erection of the congregations and on the other, on the phases during which their functions were settled and refined, with the overall aim to discern between overlapping competences and shared tasks.

In this context, focus should be placed on the personnel employed within the dicasteries, on their mobility from one congregation to another, and on the fact that cardinals could be members of several congregations at the same time.[49] It is likely that this affected the transfer of skills and knowledge as well as internal decision-making practices.

In the institutional set-up of the Roman congregations as briefly outlined here, the SCC occupied a prominent position. This is evidenced by the powers it was invested with and by the cardinals who were its members over time.

1.2 The Congregation of the Council: institution, functions and sources

The Council of Trent is the obvious starting point if one wants to try to understand how the Congregation of the Council came into being. To be more precise, it is the history of the confirmation and promulgation of the *Sessiones et Canones* that came out of this assembly that explains and justifies

47 See Menniti Ippolito (2007) 132–167.

48 See Fattori (2014) 791–792. Cf. Tabacchi (2007) 147; Giannini/Giordano (2019) 217.

49 On staff employed in Roman congregations, see, as an example, the prosopographical work of Schwedt (2013) on the Roman Inquisition.

the foundation of the SCC.[50] In sessions held in Trent between 1545 and 1563, the conciliar assembly, interrupted and resumed twice due to the political vicissitudes that troubled Europe at the time, discussed doctrinal, dogmatic and disciplinary issues for about twenty years.[51] The result was an impressive normative corpus that touched various areas of the everyday life of the clergy and society as a whole.[52]

The final decree *De recipiendis et observandis decretis concilii*, issued during the concluding session (Sess. XXV of 3–4 December 1563), invited the Council Fathers to check all previously issued decrees. It also specified that if difficulties arose or clarifications were needed, it was up to the pope to resolve or provide these.[53]

Then, with the decree *Decretum super fini concilii et confirmatione a summo pontifice petenda*, the Fathers proclaimed the Council concluded and sent the approved set of rules to the pope for official confirmation.[54]

In the consistory of 30 December 1563, Pius IV (1559–1565) created a special commission of cardinals that was to deal with the preparation of the confirmation of the Council and the measures for the execution of the decrees.[55] Then, by means of the Apostolic Constitution *Benedictus Deus* on 30 June 1564, he confirmed the canons of the Council of Trent, which had already been approved orally in the consistory of 26 January 1564, and at the same time established the prohibition of commentary and interpretation of the decrees, reserving this exclusively to the pontiff.[56] The pope also imposed a ban on the publication of conciliar acts or glosses without prior apostolic consent.[57] In doing so, Pius IV, a scion of the famous Medici family,

50 On the foundation of the Congregation of the Council, see Parayre (1897) 1–29; Sägmüller (1900) 3–17; Naz (1942) 1302–1303; Romita (1964a) 13–50; Caiazza (1983); Hackenberg (1987) esp. 221–223; Del Re (1988) 161–173; Albani (2009) esp. 63–65.

51 For an introduction to the historical context, see, among others, Prosperi (2001).

52 For the complete collection of *Canones et Decreta*, see COD 657–799. In this regard, see also the monumental work published by the Görres-Gesellschaft collecting diaries and preparatory acts: Concilium Tridentinum: Diariorum, actorum, epistularum, tractarum nova collectio (1901–2001). About this work see Ganzer (2003).

53 COD 798. On the concluding stages of the Council, see Jedin (1975) 223–258.

54 COD 799.

55 See Romita (1964a) 47–48.

56 See Del Re (1988) 162. The full text of this bull is rendered in BR (1862), t. VII, 244–247.

57 See what Paolo Sarpi said about this in Pecchioli (ed.) (1966), vol. II, 1043: "Per il che, ricercato della conferma per nome della sinodo, conoscendo li decreti esser tutti cattolici e utili

gave the Holy See control over the Council that had just concluded, and emphasised the papal supremacy over any episcopal urges. The foundations were thus laid for a hermeneutic-interpretative monopoly on the conciliar canons.

Subsequently, with the *Motu proprio Alias nos nonnullas* (2 August 1564)[58] Pius IV transformed what had previously only been a special commission into a stable dicastery and charged it with controlling the execution and observance of the Tridentinum dictates. Thus, the *Sacra Congregatio super executione et observantia sacri Concilii Tridentini et aliarum reformationum*, which was its first name, was officially established.[59] As the name suggests, in these early years the dicastery had a mostly executive competence, which slowly expanded under Pius V, when the congregation was given the faculty of interpreting *in authentice*.[60] In this way, the interpretative monopoly officially passed to the dicastery, albeit with some restrictions.[61]

Later, the aforementioned reform of Sixtus V (1588) defined the prerogatives of the permanent congregations in a clearer and more organic manner and assigned the SCC the power to interpret all disciplinary, moral and judicial decrees and canons *in authentice*.[62] In doubtful or difficult cases, however, the obligation remained to turn to the pope.[63]

al populo cristiano, li ha confermati in consistorio e il conferma in quella scrittura, comandando a tutti li prelati di farli osservare, ed esortando l'imperator, re, repubbliche e prìncipi ad assistere, per osservanzia di quei decreti, di favore alli prelati; non permettere, ma onninamente proibire alli populi loro il ricever le opinioni contrarie alla dottrina di quel concilio. E per fuggir la confusione, proibì ad ogni condizione di persone, così chierici come laici, il farli sopra commentari, glose, annotazioni o scolie, né interpretazioni di qualsivoglia sorte; nemmeno far statuto di sorte alcuna, ancora sotto pretesto di maggior corroborazione o esecuzione dei decreti: ma essendovi bisogno d'interpretazione di alcun luoco oscuro o di qualche decisione, andassero alla sede apostolica, perche egli si riservava il dechiarare le difficoltà o controversie, come anco la sinodo aveva già decretato."

58 The text of the *Motu proprio* is rendered in Romita (1964) 48–49.

59 From 1567 onwards the name was *Sacra Congregatio cardinalium Sacri Concilii.*

60 On the competence of the SCC to interpret *in authentice*, see Meloni (2018); Alibrandi (2022).

61 At that time, resolving the most complex questions of interpretation was still the prerogative of the pope.

62 See Albani (2009) 64. The bull *Immensa Aeterni Dei* named the dicastery *Congregatio pro exe-cutione et interpretatione Concilii Tridentini*, but it became more commonly known as *Sacra Congregatio Concilii*.

63 See Del Re (1988) 163.

In addition, Sixtus V formally assigned the SCC the task of supervising *(recognitio)* the acts produced in provincial councils – which the metropolitans were required to convene every three years – before they were published. According to Pietro Caiazza's studies, the practice of controlling the acts of provincial councils had actually begun well before the intervention of Sixtus V, almost immediately after the conclusion of the Council of Trent.[64]

Another specific competence of the SCC was the control over the formal fulfilment of the *visitationes ad limina apostolorum*.[65] Sixtus V, through the Apostolic Constitution *Romanus Pontifex* (20 December 1585), restored the ancient custom that required ordinaries to regularly visit the *limina ss. apostolorum*. This visitation was to be carried out every three years, although for ordinaries outside Italy, the geographical distance of the dioceses from Rome meant a longer interval (five years). The task of the SCC was to scrutinise the *relationes dioecesium* that the bishops were required to submit as part of their visitation. Diocesan ordinaries had to account for their pastoral duties and therefore reported on the state of their church and their faithful, giving details on collegiate and parish churches, seminaries, monasteries, confraternities, hospitals etc. From a methodological point of view, this type of source has been the subject of particular reflection by scholars of social and religious history regarding its use and reliability.[66]

As official documents, the reports had a standardised form that became more and more essential over the decades, also because the most recent *relatio* often referred to the one previously delivered. Caiazza suggested that this source should be investigated organically, comprehensively and on a large scale in order to bring out problems in a given territory over the long term.[67] The work of Maria Milagros Cárcel Ortí has shown how the study of the evolution of ecclesiastical geography, for example, can benefit from the integration of pastoral visits and *relationes dioecesium*.[68]

A schematic summary of the complex competences of the SCC reveals that firstly, the dicastery had a hermeneutic interpretative monopoly on all decrees and canons of the Council of Trent. In relation to the entirety of

64 See Caiazza (1992a) 125–126. On post-Tridentine provincial councils, see Zarri (2003).

65 See Del Re (1988) 163.

66 Concerning the historiographical debate on the methodological use of *relationes ad limina*, see Cavalleri (1979–1980) esp. 104–107; Menozzi (1995); Caiazza (1997a).

67 See Caiazza (1997a) 68.

68 See Cárcel Ortí (2007).

Tridentine legislation, the SCC also had jurisdiction in the judicial sphere as a court of appeal in contentious cases, as well as in gracious matters through the granting of dispensations, licences and indults.[69]

The central role played by the SCC for centuries in the general context of the government of the Universal Church certainly resulted in the accumulation of a considerable amount of documentation. The archives of the Congregation of the Council are now located in their entirety at the Archivio Apostolico Vaticano (hereafter AAV).[70] The transfer to this repository in 1996 made it possible to bring together in one location the entire documentary heritage that had previously been located in part at the headquarters of the Congregation for the Clergy. Today, the archive as a whole has 19 series and 39 subseries.[71] Among these are the *Positiones*, *Relationes ad limina*,[72] *Concilia provincialia*,[73] *Libri Litterarum*,[74] *Libri Decretorum*, *Libri Visitationum Sacrorum Liminum*[75] and more. A certain lack of historiography regarding the SCC is probably the flip side of the coin of how accessible or not the the abovementioned series were: some of them have attracted more attention than others, and this has partly depended on the presence of adequate finding aids.[76]

Some details will now be given about those archival series that feature most prominently in this work.

Firstly, the *Positiones* series. Generally speaking, the SCC as well as other offices or congregations, following the *modus procedendi* of the Roman Curia, used the polysemic term *positio* to indicate a set of acts of various kinds that make up a given legal case. However, in an archival context, the same term is used to refer to an individual file, a piece, as well as to an entire archival series.

69 See Del Re (1988) 164; cf. Albani (2009) 64. Specifically on the competences and procedures of the SCC, see Varsányi (1964).

70 About the SCC's archive, see Simor (1866); Chiappafreddo (1964); Palazzini (1964a); Caiazza (1992b); Puza (1995).

71 Indice dei Fondi e relativi mezzi di descrizione e di ricerca dell'Archivio Apostolico Vaticano (2023) 35–38.

72 AAV, *Congr. Concilio*, *Relat. Dioec*.

73 See Henkel (1983).

74 See Parisella (1964).

75 The series preserves the responses of the SCC after the submission of the *relationes diocesium* by the diocesan bishops. See Crovella (1964).

76 For a long-term quantitative survey of scholars who have used sources from the SCC's archive, see Bibliografia Dell'Archivio Segreto Vaticano (1881–1999).

In practice, the following happened: pleas were sent to the SCC from all parts of the Catholic world in order to obtain a ruling. The SCC, taking charge of the individual case, opened a kind of case file (a *dossier*), which was called *positio*; this file could be enriched and expanded considerably depending on the complexity of the case, which sometimes resulted in impressive documentation even in material terms. The accumulation and stratification of these files has in fact generated a voluminous archival series called *Positiones*, which is now a single body, the result of the amalgamation of several sections. Within this we find three sub-series that have been formed over time according to non-homogeneous criteria and ordering methods: *Positiones Sessiones*, *Positiones*, *Positiones (Carte sciolte)*.

The *Positiones Sessiones* series, commonly abbreviated as *Positiones Sess.*, is the oldest among these and is itself the result of the amalgamation of several earlier subseries. It consists of 271 boxes and covers a time span from 1564 to 1680.[77] This first grouping, which thus embraces the earliest period of activity of the SCC, is organised according to a criterion that we can define as thematic; this means that the various files are packaged in folders that are in turn grouped on the basis of the sessions and canons of the Council of Trent. Each box therefore contains up to hundreds of cases. In the absence of finding aids, the proper use of the series was effectively rendered impossible. A summary inventory has recently been compiled that already goes quite a way towards meeting the needs of scholars.[78]

The second sub-series *Positiones* (which, perhaps confusingly, carries the same name as the main series), on the other hand, covers roughly the years after 1680; thus, it goes beyond the period investigated in this work. This documentation, amounting to 5,368 boxes, no longer follows a thematic criterion but rather a chronological principle, based on the dates of the sittings in which the SCC processed individual cases. The files, inside their individual boxes, are sorted alphabetically by diocese.[79] This series can be consulted partly through the use of the *Rubricelle* finding aids – which are, however, neither easy to use nor adequate for the complexity of the documentation – and partly with the help of the *Protocollo* of the SCC that came into force after 1847.

77 See Caiazza (1992b) 13.
78 See Albani (2023).
79 See Caiazza (1992b) 13.

Finally, there is the series *Positiones (Carte sciolte)*, also called *Buste marroni*. This is a rather large series (147 boxes) which has only recently been the subject of an initial survey. Pietro Caiazza asserts that the boxes of this series organically integrate the two previously described series *Positiones Sess.* and *Positiones* as well as the *super residentia episcoporum*, although further investigation in this regard would be necessary.[80] The present work makes abundant use of the *Buste marroni* series since, as we shall see, much of the documentation on the alienation of the goods of the regular clergy is located precisely in this grouping.

Regardless of how they are archivally organised, the *Positiones* are an indispensable source for anyone who wants to seriously investigate SCC practice, decision-making methods, relations between SCC and other curial offices, etc.

In processing individual cases, it could happen that the SCC had to consult various local actors, often diocesan ordinaries, who could provide clarification on a wide variety of issues. The volumes of the *Libri Litterarum*, which make up the series in their own right *(Congr. Concilio, Libri Litter.)*, contain copies of these missives and are particularly useful for understanding how the dicastery arrived at its final decisions.

The work of the SCC, like that of other dicasteries for that matter, had as a direct consequence a significant increase in the production of norms and thus also lead to a consolidation of jurisprudence. This can already be seen in the first phase of the SCC's existence when, understandably, interpretative doubts or normative contrasts between the *ius novissimum* and the previous canon law were abundant. The SCC, in order to facilitate and speed up the work carried out by its officials, began to collect its *declarationes – resolutiones* following the chronological order in which they were issued. This documentation, organised in registers, constitutes not only an archival series in its own right, the *Libri Decretorum (Congr. Concilio, Libri Decret.)*, but today, as at the time, also a tool for viewing and analysing the decrees issued by the dicastery.

The pronouncements of the SCC, organically and systematically recorded in the *Libri Decretorum*, could also be used to compile special collections, such as compendia and synopses.[81] This served to make the day-to-day work of officials easier by enabling rapid consultation of previously issued decrees

80 See Caiazza (1992b) 14–16.

81 See AAV, Congr. Concilio, Synopsis Resolutionum.

and helped to avoid unintended jurisprudential conflicts – it was particularly important for a department of this type to ensure legal homogeneity. It must be pointed out, however, that both the *Libri Decretorum* and other collections for internal use could not, at least officially, be circulated externally without the consent of the dicastery itself.

The *Benedictus Deus* of 1564, as mentioned above, had sanctioned a ban on anyone glossing and commenting on conciliar decrees. Despite being the only body entrusted with the authentic interpretation of the Council's results, the SCC did not, at least at first, promote official collections of its *declarationes – resolutiones*, apart from a few individual measures. This reluctance was due to a fear that this material would then be falsified and / or modified and thus deviate from what the SCC had actually decided. *A fortiori*, it was considered forbidden for third parties to publish such collections. At the same time, however, there was an ever-increasing need for jurists and practitioners to take note of the SCC's interpretation of the conciliar decrees and jurisprudence in general.

Recent studies by Lorenzo Sinisi have revealed that, in order to circumvent this ban, some authors and jurists tried to approach the staff employed by the SCC, hoping to gain access directly or indirectly to the congregation's archives; others relied on so-called *probati auctores* who, because of the function they held in the dicastery, included in their works more or less concealed references to the orders issued by the SCC.[82] As early as the end of the 1500s, manuscript collections began to circulate unofficially that filled an obvious gap and tried to circumvent the publication ban.[83] In the first half of the 17th century, due to growing demand, the first unauthorised printed collections began to spread; they were monitored by the SCC and then subjected to book censorship by the Congregation of the Index. Although the pressure of censorship eased in the second half of the century, it was not until 1739 that an official printed collection of the SCC's decrees was produced. Prospero Lambertini, the later Benedict XIV, when he held the position of secretary of the SCC, began the publication of the famous *Thesaurus resolutionum Sacrae Congregationis Concilii*.[84] The alphabetically ordered pri-

82 See Sinisi (2020) 13–16. See also Sinisi (2016).

83 On manuscript collections, see Tromp (1858, 1957).

84 On the *Thesaurus* see Hoffmann (1965). On the continuation of the *Thesaurus*, after the interruption due to the reforms of Pius X that also affected the Congregation of the Council, see Romita (1964b).

vate collections of Giovanni Fortunato Zamboni followed in the 19th century, then those of Salvatore Pallottini, just to name a few.[85]

The lack of dissemination of the official decisions by the SCC, in addition to fostering the above-described flourishing of semi-official collections, had serious consequences for canon law at the time. This is in fact considered to be a step change in legal custom, because it prevented the formation of a doctrinal debate on the jurisprudence of the SCC, and thus on the entire post-Tridentine *ius*.[86]

In conclusion, the three archival series described in this section reflect the day-to-day work of the SCC and are also closely related to each other. From a methodological point of view, therefore, any research approaching the SCC cannot do without analysing them in parallel.

1.3 The ecclesiastical geography of the Marche

This section has what we might call a propaedeutic function. Before entering into any analysis of a dicastery of the Roman Curia and local institutions, it is appropriate to first assess how the SCC 'conceived' the territory under its jurisdiction, in this case the ecclesial reality of the Marche region. This is also indispensable before proceeding with a systematical analysis of the sources of the SCC and delving into the local dimensions of a universal dicastery.[87]

The SCC interacted with the local ecclesiastical institutions, having as its main reference the religious geography with which the Catholic world was administratively divided, and in particular with reference to the diocesan districting.[88]

According to canon law, then as now, the diocese is primarily a portion of the 'people of God' that is entrusted to the pastoral care of the bishop *(cura animarum)*.[89] The diocesan territory is therefore the physical place that syn-

85 See Zamboni (1812–1816); Pallottini (1868–1889).

86 See Prodi (1972) 207. Cf. Fattori (2012) 131; Wassilowsky (2014) esp. 150–151.

87 On the ecclesiastical space after Trent, see Folin/Bevilacqua (eds.) (2021).

88 For a comprehensive historiographical overview of studies on diocesan districting, see Gardi (2017). On this topic, see also Picasso (1990); Fasano Guarini (2008) esp. 241–261; Battelli (2016). For an overview of changes in diocesan districts on a global scale see Mansilla Reoyo (1994); Chaix (ed.) (2002); Gatz (ed.) (2005); Klueting et al. (eds.) (2006); Fattori (2021).

89 See Naz (1949b).

thesises and circumscribes the faithful, at a pastoral, juridical, administrative and theological level. In fact, the diocese was a well-defined legal space, and the SCC also engaged dialectically with those actors who existed within the confines of that space.[90]

This propensity to use the diocesan network as a tool for governing becomes apparent if one takes a close look at the *modus procedendi* of the SCC in the processes of elaborating the *Positiones* and in those of drafting the *Libri Decretorum* and *Libri Litterarum*. The diocesan administrative-spiritual hierarchy was in fact the main, though not exclusive, reference the SCC used to contextualise, at a geographical and administrative level, the requests that came from the entire Catholic world.

The SCC also used the same diocesan network to process the many petitions that arrived from convents, monasteries, hermitages and colleges, despite the fact that these were sometimes part of other administrative networks. As Carlo Fantappiè pointed out, the Council of Trent had already framed the various religious entities within the boundaries of the ordinary districts.[91] As far as women's religious institutions are concerned, this is not particularly surprising, since they were often jurisdictionally incorporated under episcopal jurisdiction; for institutions of the male religious communities, the situation was more complex. In fact, the male orders had their own 'religious districting' consisting of macro-areas on a provincial basis (religious provinces), which in turn were also subdivided locally; think for example of the custodies of the mendicant orders. This religious districting, at least in the Italian territory, could not coincide with the diocesan one, nor with the internal 'state' one. This means, therefore, that the SCC evidently used to consider individual convents or monasteries as belonging at least territorially to the diocesan network.

The Marche territory must therefore be seen as a geographical area where several dioceses existed. This obviously does not mean neglecting how the

90 In this context, Ehlers (2016) 84 points out that ecclesiastical structures were intended to ensure that individuals were adequately covered by pastoral care: "Die kirchlichen Strukturen (kirchliche Organisationsformen) betreffen auf der obersten Ebene die Raumordnung in Kirchenprovinzen und Diözesen / Suffraganbistümer mit der ihnen eigenen Binnengliederung in Archidiakonate, Diakonate und Pfarreien, die nach dem Vorbild der antik-römischen Verwaltungsgliederung sicherstellen sollen, dass jeder einzelne Mensch von der Seelsorge angemessen erfasst wird."

91 See Fantappiè (1993) 53.

'civil' space was organised, nor the complex dynamics that often intertwined changes in political borders with spiritual ones, especially in the Papal States.

In circumscribing the spatial context that is the subject of this work, the first obstacle has been to try to draw the boundaries of a territory, the Marche region, that was part of what Roberto Volpi described as "untraceable regions".[92]

In the period under consideration, in fact, the Marche area appeared as a highly fragmented structure in terms of both its temporal and spiritual districting. The way of organising the spaces of a given territorial context as well as the practice of modifying them is a relevant marker for investigating how power is exercised over it.[93] In this sense, in the Papal States there was a paradigmatic and quite unique situation in which the policies underlying state organisation not only intersected with those relating to ecclesiastical districts but were implemented by the same sovereign by virtue of his dual sovereignty.

The *Marca*, understood in a historical-geographical sense, grouped together sections of a vast territory, only apparently with well-defined borders. Gaetano Moroni described the geographical boundaries as follows:

> Marca fu il nome dato dopo l'XI secolo a quel tratto di paese, che comprendendo gran parte della vecchia Pentapoli e delle più antiche provincie del Piceno, stendevasi dal Tronto fino alla Foglia; il quale ultimo limite è sempre stato immobile e fisso, dimodoche giammai da tale tempo in poi si è contato Rimini, come esistente nella Marca, ma bensi nella Romagna, ed in un documento del 1289 i luoghi della Marca, sono racchiusi fra Pesaro e Ascoli, donde apparisce che la MARCA non si estendeva punto fino a Rimini.[94]

In the historical-literary tradition, natural elements, such as the rivers Tronto and Foglia, often represent the southern and northern borders of the region, respectively.[95] This does not deviate much from the external political-administrative boundaries of the current Marche region. In reality, however, looking at the evolution of the historical cartography throughout the modern era, it is a very complex task to unambiguously delineate the political contours of such changeable territories with such blurred borders.[96]

92 Volpi (1983).
93 See Zenobi (1982) 61. On this topic, see Mannori (2007).
94 DSE (1846), vol. XLII, 230.
95 Volpi (1983) 14. On the historical geography of the Marche region, see also the description of the humanist Flavio Biondo in Egidi (1995).
96 On early modern cartography concerning the Marche region and the entire Papal States, see Volpi (1983) 133–182; Bonasera (1988).

The *Marca* has long been defined as and identified with the term *Marca d'Ancona* (or *Marca Anconitana*); by this expression, which relates to a classification along the lines of politics or the state, we mean one of the provinces *in temporalibus* of the Papal States. In the 14th century, the famous *Constitutiones Sanctae Matris Ecclesiae* by the cardinal and papal legate Egidio Albornoz, commonly known as the *Egidiane*, listed and classified those *civitates* and *terrae* that constituted this province.[97]

The provincial organisation of the Papal States was a form of mediated domination over the periphery which served to bind the many communities of a territory characterised by a high degree of institutional particularism, given the presence of seigniories, fiefdoms, local oligarchies etc., in a relationship of greater dependence on Rome.[98]

From an institutional point of view, the *Marca d'Ancona* was governed by a governor-general (formerly called legate or rector) appointed by the pope.[99] These were often prelates who possessed considerable administrative and judicial prerogatives over their entire territory. From the mid-15th century on, this person resided permanently in Macerata, which became the seat of the offices of the General Curia of the Marca as well as of other important institutions such as the treasury and the Rota. One of the rector's tasks was to convene what was formerly called the *Parlamentum Provinciae Marchiae*, which later became the *Congregatio Provinciae Marchiae* (or General Congregation of the Marca). This was a provincial assembly, held in Loreto, where the various municipalities were required to participate through their representatives.[100]

This institutional structure of the Marche was progressively eroded, especially during the 16th century, when papal policy became particularly accommodating in establishing 'separate governments' or 'autonomous governments' throughout the territory, which allowed many communities to escape from provincial control.[101]

97 Cf. Colliva (1977).

98 On the political models in the governance of the peripheries of the Papal States, see Zenobi (1994) esp. 19–29.

99 On papal legates in the Marche, see Napolioni (1991). For a complete list of legates and governors of the Marche, in a prosopographical perspective, see Weber (1994) esp. 284–291.

100 See Zenobi (1976) 22–23. On the prerogatives and competences of parliament, see Cecchi (1965).

101 See Napolioni (1991) 80. For a comprehensive examination of the complex administrative hierarchy in the Papal States and the various forms of government *(governo di breve, governo di prelati, governo di consulta etc.)*, see Weber (1994) 33–53.

This policy, which generated considerable political and institutional fragmentation, involved the appointment by Rome of governors of various ranks according to circumstances. These forms of government arose from negotiations between local potentates and Rome and spread widely. One thinks of the institutional changes involving the important centres of Ancona (1532), Fermo (1550), or Jesi (1585), just to name a few, which left the general government of the Marca.[102]

Further changes came with the devolution to the Papal States of the Duchy of Camerino (1545) and the Duchy of Urbino (1631).[103]

The institutional unity was further shattered by Sixtus V who, in 1586, in honour of his origins, separated 17 municipalities from the Marca that were geographically located in the southern part of the province and united them in the so-called Presid(i)ato di Montalto, an institution that had structures and apparatuses similar to the general government of the Marca.[104]

The governor-general still retained various prerogatives with regard to these separate territories, especially in the judicial field, but certainly the province of the Marche and the very concept of mediated domination were severely disrupted.[105] From Zenobi's findings, we know that the Marche area had a considerable rate of *immediatae subiectae* communities.[106] In particular, it was the loss of the city of Ancona, which represented a centre also from a symbolic point of view, that rightly led Alberto Caracciolo to consider that "the Marca has always been 'Anconitana' in name only".[107]

102 See Zenobi (1982) 95–96. For a list of the communities subject to the General Government of the Marche, see Ammannati (2020) 41: "Amandola, Appignano, Apiro, Belforte, Cingoli, Morrovalle, Osimo, Pennasangiovanni, Recanati, S. Elpidio, Castelfidardo, Caldarola, Corinaldo, Monte Alboddo (today Ostra), Montevecchio (today Treia), Monte Santo, Monte Novo (today Ostra Vetere), Monte Cassiano, Monte Filottrano, Monte dell'Olmo, Monte Fano, Monte Giorgio, Monte Granare, Monte Lupone, Monte Milone, Monte San Martino, Monte San Pietro, Sarnano, San Ginesio, San Giusto, Serra San Quirico, Staffolo, Tolentino, Urbisaglia, Rocca Contrada."

103 See Caravale / Caracciolo (1978) 437–440.

104 See Cecchi (1991) 40. For a list of the communities under the Presidency of Montaldo, see Ammannati (2020) 41: "Montalto, Castignano, Force, M. Elpare, M. Fiore, M. Fortino, M. Gallo, M. Monaco, M. di Nove, M. Rubbiano, Offida, Patrignone, Forchia, Ripatransone, Rotella, S. Vittoria."

105 See Napolioni (1991) 81.

106 See Zenobi (1994) 65; on *immediatae subiectae*, see below.

107 Caravale / Caracciolo (1978) 540.

Therefore the term 'Marca d'Ancona', if used in an exclusively political sense, has the limitation of defining a rather circumscribed space and fails to contain all those realities that can be traced back to the Marche area in a historical, cultural and geographical sense.[108] In fact, it would be questionable, to say the least, not to consider those urban centres that had formally left the province, such as Ancona or Loreto, as being a part of the Marche.

We now come to the crux of the matter, namely the diocesan districting of the Marche region between the 16th and 17th centuries. This spiritual districting not only did not overlap exactly with the state districting, it was also highly fragmented. Andrea Gardi's work has shown how in the course of the modern age, the papacy used its power to modify the administrative organisation of dioceses, albeit in moderation, to gain political advantages.[109] According to Gardi, at the beginning of the 15th century, in the Papal States popes intervened to modify existing diocesan district structures because this was useful for binding a certain territory more closely to Rome also from a temporal point of view.[110] This phase reached its peak at the end of the 16th century, after Sixtus V's interventions, which involved the Marche to a significant degree. Thereafter, any changes that still occurred were generally prompted by local realities rather than imposed by the Roman centre. Gardi calculated a total of 30 such districting changes between the 13th and 18th centuries for the entire Papal States.[111]

In the context of the ecclesiastical hierarchy, diocesan sees (similar to the positions of cities and communities in the state hierarchy) were linked to the Holy See either in a direct form *(immediatae subiectae)* or in a mediated form through the metropolies *(suffraganae)*. The former definition means a diocese directly dependent on Rome, while the latter refers to all those diocesan sees that were answerable to a metropolitan archbishop and fell within his ecclesiastical province *in spiritualibus*. The metropolitan see, i. e. the see of the diocese at the head of the entire province, was always an archdiocese, whereas the reverse was not always the case. Only the metropolitan bishop held

108 The name *Marca* was officially maintained during the early modern period; later, in the course of the 19th century, the plural version *(Marche)* began to be used across institutions. See Porena / Marinelli / Maranelli (1905); Caracciolo (1967) 77–88; Santoncini (2008) 63 footnote 17.

109 Gardi (1995). For the late medieval diocesan districting, see Czortek (2019).

110 See Gardi (1995) 488.

111 See Gardi (1995) 499.

jurisdiction over all suffragan dioceses and the respective bishops that made up the province.

In the 13th century, all dioceses in the Marche, and more generally all episcopal sees in the territory of the Papal States, were immediately subject to the Holy See.[112] The diocesan geography thus devised continued with few variations until the Council of Trent.

As mentioned, at the same time as effecting the 'civil' changes, Sixtus V also turned his attention to the diocesan network. In principle, dioceses could undergo various types of structural changes, such as: the union of two or more dioceses of equal importance *(unione aeque principaliter)*, the union of two dioceses in which the respective internal structures remain unchanged but the episcopal ministry is held by a single person *(unione in persona episcopi)*, transfer of a diocesan see to another city, or the erection, suppression, re-establishment and separation (the restoration of a diocese as an autonomous diocese after an *unione aequae pincipaliter*) of dioceses.

The reshaping of the diocesan topography created quite a few disagreements as each change meant pleasing some but displeasing many others. This began in 1587, when Sixtus V's bull *Pro excellenti praeminentia*[113] elevated what had until then been the castle of Loreto to the rank of city and diocese.

At this point in time, an attempt was made to draw precise boundaries between the jurisdiction of the bishop of Loreto and that of the cardinal protector as far as the administration of the Holy House was concerned.[114] However, elevating Loreto to the status of diocese went hand in hand with suppressing the existing diocese of Recanati; this situation was addressed a few years later, when Clement VIII created the diocese of Recanati and Loreto (*Aequum reputamus*, dated 9 February 1592).[115]

Sixtus V is also responsible for the erection of the diocese of San Severino Marche with the bull *Superna dispositione*[116] of 1586.[117] He then re-estab-

112 The organisation of early medieval parish churches in the Marche has also been extensively investigated; see the contributions in Le Pievi nelle Marche (1991).

113 BR (1863), t. VIII, 666–669.

114 On this point and the subsequent steps that led to the creation of the *Congregazione Lauretana* in 1698, see Del Re (1988) 393–396.

115 See Garbuglia (1988) 433–435.

116 BR (1863), t. VIII, 805–807.

117 See Domizi (1988) 380.

lished the diocese of Tolentino (*Super universas*, dated 10 December 1586) and at the same time united it with the diocese of Macerata *aeque principaliter*, forming the diocese *Maceratensis et Tolentina*. With the same bull, Sixtus V elevated Montalto, his home village, to an episcopal see.[118]

The dioceses of S. Severino, Tolentino-Macerata and Montalto, together with Ripatransone, were to make up the framework of the suffragan dioceses of Fermo, which in the meantime had been erected as a metropolitan see with the bull *Universi orbis ecclesiis* in 1589.[119] After the Sistine period, which objectively marked the balance of power between the centre and the periphery of the Marches, changes to the diocesan structure in the first half of the 17th century were decidedly modest. Of particular note is the abolition of certain *nullius* territories (the Benedictine *nullius* Abbey of S. Cristoforo del Ponte in Casteldurante, the Prelature *nullius dioecesis* of SS. Pietro e Paolo in Mercatello sul Metauro, and the Benedictine *nullius* Abbey of St. Michele Arcangelo in Lamoli) and their jurisdictional reallocation.[120] Urban VIII created the diocese of Casteldurante, later called *Urbaniensis*, as well as the diocese of S. Angelo in Vado and united them according to the formula *aeque principaliter* in 1636, subjecting them as suffragan to Urbino.[121]

The archdiocese of Urbino, aside from Fermo the only example of an ecclesiastical province *in spiritualibus* in the Marche region, was created in 1563 by Pius IV with the bull *Super universas*.[122] This measure increased the autonomy of the Duchy of Urbino on top of creating, a rare case, a perfect coincidence between diocesan and temporal territory in favour of the autonomy and prestige of the Della Rovere family.[123] The above-mentioned devolution of the Duchy to the Papal States in 1631 led to the creation of the Apostolic Legation of Urbino and a missed opportunity to institutionally enlarge and compact the Marche.

Although the territory of Urbino should be considered a separate body, the Marca in a political sense, in this study it has also been included in the

118 See Bittarelli (1988) 353.
119 See Gardi (1995) 494.
120 See Palazzini (1964b) 362.
121 See Gardi (1995) 496.
122 See Prete (1988) 225.
123 See Gardi (1995) 489. For a cartographic overview of the Duchy of Urbino up to the devolution, see Bonasera (1983).

survey of the activities of the Congregation of the Council.[124] This is in order to have a more comprehensive overview of the entire territory that we historically identify as Marche, whose external borders can be superimposed almost exactly onto the current Marche administrative and ecclesiastical region.

1.4 Data collection method: a systematic approach

In order to survey the activity of the SCC with respect to the territory of the Marche region over a long time span, it was necessary to identify a source that would guarantee a certain degree of reliability and completeness. Of all the series of the SCC archive, which have been briefly described in section 1.2, the *Libri Decretorum* series appeared to be the most suitable for a systematic investigation. This series, as its name suggests, collects organically and according to a chronological criterion not the entire procedural files drawn up by the dicastery, which are instead collected in other archival series, but only the final pronouncements *(decreta, declarationes, resolutiones)* issued once the dossiers were concluded. A few concise archival, diplomatic and palaeographic details will help to put this rich source of the SCC archive into context.

The *Libri Decretorum* series consists of 349 registers and covers a time span from approximately 1573 to 1965.[125] For the period 1564–1572, corresponding to the first years of activity of the dicastery, reference should be made to

124 Cf. Volpi (1983) 94.

125 The dated finding aid for consultation and use of the *Libri Decretorum* is the summary inventory compiled by Pietro Caiazza in 1995, available in AAV, Index 1173. The series has recently undergone restoration. The first 68 volumes have also been digitised, thanks to a collaboration between the Vatican Apostolic Archive and the Max Planck Institute for Legal History and Legal Theory. The (ongoing) digitisation of the registers not only facilitates scholars' consultation of the documents, but also has as a main aim that of preserving the originals. At the same time, the Research Group in Frankfurt is also undertaking a project of indexing the volumes. This work aims firstly at the development of an accompanying tool that will allow an accurate description of every single decree contained in every single register. Secondly, this analytical index will allow the precise tracing of those decrees contained in the *Libri Decretorum* which were used to compose the collections of decrees published from the 18th century onwards. With this tool it will also be possible to match decrees with the corresponding positiones stored in *Positiones Sess.*, *Positiones,* and *Positiones (Carte sciolte)*.

the register called *Liber Litterarum et Decretorum*, today corresponding to the first volume of the series *Libri Litterarum*. This volume contains not only the outgoing letters, but also some decrees issued by the SCC.[126]

The volumes cover uneven time intervals; some contain decrees issued by the dicastery in a single year.[127] Others, such as volume 19, comprise as many as nine years of activity (1649–1657).[128] The volumes rarely have indexes, or at least no complete indexes. Where they exist, such indexes follow an alphabetical criterion by name of the diocese (in Latin or vernacular) or by subject matter (*Sessiones et Canones* of the Council of Trent).[129]

How are the decrees arranged within the volumes? Although due to the sheer volume of the series there is no single editorial style, common elements can be discerned.

One should first consider that the SCC, and thus the cardinals belonging to the dicastery, met on a more or less regular basis.[130] Sessions were usually held on Saturdays, either at the Quirinal Palace, the Apostolic Palace or the residence of the secretary (or prefect).[131] In each session, the cardinals, assisted by the officials and the SCC's secretariat in general, processed the cases of the day and then issued a number of decrees accordingly.

In the volumes of the *Libri Decretorum*, one usually finds references to the individual session, with details of the date and venue of the meeting, and the names of the participating cardinals.[132] It is also indicated when a session did not take place due to some impediment. Immediately below these references, we find a list of all the decrees that were issued during that session. It

126 See AAV, Indice 1173, 14. The first volume is in AAV, *Congr. Concilio*, *Libri Litter.* 1.

127 See AAV, *Congr. Concilio*, *Libri Decret.* 3.

128 See AAV, *Congr. Concilio*, *Libri Decret.* 19.

129 Care must be taken, however, to check that there is a correspondence between the index and the cases actually present in the volume.

130 Cardinals could simultaneously hold other offices in the Roman Curia and be members of other congregations.

131 Once completed, the analytical inventory that the Frankfurt team is working on will also provide an account of the actual composition of the SCC, i. e. its members, session by session, year by year, as well as the frequency of their meetings.

132 Cf. AAV, *Congr. Concilio*, *Libri Decret.* 20, f. 197r: "Die sabati 24. Martii 1657. Habita fuit Congregatio S. Concilii Tridentini in Palatio Vaticano cui interfuerunt Eminentissimi et Reverendissimi Domini Cardinales Sacchettus, Columna, Franciottus, Gionius, Carolus Barberinus, et Imperialis, nec non Reverendus Pater Dominus Paulutius secretarius."

follows that whenever the register is drawn up in this manner, it is possible to attribute precise dates to all those decrees that can be ascribed to that particular meeting.[133]

In correspondence with each individual decree, on the left-hand side of the sheet, one finds the name of the diocese (in Latin) to which that individual decree refers (e. g. "Pisauren"[134]). It may happen that a decree mentions the name of two dioceses when the matter concerns both ("Esina seu Senogallien"[135]). In the case of *nullius* territories, instead of the name of the diocese, one may find the word "nullius", followed, if one is lucky, by further specifications to identify the geographical location.

Next to or below the reference to the diocese is the name of the sender (and / or petitioner), understood as the individual or single community who had initially petitioned the SCC and who now appears as the recipient (and / or beneficiary). Browsing through the volumes, it is easy to find names of lay or religious persons, as well as names of groups or communities, such as canons of a cathedral chapter, friars of a convent or members of a confraternity. It is not uncommon that decrees are also addressed to local bishops, or to intermediaries, such as the procurator general of religious orders.

Always on the left-hand side of the text of the decree, the normative content to which that case refers is indicated. This was usually specified through the abbreviated insertion of the *Sessiones et Canones* of the Council of Trent, for example as "Placentina, c. 5 Sess. XXV *de regul.*",[136] i. e. canon 5 of the 25th session, or other norms *(De celebratione missarum*[137]*)*.[138]

133 In the case where the drafting of the volume is less standardised, the matter becomes more complicated. It may happen that the decrees are not listed in a precise chronological order. See, for example, AAV, *Congr. Concilio*, *Libri Decret*. 12, *passim*.

134 AAV, Congr. Concilio, *Libri Decret*. 23, f. 547v. Usually the name of the diocese is in abbreviated form, by truncation. In this regard see Frenz (2008) 41.

135 AAV, *Congr. Concilio*, *Libri Decret*. 19, f. 32r.

136 Ibid., f. 162r.

137 Ibid., f. 366v.

138 Alternatively, the subject matter is expressed directly in the body of the text of the decrees. In many cases, however, these annotations in the margin on the normative content are lacking altogether, and therefore one must try to figure out the Tridentine normative context in order to identify the individual decree. This is not always possible, as sometimes, especially in cases of pardon, dispensation or absolution, the decree is too concise. To ascertain or verify the content, if necessary, it may be useful to cross-check it with the *Positiones* in the respective archival series.

Reference to the diocese, the chronological date the decree was issued, the institutional nature of the petitioners and/or mediators and the subject matter is essential for any attempt at analysis. Indeed, these data allow the researcher to cross-reference the decrees with other SCC sources and with local sources.

As far as the text of the decrees is concerned, these obviously have a rather concise form by nature, and often feature abbreviations and recurring fixed formulas. Palaeographic interpretation also has to deal with the technical and legal language typical of the style of the Roman Curia.

But let us come to the method used in this book for the systematic survey of decrees attributable to Marche. As a preamble, it should be pointed out that the aim was not to carry out an analytical inventory or indexing of the *Libri Decretorum*, which would have required quite another approach and above all different resources. In fact, although the survey is based on systematic criteria, it serves as a starting point to create a general picture of the SCC's activity in the *Marca* in the early modern age.

The next step, i. e. the thematic focus on ecclesiastical alienations, needed precisely this database in order to be effectively conducted.

Firstly, the volumes covering the period 1564–1681 (vol. 1–31) were examined, and all the decrees referring to the 23 dioceses into which the Marche territory was divided at the time were extrapolated: two metropolises with respective suffragans and nine *immediatae subiectae* dioceses.[139] These were the archdiocese of Fermo, with the suffragans of Macerata-Tolentino, Montalto, Ripatransone and S. Severino, and the archdiocese of Urbino, with the suffragans Urbania-S. Angelo in Vado, Cagli, Montefeltro, Fossombrone, Pesaro, Senigallia.[140] The *immediatae subiectae* include Jesi, Ancona-Numana, Ascoli Piceno, Fano, Recanati-Loreto, Osimo, and Camerino.

The institutional changes to the diocesan network present quite a few challenges when attempting a systematic survey of the activity of a congregation over a long period of time. Therefore, the approach of this analysis

139 On the early modern diocesan districting of the Marche, see Gauchat (ed.) (1935) 48; Ritzler/Sefrin (eds.) (1952) 427.

140 The diocese of Gubbio *(Eugubina)* has not been counted among the suffraganes of Urbino, as the inclusion only actually took place in 1725 and thus beyond the time frame considered by this work. See Ritzler/Sefrin (eds.) (1952) 427.

was to organise the decrees in a functional manner, taking into account the transformations to the diocesan network of the Marche over time, including a joint assessment of those decrees belonging to dioceses that in the course of the 17th century were first separated, then united (e. g. Recanati and Loreto). The same applies to those abbeys *nullius*, which – once suppressed – were merged into other dioceses, or formed dioceses in their own right (e. g. Casteldurante-Urbania).

1.5 Quantitative analysis: the workload of the Congregation of the Council

This section is dedicated to presenting the results of the survey from a quantitative point of view. With regard to the dioceses of the Marche, the SCC issued a total of 5,438 decrees between 1564 and 1681.[141] In just over a century of activity, this is a significant number.

The graph below, which considers the changes that took place in the Marche diocesan network over this time, gives a fairly precise idea of the geographical distribution of all cases.

141 Here are the exact numbers of decrees for each volume: AAV, *Congr. Concilio, Libri Litter.* 1 (1564–1572) 29; AAV, *Congr. Concilio, Libri Decret.* 1 (1573) 5; 2 (1575–1581) 5; 3 (1581) 5; 4 (1584–1587) 15; 5 (1587–1589) 34; 6 (1589–1590) 11; 7 (1591–1593) 69; 8 (1594–1597) 68; 9 (1597–1601) 57; 10 (1601–1607) 57; 11 (1607–1618) 111; 12 (1619–1626) 88; 13 (1626–1628) 261; 14 (1629–1633) 455; 15 (1633–1638) 415; 16 (1638–1642) 466; 17 (1642–1645) 435; 18 (1646–1649) 482; 19 (1649–1657) 551; 20 (1656–1657) 80; 21 (1657–1659) 238; 22 (1660–1661) 149; 23 (1662–1663) 149; 24 (1664–1665) 194; 25 (1666–1668) 137; 26 (1668–1670) 213; 27 (1671–1672) 175; 28 (1673–1674) 115; 29 (1675–1677) 172; 30 (1678–1679) 104; 31 (1680–1681) 92.

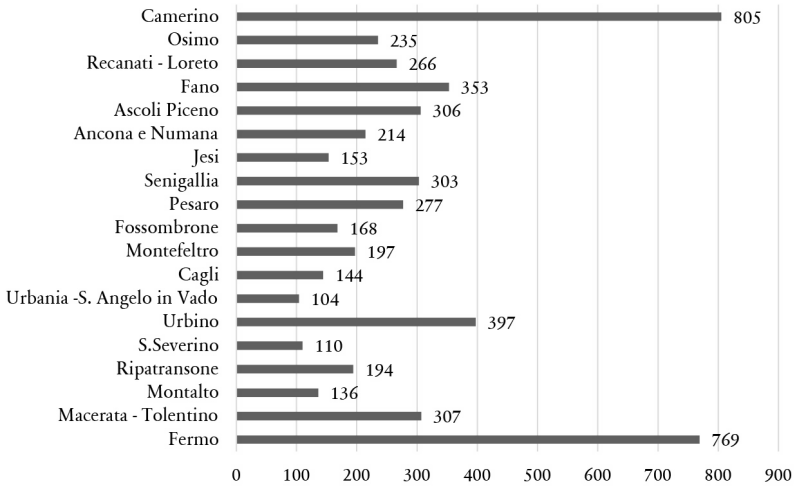


Chart 1: Quantitative survey of decrees issued by the Congregation of the Council per individual diocese (1564–1681)

As regards the geographical location of cases, looking at the districts of Camerino and Fermo it immediately stands out how physically vast territories, where numerous local ecclesiastical bodies were present, both secular and regular, correspond to a high number of cases handled by the SCC. On the other hand, newly erected and small dioceses such as for example Montalto, express much smaller numbers. As one can see from the following graph, the two ecclesiastical provinces of Fermo and Urbino added together cover more than 50 % of the total number of cases.

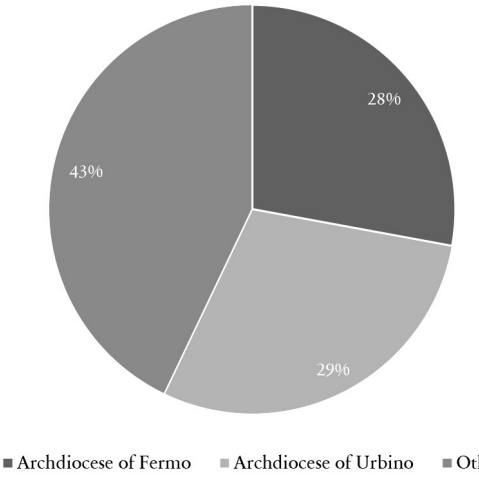


Chart 2: Quantitative survey of decrees issued by the Congregation of the Council, by diocesan provinces

One point is worth dwelling on briefly in this regard. If we compare the total figure obtained from the *Libri Decretorum* with that taken from the *Positiones Sess.* series for the same period and territory, we obtain an apparently anomalous result. Strictly speaking, in fact, the *positiones* should be numerically superior to the decrees, due to the fact that a single *positio* did not always give rise to a decree to be recorded in the *Libri Decretorum*. Looking at the data, however, it turns out to be exactly the opposite, i. e. the number of decrees even doubles the number of *positiones* (5,438 versus 2,614). This is even clearer when viewed in the light of diocesan groupings:

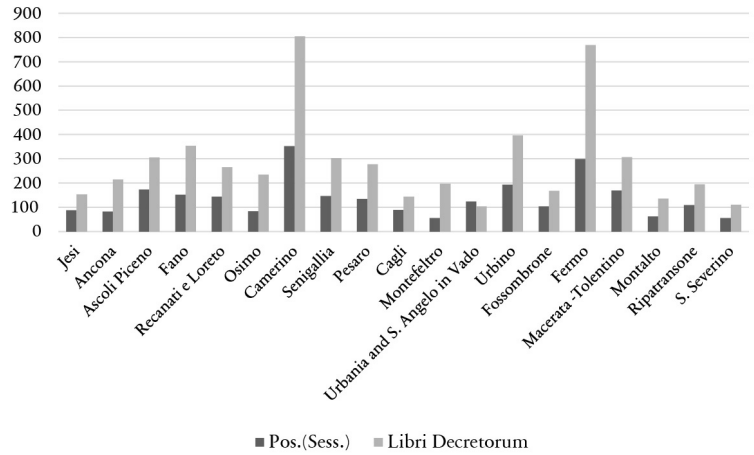


Chart 3: Comparison of the Marche entries in the *Positiones Sess.* series and the *Libri Decretorum* series by diocese

How did this come about? It is not possible to give an unambiguous and generally valid explanation; however, it can be posited that this discrepancy is caused by the way the accumulated archival material is organised, as well as by the related historical events that affected the entire archive.

The series *Positiones Sess.* in fact does not contain all the cases handled by the SCC up to 1681. As already mentioned, much of the material from that period has found its way into other archival series, especially – but not only – the uninventoried *Positiones (Carte sciolte)*.[142]

Therefore, while the *Positiones Sess.* series offers a highly representative set of data, is easy to use due to its recent inventory, and can be expanded, taking it as a basis for this survey would necessarily lead to biased results. In contrast, the systematic survey carried out based on the *Libri Decretorum* is – at least as far as the numerical data is concerned – reliable to a fair degree. This does not detract from the fact that the specific analysis of any individual case cannot be based only on the rather dry text of the decrees, but must necessarily also turn to the wealth of information the files of the *Positiones* can offer. Just consider, for example, all the information pertaining to the deci-

142 See Caiazza (1992b) 19–20.

sion-making of the SCC and its internal procedures, as well as its relations with individual local institutions. For this reason, when going into the details of an individual case, from a methodological perspective it is indispensable to link the *Libri Decretorum* with the various series of *Positiones*.

In any case, the recent inventory of the *Positiones Sess.* series allows us to appreciate a fact which the *Libri Decretorum*, not yet inventoried in their entirety, do not reveal: the number of Marche cases compared to the totality of cases concerning the entire Catholic world. With regard to the *Positiones Sess.* series, the result is that no less than 2,614 *positiones* out of 38,646 (equal to 6.76 %) concern this territory of the Papal States.

But let us now return to our survey on the *Libri Decretorum*. Looking at the workload of the SCC over a long period of time, assuming regular time intervals, some very telling elements emerge:

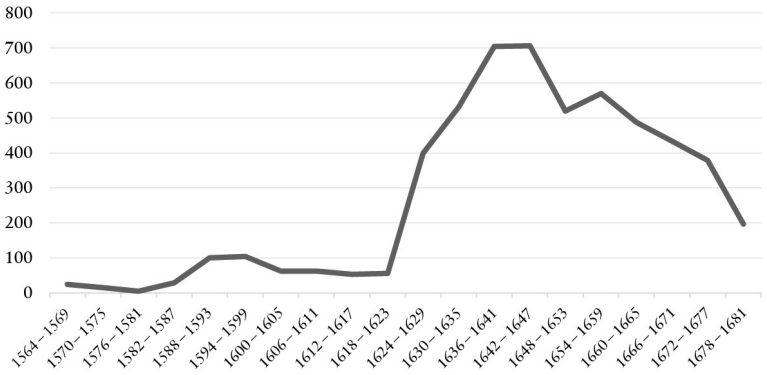


Chart 4: Quantitative survey of decrees issued by the Congregation of the Council between 1564 and 1681

After a fairly moderate and stable trend, with a slight increase at the end of the 16th century that is probably attributable to the redefinition of competences following the reform of the Roman Curia by Sixtus V, there was a considerable increase in cases. In fact, during the time interval 1624–1629, under the pontificate of Urban VIII, the curve rose exponentially.

It is particularly challenging to interpret this data. The number of cases that emerged from the survey would have to be analysed on the basis of more or less reliable historical periodisations. One would have to take into

account the history of the SCC, the history of the Roman Curia and the papacy, and the history of the Italian episcopates.[143]

What can be done, however, is to stick to one particular fact. This significant growth in the number of cases tried by the SCC can probably be attributed to the enactment of two general decrees that extended the jurisdiction of the dicastery particularly in the field of gracious (or voluntary) justice. In fact, the decrees *De rebus regularium non alienandis* and *De celebratione missarum* heavily influenced the workload of the SCC, precisely because they came into force in 1624 and 1625 respectively.[144]

Returning to the graph, one can see that the workload of the SCC reached a peak from 1642 to 1647, when it processed as many as 706 cases in just six years. Then one can see a gradual decrease, which began around 1659 and continued steadily and gradually until at least 1681. There are several possible explanations for this. It is quite probable that the so-called 'Innocentian suppression' of 1652, which significantly reduced the number of small convents on the Italian peninsula, also played an important role.[145] In fact, it is likely that this also had an impact on the total number of communities that petitioned the SCC. Other causes could be the general streamlining of the Roman Curia as well as the consolidation of other congregations that shared certain competences with the SCC, such as the

143 On the historical periodisation of the relationship between bishop and diocese in early modern Italy, see Caiazza (1997a) 74–75.

144 Furthermore, I found that many of the cases missing in the *Positiones Sess.* series are not only present in the *Positiones (Carte sciolte)* series but are also thematically related to the general decrees just mentioned. Although this consideration needs further systematic archival investigation on a large scale, it is conceivable that there is a link between cases pertaining to these two themes and the historical vicissitudes of the SCC archive.

145 The Innocentian suppression was preceded by a preliminary enquiry. The latter, initiated by Innocent X with the bull *Inter coetera* in 1649, was introduced to pursue the efficiency of the Italian monastic and convent network in order to guarantee full observance of regular discipline. At the same time, the Congregation *Sopra lo stato dei regolari* (1649) was created; the superiors of the individual convents with the annexed summaries *(ristretti)* sent their reports to this congregation. On the basis of these reports, Rome assessed the funds needed to maintain an individual religious in a convent, and from there deduced the economic sustainability of the entire structure, considering the geographical context. This investigation culminated with the suppression of the convents *(conventini)* by Innocent XI (1652) with the bull *Instaurandae regularis disciplinae*. On this topic, see Boaga (1971a); Galasso (1987).

Congregation of Bishops and Regulars.[146] Systematic work on other curia dicasteries would be desirable in this regard so that by cross-referencing the data, large-scale trends can be deduced.

1.6 Thematic survey: outcomes

Although on a quantitative basis, the survey offers interesting insights, it is the thematic analysis that provides a deeper understanding of the role assumed by the SCC in the Marche territory. To this end, it has been necessary to establish criteria for grouping by macro-subjects capable of comprising the numerous Tridentine normative cases and consequently also the decrees collected in the *Libri Decretorum* in a functional and, as far as possible, homogeneous manner.[147] This is particularly complex because the sessions of the Council of Trent were not homogeneously subdivided according to normative scope; neither were the individual canons and chapters. This is due to the manner in which the sessions took place and in which the work of the Council Fathers was organised. Canons belonging to different sessions are at least conceptually closely related. It follows that groupings by sessions are inefficient. The groupings used in this study follow a thematic criterion that, although it has inevitable limitations due to the vastness of the Tridentine subjects and the rigidity of the *Libri Decretorum*, serves to assess in which areas the Congregation of the Council was most petitioned by the local communities. On the other hand, the results can also show for which topics SCC intervention was not required. The aim is to provide a thematic overview of what distinguished the relationship between SCC and Marche.

It must be noted, before delving into the analysis, that approximately 1,765 cases out of 5,438 (32.45 %) found in the *Libri Decretorum* have no explicit normative reference as to content, which means that the various writers who, alternating over time, recorded these cases did not assign them either a specific canon or a session of the Council of Trent.

The first macro-thematic area that constitutes a single grouping in the survey concerns the conferral and administration of ecclesiastical benefices,

146 See Menniti Ippolito (2011) 17–30.

147 For a methodological comparison on the identification of Tridentine themes, see Menniti Ippolito (2011) 87–96.

i. e. all legislation with regard to the sustenance of the clergy.[148] The benefice, simply put, was the right to receive the fruits of an ecclesiastical property and also constituted the obligation to exercise an office.[149] The Council of Trent dealt with this issue, which was of vital importance for the functioning of the entire ecclesiastical apparatus, on several occasions. Benefices were used to support institutions of various kinds, such as episcopates, parishes, chaplaincies, canonries and so forth. Canon law also divided benefices into many classes and subclasses: major (or consistory) and minor benefices, with or without the obligation of residence, revocable and perpetual, curate and non-curate, reserved to the Apostolic See or not, etc.[150]

The Conciliar Fathers sanctioned that residential benefices, those with the obligation of office and spiritual care of the faithful (i. e. with *cura d'anime*), should be conferred on worthy and capable persons residing in the territory (c. 3 Sess. VII *de ref.*[151]), forbidding the cumulation of several benefices in the same person (c. 4 Sess. VII *de ref.*[152]), and at the same time providing for possible exceptions (c. 5[153] and c. 6[154] Sess. VII *de ref.*). The Council returned to the prohibition of the accumulation of benefices (c. 9 Sess. XIV *de ref.*[155]) and to the question of vacant benefices (c. 10 Sess. XIV *de ref.*[156]), demonstrating a strong focus on a more appropriate division of resources.

In order to prevent clerics from living by expediency or in a morally questionable manner during their service, the Council Fathers stipulated that to enter holy orders, it was necessary to be able to count on a sufficient income to support oneself (c. 2 Sess. XXI *de ref.*[157]). For this purpose, therefore, a permanent income was needed to guarantee the office. At the same

148 On the concept of ecclesiastical benefice, see Naz (1937); Velasco Pedraza (2021).

149 See DSE (1840), vol. V, 79.

150 On the administration of ecclesiastical benefices on the peninsula see, among others, Preto (1970); Prosperi (1984); Cincinelli (2017); Dell'Oro (2018). For a comparison with the early modern Spanish beneficial system, see Barrio Gozalo (2019). On the SCC's rulings on cumulation of benefices, in the Polish context, see the doctoral thesis by Nitkiewicz (1991).

151 COD 687.

152 Ibid.

153 Ibid.

154 COD 688.

155 COD 717.

156 COD 717–718.

157 COD 728–729.

time, however, the Council left the door open for *titulum patrimonii suii* ordinations, subject to the prior examination that the bishop had to carry out on those who wished to be ordained. This allowed the diocesan ordinaries to make up for the lack of benefices, enabling them to ordain new clerics needed to carry out pastoral work in the territory.[158]

In order to give bishops greater freedom of management, the Council allowed them to take the fruits from various benefices of cathedral and collegiate churches and transform them, when and where necessary, into daily distributions for clerics in need (c. 3 Sess. XXI *de ref.*[159]). The bishop could also transfer simple benefices from one church to another at his discretion (c. 7 Sess. XXI *de ref.*[160]).

Again, with a view to the careful management of local resources, the Council regulated the cases of extreme necessity in which it was possible to unite benefices (c. 13[161] and c. 15[162] Sess. XXIV *de ref.*) while at the same time warning that those who wished to take possession of a benefice were guilty of simony (c. 14 Sess. XXIV *de ref.*[163]). The Council Fathers, however, reaffirmed the impossibility of incardinating a single cleric in more than one church, stipulating that no single person could occupy several offices at the same time (c. 17 Sess. XXIV *de ref.*[164]).

In order to safeguard the patrimony of the Church, the Council of Trent also prohibited hereditary successions for all types of benefices (c. 7 Sess. XXV *de ref.*[165]).

As for consistory benefices, so called because they were usually conferred during the consistory, the Council had regulated these on several occasions (c. 1 Sess. XXIV *de ref.*[166] and c. 2 Sess. XXII *de ref.*[167]). Indeed, a specific procedure called 'information process' was required to identify the most suitable candidate for the episcopal dignity.[168]

158 See Romano (2012) 337–339. See also Brambilla (1984) 430.
159 COD 729.
160 COD 730–731.
161 COD 767–768.
162 COD 769.
163 COD 768.
164 COD 769–770.
165 COD 788.
166 COD 759–761.
167 COD 738.
168 On this topic, see Fokciński (1991).

The Council of Trent had also turned its attention to benefices of patronage (c. 12 Sess. XIV *de ref.*,[169] c. 13 Sess. XIV *de ref.*[170] and c. 9 Sess. XXV *de ref.*[171]) because they constituted a means of recruiting clergy.[172] Families, groups or individuals in fact used part of their patrimony to establish so-called minor benefices, such as privileged altars or chaplaincies, in order to obtain multiple advantages *(ius patronatus)*.[173] This way, patrons obtained tax exemptions, redeemed their souls after death by requesting masses *pro anima*, and at the same time financed the ecclesiastical vocation of a member of their family circle through annuities.[174] It was also the right of the patron to present the cleric who was to be invested with the benefice *(ius presentandi)*.

The data extrapolated from the survey reveal that the extensive beneficial legislation, which here is only summarised, is not matched in quantitative terms: there were only 54 cases in total.

Let us now turn to another grouping, that of the clergy residence, a theme closely linked to the binomial of office and benefice.[175] Before Trent, it was quite common for those who enjoyed an ecclesiastical benefice with an obligation of personal residence to be absent in order to follow their own interests, thus failing in their pastoral obligations. The Council Fathers had provided for a strong tightening of the residence obligation for all those clerics who had *cura animorum* (c. 1 Sess. XXIII *de ref.*[176]). This measure was in addition to what the Council of Trent had already included in the *Decretum de residentia eposciporum et aliorum inferiorum* (c. 1 and c. 2 Sess. VI *de ref.*[177]), which regulated the residence of both bishops and inferior clerics.[178] The rules provided strong deterrents to deal with this rampant malpractice,

169 COD 718.
170 Ibid.
171 COD 789–791.
172 On patronage as a legal institution, see DSE (1851), vol. L, 133–136; Greco (1986).
173 See Ciuffreda (1988) 39.
174 See Ciuffreda (1988) 37.
175 For a comprehensive and exhaustive overview of the role of the Congregation of the Council regarding the residency requirement, see the recent work by Wiesner (2022) esp. 213–440.
176 COD 744–746.
177 COD 681–683.
178 Specific to the Tridentine debate on the residence of bishops, see Pani (2014) and the chapter "Der Kampf um die bischöfliche Residenzpflicht" in Jedin (1966). The SCC was in charge of controlling the residency obligation of bishops at least until 1636, when the

for example by stating that breaking this obligation constituted a mortal sin and (perhaps most effectively) that this would result in the malfeasant no longer receiving the fruits attached to the benefice.

There were certainly exceptions (such as temporary dispensations) that allowed clergy to be absent for two or at most three months in a given year, but there had to be reasons to justify this.[179] This routinely led to a high volume of petitions to the SCC for leave of absence. Many clerics, citing various reasons such as illness *(infirmitas)*, the wish to study, or the unhealthy air of their place of residence, asked the Congregation for a dispensation. It is also clear from these requests that it was in the clerics' interest to ensure that they could continue to receive the fruits of the benefice during their absence.

The Tridentine regulations also forbade holders of dignities, canonries and prebends to be absent for more than three months per year, imposing on offenders the deprivation of half of the fruits received during the first year and the total deprivation of daily distributions (c. 12 Sess. XXIV *de ref.*[180]).[181]

In practice, the most frequent positive responses issued by the SCC to requests for removal from the residence were of this tenor: "[I]ndulsit ad tres menses ut abesse possit a residentia"[182] or "prorogavit licentiam morandi extra residentiam";[183] in these cases, an absence was granted for three months and a leave of absence extended, respectively.

Reasons for departure could also include situations of war or similar hostilities and thus actual danger to the safety of the clerics. This happened, for example, on 23 June 1663 when the SCC granted a certain Paolo Unici of the diocese of Camerino a licence to leave for two months, delegating to the local bishop the decision on whether he would continue to receive the fruits and daily distributions:

> Sacra [Congregatio Cardinalium Concilii Tridentini] auctoritate [sibi tributa] benigne indulsit, ut Orator, quatenus assertae inimicitiae sint graves, et ob culpam ipsius Oratoris non exortae, a residentia suae ecclesiae per duos menses possit abesse,

Congregatio particularis super Residentia Episcoporum (1636) was established. See in this regard Del Re (1988) 378–379; Lauro (1973).

179 COD 745.

180 COD 766–767. The same canon also governed other legal matters.

181 The daily distributions were offerings or alms that burdened the faithful. See Brambilla (1984) 425.

182 AVV, *Congr. Concilio*, *Libri Decret.* 19, f. 214r.

183 Ibid., f. 264r.

> pro arbitrio et conscientia sui ordinarii, et interim fructus annessi beneficii, nec non distributiones quotidianas percipere.[184]

The survey has revealed 883 cases attributable to the macro theme of residence.

Other cases that could be identified and grouped together are those concerning the collection of tithes and the related administration of punishments for renegades and fraudsters (c. 12 Sess. XXV *de ref.*[185]). The ecclesiastical tithe, not to be confused with various other forms of taxation that were widespread in the early modern age, was a form of tax levy on property.[186] At local level, the collection of the tithe, which could consist of goods or money, was sometimes delegated to the municipal depositories, who then passed on the income to the local beneficiary clergy.

From the cases found in the archives, it appears that the SCC mostly had to deal with issues concerning those tithes that were levied on the products of agricultural land, which constituted ecclesiastical benefices. The patrimonial dotation of a benefice could consist of real estate, but also of customary obligations, such as the tithe.

For example, in 1627 Domenico Savini, rector of the church of S. Salvatore in S. Vittoria in Matenano, reported to the SCC that his benefice *(beneficio curato)* included some lands that had been sold to the friars of the Monastery of S. Agostino, also located in S. Vittoria in Matenano. The friars, however, relying on a favourable ruling issued by their ordinary, refused to pay the tithe to the rector, claiming that the charges on the land were not transferable. Here is the text of the supplication:

> Illustrissimi e Reverendissimi Signori, Domenico Savini da S. Vittoria humilissimo e devotissimo oratore delle Signorie Vostre Ilustrissime e Reverendissime gl'esprime qualmente havendo concorso all'essamine della collatione del beneficio di S. Salvatore della sua terra di Santa Vittoria; l'ha ottenuto dall'Illustrissimo e Reverendissimo S. Arcivescovo di Fermo; e perche alcune terre fruttifere soggette al decimario del suo beneficio curato, sono state parte comprate e parte lasciate al Monastero di Santo Agostino della detta terra, dove dimorano i Frati della detta religione d'esso Santo li quali non pretendono pagare detti decime, ne vogliono che dette terre transeant cum onere, contro la dechiarazione della sacra Congregazione fatta due volte ne casi occorsi in Urbino, come potranno vedere dalla qui annessa risolutione,

184 AVV, *Congr. Concilio*, *Libri Decret.* 23, f. 547r.

185 COD 792.

186 On the concept of ecclesiastical tithing, see BC (1886), vol. III, 11–35; Jannaccone (1960).

che se li manda; et in conformità di questi ha havuta la sentenza in favore dal suo ordinario, dalla quale i detti Padroni si sono appellati. Però l'oratore supplica li SSVV Illustrissimi e Reverendissimi che voglino in questo caso confirmare la detta determinazione et decreto fatto a suo favore; accio il povero oratore possa sostentarsi di frutti del suo beneficio, e piu allegramente servire al Sig. Iddio, e pascere il suo gregge da Dio a lui raccomandato che oltre riceveranno il merito d'opera cosi pia da Dio N. S. l'Oratore s'essibisce anco a pregar Sua Divina Maestà per la salute, e conservatione delle SSVV. [187]

The SCC, however, referring to its own jurisprudence, reaffirmed the mandatory payment of the tithe and decreed: "Sacra [Congregatio Cardinalium Concilii Tridentini] censuit regulares teneri ad solutionem decimarum pro praediis ad eos perventis, pro quibus decima solvebantur."[188]

A total of 35 cases concern tithes.

Another subject that can be extrapolated, and thus easily grouped together, is that concerning those clerics who had been found guilty of murder and were consequently banned from celebrating mass (c. 7 Sess. XIV *de ref.*[189]).[190] Relying on the fact that these crimes were committed either in self-defence or involuntarily, the perpetrators asked the SCC to readmit them to holy orders. Such was the case of the cleric Giuseppe Urbinati of the diocese of Pesaro, who in 1672 asked to be excused because he had committed a crime to defend his sister's honour, "ad vindicandum sororis honorem",[191] however the SCC did not believe him and denied this request: "non esse concedendam".[192] Similarly, Ludovico Santucci, Conventual Franciscan friar from Fermo, who, having been previously acquitted of a murder charge, pleaded for a "relaxatione", a mitigation, of the decree *De non celebrando in loco delicti* that burdened him.[193] Again, the SCC responded in the negative: "non esse annuendum".[194]

The total number of such decrees stands at 104 cases.

187 AAV, *Congr. Concilio*, *Positiones Sess.* 224, f. 675r.
188 AAV, *Congr. Concilio*, *Libri Decret.* 13, f. 363v.
189 COD 717.
190 On the crimes of clergymen in the modern age, see Mancino/Romeo (2013). On the problem of clergy discipline in general, see Fosi (2007) 136–157. On the criminality of the Marche clergy, see Cicerchia (2018).
191 AAV, *Congr. Concilio*, *Libri Decret.* 27, f. 342v.
192 Ibid.
193 AAV, *Congr. Concilio*, *Libri Decret.* 27, f. 502r.
194 Ibid.

A further topic that constitutes a grouping in its own right is that of diocesan seminaries. The canon *Cum adolescentium aetas* (c. 18 Sess. XXIII *de ref.*[195]), in an attempt to compensate for the lack of training clerics and focusing on the education of young people in order to professionalise the category, required the diocesan ordinaries to equip their dioceses with seminaries, over which the bishops were to exercise control.[196] In day-to-day practice, the SCC received petitions that mainly concerned questions about the erection (or lack thereof) of these institutes or about their financing and administrative management, or requests for dispensations for admission to seminaries for young men who had not yet reached the required age.

It could happen that, in case of a reticent bishop, the clergy or the local population asked the SCC to erect a seminary. For example, some clerics from the diocese of Fossombrone wrote to the SCC in 1589 demanding that it order the local bishop to establish a training institute for the local clergy, because the diocese still lacked one. The petitioners pointed out to the dicastery that the bishop had all the funds available to complete the work:

> Illustrissimo et Reverendissimo Signore. Si fa sapere a Vostra Signoria Illustrissima et Reverendissima come la citta di Fossombrone et sua Diocesi sta senza seminario con grandissimo danno di quelle povere anime, però si supplica Vostra Signoria Illustrissima et Reverendissima che voglia ordinar al Vescovo di detta città che facci il Seminario si come hanno fatto tutti gli altri Vescovi conformemente al Santo Concilio. Sopra cio et massimamente che il suo Vescovato frutta (…) mila scudi annuatim come dalli libri istessi puo vedersi, il che facendosi, oltre l'utile grande, ne riporteranno quell'anime, essendoci Preti Literati.[197]

In February of the same year, the SCC ordered the bishop of Fossombrone to provide "quamprimum": as soon as possible![198]

From an administrative point of view, the Council of Trent stipulated that seminaries, in terms of their construction, the payment of professors and the support of the students, were to be financed through fixed incomes

195 COD 750–753. On Tridentine legislation concerning seminaries, see O'Donohoe (1965).

196 There are by now many studies on diocesan seminaries. See, among others, Guasco (1986); Fantappiè (1994a); Comerford (1998); Finger (2018). On the formation of the Marche clergy after Trent, see the study by Masetti Zannini (1976). On the role of the Congregation of the Council regarding seminaries, with specific reference to the dioceses of Abruzzo, see Gallo (2014) esp. 191–210.

197 AAV, *Congr. Concilio*, *Libri Decret*. 5, f. 257r–v.

198 Ibid., f. 257v.

that the bishop was to collect locally by raising levies on the benefices and dignities of his diocese.[199] It is not surprising, therefore, that local ordinaries often turned to the SCC on questions concerning the imposition of charges for the management of these institutions.[200]

The Council had also laid down some basic requirements for admission to the seminary: the bishops had to choose young men born of legitimate marriages, preferably from indigent families, and who, above all, showed promise in their fidelity to the Church.[201] A further admission requirement was age: the applicants had to be at least 12 years old. The SCC often had to dispense with this so-called *defectu aetatis*. For example, the dicastery could impose that a boy who failed to meet the age requirement be admitted to the seminary anyway; this is how the SCC responded in 1637 to a request from the diocese of Jesi: "Sacra [Congregatio Cardinalium Concilii Tridentini] benigne annuit ut orator nonobstante praedicto defectu aetatis ceteri autem requisitis concurrentibus in seminario recipi possit."[202]

Sometimes the SCC delegated the matter to the local bishop, as in this case of 1637 concerning an underage student in the diocese of Ripatransone: "Sacra [Congregatio Cardinalium Concilii Tridentini] auctoritate [sibi tributa] remisit libellum hunc ad episcopum Ripanum ut pro suo arbitrio oratorem non obstante defectu aetatis concurrentibus tamen in eo ceteris requisitis in seminario recipiat."[203]

199 See COD 751–752. On the financial problems and local reticence related to the erection of seminaries, see Fantappiè (2000); Giannini (2003) 82.

200 See as an example a case from 1587 concerning the erection of a seminary in the diocese of Ancona: AAV, *Congr. Concilio*, *Libri Decret*. 4, ff. 227v–228r: "Illustrissimo et Reverendissimo Monsignore. Il seminario di Ancona non è mai stato istituito conforme al ordine del Sacro Concilio di Trento, ma solamente si sono presi certi putti, li quali si vestono, et se li paga il Maestro di Gramatica, et di canto solamente nel resto ciascheduno vive del suo tornando a casa, donde nascano molti scandali et mala educatione di quelli giovani, et cosi s'osserva ancora sin hoggi. Hora volendo Monsignore Vescovo ridurre il presente seminario alla forma del sacro Concilio non havendo sin hora piu di scudi cento d'entrata applicatoli d'un beneficio et non bastando mezza tassa quale la Sacra Congregazione del Concilio ha ordinato, che si possa imporre sopra i benefitii della Diocese a questo effetto, desidererebbe imporre una tassa che fosse sufficiente a mantenere il seminario in una forma, nella quale tassa fosse principalmente compreso il vescovado, fin tanto che con applicarli qualche beneficio, che vacarà le Chiese si vorranno sgravando, et li putti che si manteneranno saranno dodici."

201 See COD 750.

202 AAV, *Congr. Concilio*, *Libri Decret*. 15A, f. 472v.

203 Ibid., f. 475v.

In total, there are 44 decrees concerning seminars.

Another grouping based on theme concerns the *visitationes ad limina*, of which as previously mentioned the SCC had competence. In the *Libri Decretorum*, however, neither the reports of the local ordinaries *(relationes dioecesium)* nor the contiguous evaluations of the SCC, which enjoyed their own archival series, were transcribed.[204] In the *Libri Decretorum* one can find concise references to the letters issued by the SCC to confirm that the visit had indeed been carried out. With expressions such as "Dentur littera visitationis Episcopo Camerinen. Visitanti limina per tertio triennio"[205] the SCC certified, for example, that for the third consecutive triennium the bishop of Camerino, or his representative, had delivered the *relatio*. The group *visitationes ad limina* also contains dispensations by which the SCC granted extensions of time to carry out these visits, as well as decrees in which the SCC responded to doubts raised in the context of the visits.[206]

In total, there are 119 decrees on this subject.

The analysis of the *Libri Decretorum* revealed that some topics are almost absent. For example, there are only eight cases dealing with issues concerning diocesan synods and provincial councils (c. 2 Sess. XXIV de *ref*.[207]).

As far as provincial councils are concerned, this is confirmed by the fact that only those of Urbino (1569) and Fermo (1590) were celebrated, and no others took place until the 18th century.[208] Pietro Caiazza's study has shown that although the SCC occasionally encouraged metropolitans to convoke provincial councils, this became increasingly rare from the end of the 16th century onwards, at least on the peninsula.[209]

Diocesan synods were certainly more frequent, although they were not convened with the prescribed annual regularity.[210] The low demand for

204 See pp. 26–27.

205 AAV, *Congr. Concilio*, *Libri Decret*. 8, f. 99v.

206 On the first visits by bishops from the Marche, see Prete (1988); Urieli (2003).

207 COD 761. On the Tridentine regulations concerning the celebration of the diocesan synod, see Longhitano (1987).

208 See Miele (1994) 120.

209 See Caiazza (1992a) 189–191.

210 For surveys on diocesan synods in the Marche region, see Fabiani (1952); Urieli (1977); Tassi (1989); Catani (2008). For a list of early modern provincial and diocesan synods published in print in Italy, see Da Nadro (1960); Osler (2009b) 537–735. On 17th-century Italian synod practice, see Caiazza (1997b).

clarifications recorded in the *Libri Decretorum* does not automatically imply a decline in local synod practice in the 17th century, but rather – this is a hypothesis – may be symptomatic for the fact that the institution of the synod was getting increasingly standardised and did not generate any particular appeals.[211]

Even matrimonial matters *(Canones super reformatione circa matrimonium)* do not seem to have engaged the SCC much, as far as the Marche context is concerned (14 cases).[212]

The low incidence of certain issues may be symptomatic of the fact that these matters did not give rise to any interpretative doubts or special requests to the SCC; indeed, it is conceivable that some issues were resolved locally or – especially in the area of dispensations – involved other dicasteries.

For a more comprehensive picture of each individual diocese, these findings should be cross-referenced and integrated with other archival series, in particular with the SCC's response letters to the *relationes ad limina*, preserved in the *Libri Litt. VV.SS.LL*.

The amount of data provided so far is very small compared to the total number of cases extrapolated from the *Libri Decretorum*. This is because the work of the SCC in the territory examined is strongly characterised by other matters.

One element that immediately stands out in the overall structure of the SCC's workload is the massive presence of cases that are not specifically related to the sessions of the Council of Trent.

There are two post-conciliar general decrees: the *De rebus regularium non alienandis* and the *De celebratione missarum*. As for the first, which is the leitmotif for later chapters in this book, suffice it to say for the moment that it was issued in 1624 by the SCC itself, and that it forbade the alienation of goods held in common by the regular clergy. At the same time, this decree required all religious orders and congregations to apply to the SCC for the appropriate licences. There are 1,698 cases, i. e. 31.22 % of the total, explicitly attributable to this measure. These are mostly licence decrees granted by the dicastery.

211 See Caiazza (1992a) 124–125.

212 The full text of the Tridentine canons on marriage is given in COD 755–759. On the conciliar discussions concerning marriage, see Jedin (1975) 96–121; Po-chia Hsia (2009) 37–38. On the role of the Congregation of the Council with regard to matrimonial cases, see Meloni (2011).

To these cases can also be added those referring to c. 11 Sess. XXV *de ref.*[213] This canon, in terms of content, displayed strong similarities with the *De rebus regularium non alienandis*. As we shall see later, this thematic proximity was also reflected in the cataloguing of particular decrees. Canon 11 in fact forbade leases of church property with advance payment (in cash), since those were detrimental to subsequent holders of the benefice. The same canon also annulled leases of ecclesiastical property *ad longum tempus* (over 29 years), because these types of contracts could conceal transfers in favour of family members.[214]

These two normative references together encompassed the broad field of ecclesiastical, regular and secular alienation. Counting them together, there are 1885 out of 5,438, which equals 34.66 % of the total number of cases.

As one can see from the chart below, this percentage even increases in some territorial districts, such as in the diocese of Fermo where it reaches 43 % (334 out of 769) and in Ancona, where it exceeds 55 % (119 out of 214).

213 COD 791–792: "Magnam ecclesiis perniciem afferre solet cum earum bona repraesentata pecunia in successorum praeiudicium aliis locantur. Omnes igitur hae locationes si anticipatis solutionibus fient nullatenus in praeiudicium successorum validae intelligantur quocumque indulto aut privilegio non obstante. Nec huiusmodi locationes in Romana curia vel extra eam confirmentur. Non liceat etiam iurisdictiones ecclesiasticas seu facultates nominandi aut deputandi vicarios in spiritualibus locare nec conductoribus per se aut alios ea exercere; aliter que concessiones etiam a Sede Apostolica factae surreptitiae censeantur. Locationes vero rerum ecclesiasticarum etiam auctoritate apostolica confirmatas sancta Synodus irritas decernit quas a triginta annis citra ad longum tempus seu ut in nonnullis partibus ad viginti novem seu bis viginti novem annos vocant factas: synodus provincialis vel deputandi ab ea in damnum Ecclesiae et contra canonicas sanctiones contractas fuisse iudicabunt."

214 See Prodi (1982) 222.

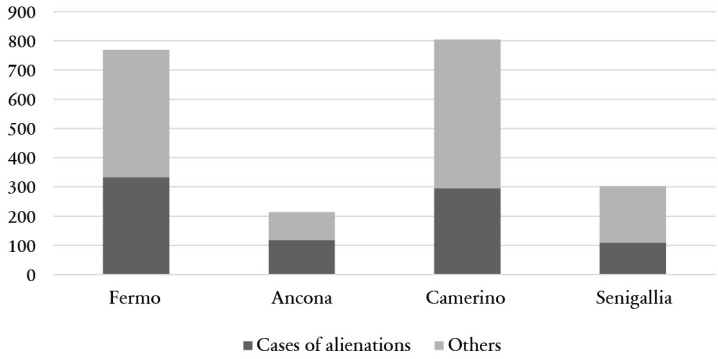


Chart 5: Quantitative survey of alienation cases by diocese (1564–1681)

With these numbers in mind, let us turn to the *De celebrazione missarum*. In order to place this general decree in its historical context, it is necessary to briefly introduce the subject of acts *pro anima* (or dispositions *ad pias causas*). It was customary to leave assets (landed property, real estate, sums of money etc.) to the Church by way of legacies of various kinds (wills, donations *mortis causa*, donations *inter vivos*) in order to ensure the salvation of one's soul. Similarly, people often paid before their death for the performance of a number of religious services, such as conducting the funeral, or burial, and very frequently the celebration of a certain number of suffrage masses *(onera missarum)* on their behalf.[215]

However, the secular and regular clergy, as well as the charitable institutions that benefited from these bequests, very often found it difficult to meet the agreed burdens over time; the alms were insufficient in relation to the number of masses to be celebrated, also due to the devaluation of money or property conflicts with the heirs of the deceased. A situation occurred that Francesco Gaudioso defines as "spiritual bankruptcy", whereby the beneficiaries demanded a reduction in the burdens placed on these ecclesiastical benefices.[216]

The possibility of commuting testamentary wills, and thus reducing the number of masses to be celebrated, had been regulated by the Council

215 On this topic, see Brambilla (2001); Gaudioso (2004); Greco (2007); Turchini (2007).
216 See Gaudioso (2004) 172. In this regard, see also Preto (1970) 808–811.

Fathers, who had left it to the bishops, abbots and generals of the orders to intervene in this area, in order to guarantee the fulfilment of pious legacies (c. 4 Sess. XXV *de ref.*[217]). The Council of Trent had also sanctioned the prohibition of derogating from the burdens placed on benefices at the time of their creation (c. 5 Sess. XXV *de ref.*[218]) and regulated the competences of bishops – as apostolic delegates – regarding the commutation of last wills (c. 6 Sess. XXII *de ref.*[219]).

More than sixty years after the closing of the Council, on 21 June 1625, the SCC issued the general decree *De celebratione missarum*[220] which regulated, among other things, the question of charges, establishing the obligation to appeal to the SCC to obtain a licence to reduce the number of masses.[221] The SCC later returned to the same issue, following interpretative doubts that had arisen from local communities about the exact and correct execution of this norm, and issued the *declarationes Super Decretis eiusdem Congregationis De celebratione missarum*.[222] The SCC then revisited this subject twice more, in 1633[223] and again in 1659.[224]

The survey of the *Libri Decretorum* revealed no less than 970 cases pertaining to the issue of reducing the number of masses.

Having thus listed the main subject areas that characterised the workload of the SCC in the Marche, it is appropriate at this point to draw some – albeit only partial – conclusions. The graph below reproduces, more clearly than words can, the distribution of issues submitted to the SCC:

217 COD 786–787.

218 COD 787.

219 COD 739.

220 The decree *(Decreta Sacrae Congregationi Concilii S. D. N. Urbani Divina providentia Papae VIII Auctoritate Edita. De celebratione Missarum)*, in its printed version, is kept in AAV, *A.A.*, *Arm. I–XVIII*, 5002, ff. 13r–18v. One can also often find it attached to the acts of diocesan synods, which usually collected the main decrees of Roman congregations; see, for example, Ordinationes et Decreta in Synodo Aesina (1665) 175–185. The full text of this decree is rendered in Annex B.

221 On the role of the Congregation of the Council in issuing and implementing the decree on masses, see Romita (1946, 1947). About the dispensation-type legal procedure *(praxis reductionis oneris missarum)*, which usually involved the issuing of licences by the SCC, see Corradi (1735a), lib. II, cap. XI, pp. 92–99.

222 For the full text, see Ordinationes et Decreta in Synodo Aesina (1665) 186–194.

223 See AAV, *Congr. Concilio*, *Libri Decret.* 14, f. 746r.

224 See Ordinationes et Decreta in Synodo Aesina (1665) 194–195.

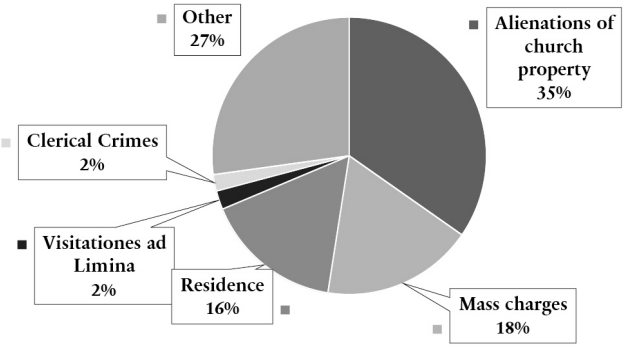


Chart 6: Quantitative survey of decrees issued by the Congregation of the Council, by macro-thematic areas (1564–1681)

The data show fairly marked thematic divisions; in fact, it is evident that cases relating to ecclesiastical alienations, mass burdens and residency alone account for a good portion of the total. Moreover, it is undeniable that the SCC's activity is strongly oriented towards granting dispensations and licences, as well as executing Council of Trent canons, rather than matters of interpretation.

It should also be noted that if we counted the *De rebus regularium non alienandis* and the *De celebratione missarum* together, considering the respective thematic groupings already described, we would obtain 2,855 cases, i. e. 52.50 % of the total. And even this account is still an underestimation, because it is reasonable to think that other cases – whose content could not be determined – should be included in this macro grouping.

From a legal-historical perspective, this means that the intervention of the SCC was largely required for normative areas not directly attributable to the Council of Trent, although very similar, which we can classify as post-conciliar.

Chapter 2
The *De rebus regularium non alienandis*: A Post-Conciliar General Decree

The results presented in the previous chapter have shown that in the context of the Marche, the SCC was particularly involved in issuing alienation licences in implementation of the *De rebus regularium non alienandis*. As indicated in the introduction, this decree is the instrument chosen for this investigation of the interactions between the SCC and other ecclesiastical institutions; it is therefore appropriate to cast an in-depth look at the characteristics of this general decree.

The present chapter first aims to identify the historical and legal motivations behind the issuance of the *De rebus regularium non alienandis*. This entails delving into the regime of exemptions and privileges enjoyed by religious orders, as far as the patrimonial sphere is concerned.

Secondly, the chapter intends to analyse the decree itself, asking the following questions: what is meant by a 'general decree'? What are the legal links between this decree and the Tridentine norms? How can the SCC issue such a norm? The answers to these questions will guide the attempt to understand why, specifically, the SCC was chosen to legislate in this area.

In order to shed light on the situations and behaviour prohibited by the decree, and paying attention to the historical-geographical context, this chapter deals with the various ways in which religious orders exercised their right of ownership and usufruct over movable and immovable property.

Finally, the chapter investigates how many and which competences the SCC had over the execution of the decree; in this context, it will delve into the complex and nebulous question of the sharing or overlapping of tasks with other departments and possible conflicts.

2.1 The historical and normative background

Before the promulgation of the *De rebus regularium non alienandis* in 1624, the principle of the prohibition of the alienation of Church property had

been regulated by the Church on several occasions. Although it is not possible here to digress much into the development of canon law on this subject, it is important to indicate a few fixed points which from a legal-historical perspective allow us to place this decree in space and time.

First, it is necessary to ask what ecclesiastical goods actually are. In principle, the term *res ecclesiae* or *bona ecclesiae* in its most generic meaning identified goods of a movable or immovable nature which were related to churches, benefices, monasteries, hospitals, hermitages, chapels etc.[1] The adjective *ecclesiae* in fact covered a very wide range of institutions:

> Verbum "Ecclesiae" in eadem rubrica [in rubrica iuris Decretalium (III, 13)] intelligendum est *sensu lato*, et non solum designat Ecclesiam universalem vel alias minores societates in Ecclesia constitutas vel ecclesias ad cultum divinum destinatas, sed etiam omne *institutum*, quod *auctoritate ecclesiastica* ad exercenda *opera religionis* vel *caritatis* est erectum verbi gratia monasteria, seminaria, hospitalia ecclesiastica.[2]

The principle of the inalienability and preservation of Church property was rooted in divine law, specifically in Leviticus, even before it was enshrined in canon law.[3]

One of the first normative references that dealt specifically with the subject of the alienation of temporal goods of the Church was the decree *De rebus ecclesiae non alienandis*, issued during the Second Council of Lyon in 1274.[4] At that juncture, some firm points were established. Clerics were forbidden to cede churches and real estate entrusted to them to lay people without prior apostolic consent; the Council of Lyon also established the nullity of contracts made without a licence, as well as the corresponding penalties for offenders, both clerics and lay people. In fact, prelates were

1 See BC (1885), vol. I, 684–713; Barrientos Grandón (2019).

2 Wernz/Vidal (1935) 223. For a historical-legal analysis of Church property, see Bucci (2012).

3 BC (1885), vol. I, 177: "Alienatio bonorum Ecclesiae sine iusta causa et debita solemnitate, est prohibita triplici Iure, scilicet iure divino, Levitic., cap. XXV et XXVII; iure civili, leg. *Iubemus*, 2, cod. de Sacrostanctis ecclesiis, et iure canonico, cap. *Apostolicos*, 13, ap. *Sine exceptione*, 52, caus. 12, quaest. 2, cap. fin *de Rebus ecclesiae non alienandis*; Clement. I, odem titul. Extravagant. *Ambitiosae*, eodem titul. inter communes, et Tridentin., de Reform., sess. 22, c. 11, et sess. 25, c. 11." Cf. Bucci (2012) 125–128.

4 The full text can be found in COD 325–326.

generally considered mere administrators and consequently could not manage assets as they pleased.[5]

Another relevant normative reference is the canon *monasteriorum*, a part of the decretals of Clement V *(Clementine)*, which were later included in the fourth part of the *Corpus Iuris Canonici*, together with the canons of the Council of Vienne (1311–1312),[6] again under the title *De rebus ecclesiae non alienandis*.[7]

This canon was specifically addressed to the regular clergy and regulated leases, which as we shall see were ascribable to the broad and nebulous concept of alienation.[8]

However, the norm that can be considered closest to the decree under investigation here is the Apostolic Constitution *Ambitiosae cupiditati*, also known as *Paolina*.[9] This measure was issued by Paul II on 1 March 1468 and was part of the collection of *extravagantes communes* that were considered authentic in 1580 by Gregory XIII through the brief *Quam pro munere pastorali* and consequently included in the *Corpus Iuris Canonici* in 1582.[10] The

5 See Wernz/Vidal (1935) 227.

6 On the Council of Vienne, see Müller (1934).

7 Concerning the canon *monasteriorum*, see Grossi (1963) 124–127; Gilomen (1984) 182. For the historical background on the formation of the *Corpus Iuris Canonici*, see Fantappiè (2011) 121–124.

8 Below is the full text of the canon *monasteriorum* in Friedberg (ed.) (1959) Clementinarum lib. III, tit. IV, cap. 1, p. 1160: "Monasteriorum, et aliarum administrationum regularium dispendiis occurrere cupientes, perpetuo prohibemus edicto ne quis religiosus, monasterio, prioratui, ecclesiae, seu administrationi cuivis praesidens, iura, reditus aut possessiones eiusdem, alicui ad vitam eius seu ad aliud tempus, pecunia etiam inde recepta, quovis modo concedat: nisi necessitas aut utilitas monasterii, prioratus, ecclesiae aut administrationis huiusmodi hoc exposcat, conventus sui, aut si conventum non habeat, praelati proprii, adsensu ad hoc nihilominus accedente. Si quis autem contra hoc fecerit, poenam suspensionis ab officio eo ipso incurrat: nec ex concessione ipsius recipienti ius aliquod adquiratur. Verum praemissa ad locationes vel etiam redituum aut fructuum venditiones, ad tempus modicum faciendas, declaramus ullatenus non extendi."

9 The text of the *Ambitiosae cupiditati* is given in Friedberg (ed.) (1959) Extravag. Comm. lib. III, tit. IV, cap. 1, p. 1269 and also rendered in Annex C.

10 See Grossi (1963) 136, footnote 79. On the collection of *extravagantes communes*, see Tarantino (2013).

Ambitiosae, in the words of Paolo Grossi, was long ignored by contemporary canonists and modern historians.[11]

What is significant for the purpose of this work, however, is that this bull is the only normative reference expressly cited in the text of the *De rebus regularium non alienandis* decree.[12]

The relevance of this measure is also evident if one looks at the abundant treatises that dealt with alienation practice between the 16th and 17th centuries.[13]

The promulgation of the *Ambitiosae* was motivated by the fact that the Church had observed a growing number of alienations that were severely damaging the Church's patrimony; consequently, the papacy deemed it necessary to tighten control over any and all conduct that could endanger the riches the Church had accumulated over the centuries.[14] To achieve this aim, Paul II decided that all alienations of valuable goods, both movable and immovable, belonging to both secular and regular clergy, should always be subject to apostolic license. In this way, the papacy, and thus the Roman Curia, gained an important prerogative, advancing towards a greater policy of centralised decision-making.[15]

11 See Grossi (1963) 130.

12 AAV, *A.A.*, *Arm. I–XVIII*, 5747, n. f.: "[P]oenis nihilominus Apostolicarum Constitutionum, et praesertim felicis recordationis Pauli II, qua incipit Ambitiosae, in suo robore permansuris."

13 For an exhaustive list of legal treatises of the 17th and 18th centuries on the alienation of Church property, see Helfert (1824) 47–52. Among the main works I would like to mention here: Peretti (1588); De Luca (1673), lib. VII, pp. 1–138; Torricelli (1674); Fagnani (1705), cap. V, 222–226.

14 See Wernz/Vidal (1935) 190: "Cum crescerent damna Ecclesiae ex inconsideratis alienationibus orta, tandem per Pauli II Const. 'Ambitiosae' 1 Mart. 1467 quaelibet alienatio pretiosorum bonorum ecclesiasticorum sive mobilium sive immobilium, nisi fierent cum licentia Sedis Apostolicae, sub gravibus poenis est prohibita."

15 In this regard, see Torricelli (1674), cap. IX, n. 14, p. 22: "Immo consensus Papae in alienatione bonorum Ecclesiae requiritur non solum pro solemnitate, sed etiam pro forma ratione consensus veri Domini, seu Primarii, e supremi Administratoris; nam Paulus II in illa Extravagan. Ambitiosae avocavit a Praelatis potestatem alienandi bona suarum Ecclesiarum, vetuitq; ne ipso inconsulto quidquam distraherent; quippe Papa est dominus omnium bonorum Ecclesiarum, et habet plenariam dispositionem iure Monarchico, quod apud eum residet in universum corpus Ecclesiae, et singula eius membra. Episcopi autem a Papa immediate acceperunt, et habent potestatem cum omni alia facultate administrandi bona suarum Ecclesiarum; ideo Paulus II. recte potuit iubere, ne per Episcopos, et alios Praelatis bonorum Ecclesiasticorum fieret alienatio sine Papae consensus."

In this respect, Paolo Prodi placed the *Ambitiosae* within the process of anti-feudal legislation that had characterised a long period in the history of the Church, and in particular of the Papal States, from the 15th to the 17th century.[16] Prodi put forward this hypothesis at the same time as his reflections on the anomalous overlap between the functions of the pope as prince and the functions of the pontiff as head of the Universal Church, attributing the decay of the pluralistic structure of Church law to the intermingling of state and canonical pontifical law. It is appropriate to look at the *Ambitiosae* within the broader framework of the legislation on the state property of the Church. In fact, it was not only the goods belonging to the clergy, whether secular or regular, that were at risk of impoverishment, but also the immense state properties of the Papal States.

In this regard, a comparison with ecclesiastical normativity in the second half of the 16th century seems particularly fitting. Special mention must be made of the bull *Admonet nos* (1567), commonly known as the bull *De non infeudando*, which was part of Pius V's legislative attempt to limit the practice of infeudation, i. e. the granting of state land owned by the Apostolic See to third parties through the creation of principalities for the pope's entourage. This custom not only impoverished Church property, but also created fertile ground for nepotistic practices.[17]

A few years later the bull *Inter varias* of Sixtus V, later reconfirmed by Clement VIII with the bull *Pro commissa*, forbade all communities, administrators and peoples of the Papal States from alienating or mortgaging Church property, except with a licence from the Holy See.[18]

Returning to the *Ambitiosae*, one has to ask what innovations it had introduced with regard to the alienation of the temporal goods of the clergy.

16 See Prodi (2013) 150–153.

17 See Goria (2008) 100–101.

18 Tesauro (1769), pars II, cap. X, p. 83: "[P]rohibitum est communitatibus, universitatibus, et populis quorumcunque locorum status temporalis Ecclesiae Romanae, et eorum singulis, alienare bona earundem communitatum, seu universitatum, hypothecare, census super eis imponere, aut aliter obligare (excepta locatione ad modicum tempus, solutionibus non anticipatis) aut se pro aliis aliquo modo obligare, seu aere alieno abstringere; nisi praedicta fiant cum licentia Sedis, seu Camerae Apostolicae: alias si fiat, omnis alienatio, et obligatio est ipso iure nulla, etiamsi facta fuerit ex causa necessaria, ac etiam si constiterit de versione in utilitatem communitatum, seu universitatum ipsarum."

Firstly, Rome required apostolic approval to verify the usefulness of the business and the truth of the facts. As a general rule, there had to be solid grounds for an ecclesiastical alienation. In this regard, legal treatises from the late 16th century identified 'just causes and solemnities'. Among the just causes were: *urgens ecclesiae necessitas*, *evidens ecclesiae utilitas*, *pietas*, *incommoditas*.[19] The solemnities, i. e. the legal formalities required to carry out the disposals, were the licences granted as appropriate by various authorities. One thinks of the consent of bishops for the assets of the secular clergy, or the licence of the superiors of religious orders for the goods of the regular clergy, up to the papal dispensation.[20] As the cardinal and jurist Giovanni Battista De Luca explained, just causes and solemnities were – at least theoretically – closely related and interdependent elements, so much so that the lack of one invalidated the whole deal.[21] However, De Luca revealed, and the 17th-century canon lawyer Prospero Fagnani was of the same opinion, that in 17th-century practice the apostolic assent made up for the lack of the other canonical prerequisites, with the exception of the just cause, which remained an unavoidable fixed requirement.[22] On this point, Toriccelli, reaffirming the absolute necessity of apostolic approval, the lack of which was not a formal but a substantial defect, made an emblematic statement: "alienatio aliter facta non tenet".[23]

The practice of requesting apostolic approval, which the *Ambitiosae* had reaffirmed, was in fact largely disregarded among members of religious

19 See Wernz/Vidal (1935) 227.

20 Cf. BC (1885), vol. I, 178–179.

21 De Luca (1673), cap. I, pp. 8–9: "La regola dunque generale, la quale oggi è indubitata, porta la proibizione dell'alienazione de beni di Chiesa, senza il copulativo concorso della solennità, e della giusta causa, in maniera che non basta l'una senza l'altra, importando poco che vi siano le solennità, quando non vi sia la causa, la quale non è supplita dall'assenso Apostolico; Et all'incontro non basta la causa senza le solennità, siche questo sono i poli, ne quali si gira tutta la circonferenza di questa materia, cioè sopra la verificazione, cosi dell'uno come dell'altro requisito, col presupposto della regola generale probiiva, discorrendosi poi delle limitazioni."

22 Ibid., p. 9: "Nondimeno oggidì sta fermamente ricevuto, che la sola solennità dell'assenso Apostolico ordinata dalla Costituzione, o Stravagante di Paolo secondo, la qual'è la principale regolatrice di questa, supplisce tutte le altre solennità, in maniera, che quando quella v'intervenga, con la verificazione della giusta causa, non si bada ad altro." Cf. Fagnani (1705), cap. V, p. 223: "Quare per dictam Extrav. omnis alienandi modus etiam in casu licito, et servatis iuris solemnitatibus, regulariter prohibetur, Papa inconsulto."

23 Torricelli (1674), cap. VIII, p. 12.

orders, who also had to submit to the general rules for ecclesiastical property.[24] The cause of this phenomenon is to be found in the exaggerated extension of apostolic privileges and exemptions that were issued only one day after the promulgation of the *Ambitiosae* (1468).[25] Privileges in principle did not have a general scope for the sphere of regulars, but were granted on a case-by-case basis to individual religious orders or congregations that requested them.[26]

As early as 1507, Julius II issued a first privilege to the Congregation of Monte Oliveto of the Order of St. Benedict.[27] In 1519, Leo X did the same for the Observant Friars Minor, for the Order of St. Clare and the Third Order of St. Francis, stating that the consent of the majority of the convent chapter was sufficient to carry out the alienations.[28]

In 1531, Clement VII granted the superior general and the provincials of the Dominicans the power to issue alienation licences as long as the value of the property did not exceed one hundred ducats and there was the consent of the convent chapter.[29] A sort of patrimonial limit was introduced. Within a certain amount, alienation did not require the approval of the Roman Curia, but only simple licences, granted by personalities in leading positions within the regular orders. Of a similar tenor is the provision of Gregory XIII

24 See Dubois (1983) 1004. The non-compliance with the *Ambitiosae* forced Paul IV to promulgate the bull *Iniunctum nobis desuper* in 1555. In the bull it was pointed out that for years various people under the pretext of different alienations, *praetextu diversarum alienationum*, continued, undaunted, to make alienations not respecting the due solemnities provided for by law, and causing damage to the Church. The full text of the bull can be found in BR (1860), t. VI, 496–498.

25 Corradi (1735b), lib. IX, cap. I, n. 10, p. 314: "Verum a supradictis omnibus fuerunt exempti plures Regulares; quibus per diversa privilegia fuerat indultum, ut possent aliqua eorum monasteriorum bona usque ad certam summam alienare: postmodum vero haec privilegia fuerunt sublata per novum decretum Sacra Congregationis Concilii". The treatise by Pyrrhus Corradi (1602–1666), which will often be referred to in this work, was reprinted several times during the 17th century (1656, 1669, 1699) after the first edition of 1641. In this respect, see Osler (2009 a) 481–484.

26 Among the main collections of privileges of religious orders, see Casarrubios (1609); Confetti (1610); Roderico (1616); Peyrinis (1649); Didacus ab Aragonia (1753), cap. IV, pp. 149–151.

27 See Peyrinis (1649) 95. The text of the privilege of Julius II can be found in BR (1863), t. V, 442–444.

28 See Peyrinis (1649) 143–144.

29 See Peyrinis (1649) 162. See also Casarrubios (1609) 80.

of 5 September 1572, which allowed the Order of Hermits of Saint Augustine to exchange and alienate the goods of their monasteries as long as there was a clear utility and the prior general of the order had given his permission.[30]

The reason behind requesting privileges was that it was very expensive for religious orders to appeal to the Apostolic See each time. The Carmelites had also complained about this, and they were satisfied by Gregory XII in 1576 with the bull *Ex incumbenti*.[31] This rule provided for a kind of abstraction, i. e. a consent given once was to be considered automatically valid for the future as well. Even for Carmelites, however, the superior general of the order and two-thirds of the convent had to give their consent.[32]

The fledgling Jesuit order also took immediate care to secure an exemption regime in the patrimonial field. Everardo Mercuriano, superior general *(præpositus generalis)* of the Jesuit Order from 1573 to 1580, appealed to the Holy See in 1576, pointing out that by virtue of the bull *Regimi militantis Ecclesiae* with which Paul III had approved the establishment of the Jesuits in 1540, all powers to conclude contracts were in the hands of the superior general.[33] Mercuriano therefore demanded that the pope reaffirm these prerogatives, exempting the Jesuits from resorting to apostolic *beneplacita*.

With the Constitution *Apostolicae Sedis*, Gregory XIII granted the privilege to the Jesuits and at the same time confirmed the prerogatives of the superior general of the order.[34] This exemption was extended in 1582.[35]

In conclusion, it must be considered that the existence of these privileges did not mean, in an absolute sense, that all convents or monasteries of that particular order were exempt from the requirement of apostolic consent to carry out their patrimonial transactions. Certain variables came into play, such as the value of the property to be alienated, or even the discretion of the individual convent. The various religious communities acted in the way that

30 See Barbosa (1724a), allegatio XCVI, n. 60, p. 384. For the text of the bull, see BR (1863), t. VIII, 13–15.

31 BR (1863), t. VIII, 135–137.

32 See Novario (1677), comment. VII, n. 1–2, pp. 243–244.

33 See Roderico (1616), t. II, pp. 437–438. For a brief overview at the historical and political context during the issuance of the bull founding the Jesuit Order, see Fragnito (1992) 135.

34 See BR (1863), t. VIII, 391–394.

35 Ibid., 394–397.

seemed most appropriate to them to achieve their goal. For example, in 1548 the friars of S. Agostino in S. Vittoria in Matenano (diocese of Fermo)[36] requested an apostolic brief for one of their transactions although they were not theoretically obliged to do so.[37]

In general, the practice of alienation proceedings involving regular clergy was structurally discretionary, and remained so to some extent even after the promulgation of the *De rebus regularium non alienandis* (1624).[38]

2.2 The promulgation of the *De rebus regularium non alienandis*

Each regular order, as we have seen, sought to gain privileges that would exempt them from the *Ambitiosae*, probably based on a spirit of emulation, and trusting in the positive response of the papal authority. However, the exemption regime reached such a level that the Church decided to provide for it through a very special decree, which is the focus of this work.

The *De rebus regularium non alienandis* was issued by the SCC in its session of 7 September 1624 and can be found in volume 12 of the *Libri Decretorum*.[39] The initial enactment was followed by a formal, albeit unusual, publication on 16 September of the same year, proving that the measure had a special legal nature.[40]

36 On the Augustinian Convent in S. Vittoria in Matenano, see Cicconi (ed.) (1994) 158–163.

37 ASAF, *Processi si in evidentem*, S. Vittoria in Matenano 60 I (1558–1660), n. f. [friars of S. Agostino, 1584]. On the cover of the file is the following title: "Causa Commissaria super Alienatione quatuor cannarum terrae ortivae. Conventus Fratrum Sancti Augustini. Antonio Cesaris et Angelo Damiano de Sancta Victoria. In evidentem dicti Conventus utilitatem."

38 See De Luca (1673), lib. VII, cap. II, n. 7, p. 15.

39 AAV, *Congr. Concilio*, *Libri Decret.* 12, ff. 185v–187v. The volume 12 collects the decrees issued from the session of 12 January 1619 until that of 9 May 1626. The volume has two final indexes, one by subject and the other by diocese, which are, however, rather deficient and incomplete. In the subject index, the decrees (or cases) are subdivided by CT sessions and canons, but the wording *de rebus regularium non alienandis* (or its abbreviation) never appears there. Not even in the alphabetical index by diocese under the wording *Regularium* is there a reference to the *De rebus regularium non alienandis*. On the other hand, however, there are many cases (decrees) that have a thematic affinity with the *De rebus regularium non alienandis*, which are identified and marked with the wording "canon 11 Sess. 25 *de ref.*". The full text of this decree is rendered in Annex A.

40 Although Varsányi made an error in the year of issue (1620 instead of 1624), he accurately distinguished 7 September, the day the SCC "tulit" (issued) the decree, from 16 September when the SCC published it. See Varsányi (1964) 122.

As Lorenzo Sinisi has pointed out, sometimes individual acts of the SCC could be published in print in official form. On closer inspection, in regards of publication the *De rebus regularium non alienandis* did not differ from the *decisiones volantes* of the Roman Rota, i. e. those measures that were not usually included in collections.[41] The general decree in fact does not appear in the various editions of the *Bullarium Romanum*, but one can easily find it as an annex to constitutions, or in legal collections of privileges, or in the *bullaria* of religious orders.[42] A few days after the issuance of the *De rebus regularium non alienandis*, the SCC promulgated a measure, also of a general nature, known as the *De regularibus apostatis et eiectis* (21 September 1624).[43] These two norms share a particular temporal proximity and an affinity in terms of promulgation methods; however, in contrast to the *non alienandis* norm, the decree regulating the cases of those religious considered apostates or those to be expelled from orders can be found in the *Bullarium Romanum*.[44]

From a point of view of diplomatics, the *De rebus regularium non alienandis* in its printed form is similar to an announcement *(bando)*.[45] This document, stored in the Archivum Arcis at the Vatican Apostolic Archive, shows the Barberini coat of arms, that of Urban VIII's family, at the top. The heading reads: "Decretum Congregationis Concilii, Urbani VIII iussu editum, de rebus Regularium non alienandis".[46] The expression *iussu editum* makes it clear that the measure had received the express approval of the

41 See Sinisi (2020) 13–14.

42 See, as an example, Peyrinis (1649) 285.

43 The text of the decree *De regularibus apostatis et eiectis* is contained in the *Libri Decretorum*, just after the text of the *De rebus regularium non alienandis*. See AAV, *Congr. Concilio*, *Libri Decret*. 12, ff. 187v–194r. For some concise insights concerning the issuance of this decree, see Sicardo (1954) 689. In particular, on the application of the decree *De regularibus apostatis et eiectis* through the records of the Congregation of the Council, see Giuliani (2024).

44 See BR (1867), t. XIII, 202–205.

45 Gustavo Parisciani was the first and to date the only author to indicate the archival reference number "AAV, *A.A.*, *Arm*. *I–XVIII*, 5747" to trace the original printed text. See Parisciani (1984) 395. The file containing the *De rebus regularium non alienandis* and also other edicts and proclamations bears the following inscription on the cover: "Fasciculus, sive Volumen 11 in quo continentur diversa super Regularibus. Sub Urbano Papa VIII edita."

46 AAV, *A.A. Arm*. *I–XVIII*, 5747, n. f.

pontiff. At the bottom is the concluding formula typical of prints from the typography of the Reverend Apostolic Chamber, used to indicate the manner of affixing and publication of the decree: "Die XVI Septembris 1624, supradictum Decretum affixum, et publicatum fuit in acie Campi Florae, et aliis locis solitis Urbis".[47]

The decree, in printed form, bears two signatures, as was customary, indeed mandatory; one of Cardinal Cosmo de Torres, prefect of the SCC from 1623 to 1626,[48] and one of Prospero Fagnani, secretary of the dicastery for the same time period.[49]

This particular method of publication prompts the obvious assumption that this was not a common measure. The question must therefore be asked as to its legal nature and why it was promulgated, or caused to be promulgated, by the SCC.

The labelling of the measures issued by the SCC in the course of its regular activities is somewhat inconsistent and sometimes ambiguous; they have been called *declarationes*, *resolutiones*, *decreta*, *decisiones* etc. This complicates the attempt to categorise them and to assign a specific function to the different interventions; in some cases, the interpretative function of these interventions was more explicit or at least prevalent, and therefore the term *declarationes* seems to be more appropriate; in other cases, such as when the SCC resolved particular cases, one speaks of *resolutiones.*

The debate, or rather, the doctrinal clash about the normative nature of the SCC's acts strongly affected the entire 17th century, during which illustrious authors put forward their theses. To recognise that these measures were of a normative nature was to pave the way for the legitimisation of a power we would nowadays call 'legislative' in the hands of the SCC. As Sinisi has pointed out, this kind of favourable interpretation has prevailed among jurists, albeit with some distinctions regarding the type of legal measures.[50]

47 AAV, *A.A. Arm. I–XVIII*, 5747, n. f.

48 See Del Re (1964) 272–273. The actual duration of De Torres' prefecture still needs further research. I found a rescript signed by De Torres and addressed to the Carmelite friars in Jesi, dated 18 September 1627. See ASDJ, *Classe XI*, b. 181, n. 355, fasc. 14, n. f.

49 See Palazzini (1964b) 378. Also with regard to the figure of Prospero Fagnani, given the complexity of his curial career, and the fact that he held several roles at the same time, the chronological details of each position still need to be further investigated by historians.

50 See Sinisi (2020) 5–9.

But even if we were to assert, through a purely theoretical exercise, the non-regulatory nature of the daily measures issued by the SCC, we could not deny that the *De rebus regularium non alienandis* has the characteristics of novelty and generality. Firstly, from a formal point of view it is the subject of official enactment by the SCC and, above all, papal promulgation, with precise references to chronical and topical dating. Moreover, it differs from usual interventions by the SCC in that it is not a decree of response and thus addressed to a specific case or context (rescript), nor is it an act aimed at resolving a dispute *(resolutiones)*. Nor is it a form of general *interpretatio iuris*, as were the SCC's *declarationes* on individual disciplinary canons of the Council of Trent. As proof of this, it should be noted that it is not introduced by the usual verb "censuit", as is custom in the SCC's activity, but by the verb "prohibet" which has a strong imperative connotation. It is something different, i. e. a general decree, which expressly carries with it the characteristics of generality and also novelty *(ius novum)*.[51]

As can be seen from the text, the *De rebus regularium non alienandis* in fact addresses the sphere of regulars and in particular all the superiors general, as well as provincial and local superiors and others holding positions of authority within the religious hierarchy. The legislator is very precise on this point because he was evidently trying to embrace all the various existing forms of organisation of religious life, as well as their varied hierarchies and internal governance structures.[52] Precisely in order to avoid what happened the day after the *Ambitiosae* was approved, there were no exceptions for any religious families.[53] The innovative and general character of the *De rebus regularium*

51 Cf. Varsányi (1964) 97; De Luca (1673), lib. VII, cap. II, n. 7, p. 15.

52 The *De rebus regularium non alienandis* addressed the superiors general of the religious orders, because until then they were the ones responsible, even personally, for granting licences. The manner in which the *De rebus regularium non alienandis* was brought to the attention of the central governmental structures of the religious and consequently of individual communities throughout Europe should be further investigated.

53 Actually, a few months later, an exemption was introduced for the benefit of the Order of Theatines. See Corradi (1735b), lib. IX, cap. I, n. 13, p. 325. The act in favour of the Theatine Order was issued on 14 December 1624 (AAV, *Congr. Concilio*, *Libri Decret*. 12, f. 219r). Here is the complete text: "CCC [Congregatio Concilii censuit] Religionem Clericorum regularium Theatinorum. Secundum ea, qua proponuntur, quoad bona immobilia non comprehendi in prohibitione nuper editto de rebus regularium non alienandis."

non alienandis, which also characterised the Apostolic Constitutions in principle, is also evident from the fact that it abrogated all existing privileges in favour of the regulars, explicitly reaffirming the *Ambitiosae*.[54]

The capacity of *novas leges condere* in the SCC was also confirmed by Varsányi, who argued that the SCC's exclusive authority for authentic interpretation placed it in a privileged position compared to other congregations of the Roman Curia, which were also holders of a "legislative" faculty.[55] Possessing the exclusive faculty of interpretation, the SCC was particularly suited to issuing a decree of general scope, such as the *De rebus regularium non alienandis*, which was to have the same normative force as the decrees *de reformatione* issued during the Council of Trent. As Fantappiè has identified, the Tridentine canon law, breaking with the tradition of medieval law, had become closely linked to and dependent on the authority or body that produced this law.[56] Certainly the SCC was heavily involved in the production of Tridentine-pontifical law or "pontifical canon law"[57] *(ius pontificium or ius novissimum)*. With regard to the periodization of the history of the sources of canon law, manuals identify with the term *ius novissimum* the period between the Council of Trent and 1917; the promulgation of the Pius-Benedictine Code (1917) in fact marks the beginning of codified law *(ius codificatum)*.

The sources of *ius novissimum* consist of the varied set of norms produced by the organs of the Roman Curia, such as the Congregations, Apostolic Tribunals and offices. These bodies issued, in their workflow, an enormous amount of norms, such as decrees, resolutions, rulings, and sentences, sometimes collected in jurisprudential collections, normative compilations, *bollari*.

The Congregation of the Council, too, contributed at this stage; it must be specified that we speak of pontifical law also because the various departments of the curial system, as we have already pointed out, were strongly linked to the pope. It follows that the regulations issued by the Congregation of the Council must be considered as having been made with the pope's assent.

54 Peyrinis (1649) 285 expressly identified the *De rebus regularium non alienandis* as a Constitution of Urban VIII.

55 See Varsányi (1964) 95–98. See also Wassilowsky (2014) 149; Prodi (2015) 275–283.

56 See Fantappiè (2011) 190.

57 Prodi (2013) 135.

The *De rebus regularium non alienandis*, compared to other measures, can be regarded as the norm that makes the SCC's legislative power most explicit. It also paved the way for other similar measures. On 21 June 1625, i. e. not even a year later, the SCC promulgated another decree of general scope, in this case concerning the reduction of charges on masses. In this case, the character of generality was even more pronounced; the rule dealt with beneficiary and testamentary matters and also applied to secular clergy. In terms of both promulgation and execution, it is not difficult to see obvious similarities.

In order to understand why it was the SCC specifically that was chosen to issue the *De rebus regularium non alienandis*, a further element must be introduced into the reasoning. In fact, the decree not only reaffirmed the prohibition of the alienation of regular assets, but also stipulated that licences would henceforth be granted exclusively by the SCC. Evidently, the SCC was an effective dicastery in producing law as well as exercising a controlling function. This is not particularly surprising, because the SCC certainly had jurisdiction over disciplinary decrees of the Council of Trent and also over later constitutions, and the *De rebus regularium non alienandis* was one of these.[58] This dual faculty, that of creating law and executing it, welded together the legislative power and the power of jurisdiction in the hands of a single body. The *De rebus regularium non alienandis* is perhaps the most eloquent expression of this conjunction, which Paolo Prodi has called the "nefarious degeneration" of the early modern canon law.[59]

Another factor that can justify the prominence of the SCC is the closeness of the congregation to issues concerning the regular clergy. Already in the aftermath of the approval of the Tridentine canons, the SCC began to represent a very relevant institutional point of reference, especially in resolving particular questions of a jurisprudential nature.[60] In fact, the *Decretum de*

58 In this regard, see Varsányi (1964) 108: "[U]t decreta disciplinaria Concilii Tridentini et aliae leges in Constitutione Sixtina vel posterioribus sibi commissae sancte religioseque observarentur." See also Zarri (1986) 400: "È vero tuttavia che le competenze della Sacra Congregazione del Concilio, e successivamente di quella sopra i Vescovi e Regolari, si estendono progressivamente nella misura in cui l'istituto diviene garante anche dell'applicazione delle norme sancite dalle costituzioni pontificie e il consenso della Sacra Congregazione diviene necessario in numerosi casi concernenti il governo locale."

59 Prodi (2015) 283.

60 See by way of example the first decades of the dicastery's activity regarding the seclusion of nuns in Creytens (1964).

regularibus et monialibus, hastily approved at the end of the Council of Trent (Sess. XXV of 3–4 December 1563), contained canons that, when tested, turned out to be very incomplete and left room for numerous interpretative doubts.[61]

The SCC's experience in the administration of Church property up to that point in time should also not be underestimated. The *Ambitiosae* had been incorporated into the Tridentinum especially with regard to the condemnation of those who usurped Church property (c. 11 Sess. XXII *de ref.*[62]), and this automatically fell within the jurisdiction of the SCC.[63] The *De rebus regularium non alienandis* shows how the SCC also dealt with norms that were not expressly Tridentine, although closely related to them.[64]

It can therefore be assumed that faced with an obvious and pressing problem such as the desire to bring the regular orders back into compliance with the *Ambitiosae*, Urban VIII thought of the SCC, because the dicastery was already accustomed to dealing with similar issues in practice. The very *incipit* of the *De rebus regularium non alienandis,* the expression "rerum experimento edocta",[65] suggests that the SCC was aware from experience of the impoverishment of the regular ecclesiastical patrimony due to alienations under privileges which were simply too easy to effect.[66] It was precisely the SCC that drew attention in the text of the *De rebus regularium non alienandis* to the widespread malpractice among regular clergy to misappropriate real estate and valuable movable property through their privileges; this was the reason *(ratio legis)* behind the act, which was made explicit in the *incipit* of the normative text.[67]

61 See Jedin (1966) 360–397.

62 COD 741.

63 See Corradi (1735b), lib. IX, cap. I, n. 9, p. 314.

64 See Varsányi (1964) 117: "Competentia S. Congregationis Concilii erat universalis, exclusiva et privativa quoad omnes, ratione eius potestatis authentice intepretandi decreta disciplinaria Concilii Tridentini et alias leges disciplinares cum dictis decretis connexas."

65 AAV, *A.A. Arm. I–XVIII*, 5747, n. f.

66 More in-depth research on possible contacts before 1624 between the SCC or the Roman Curia and the various religious orders would be desirable on this point.

67 AAV, *A.A. Arm. I–XVIII*, 5747, n. f.: "[Q]uas crebro faciunt Regulares, Apostolicis privilegiis innixi". See Wernz/Vidal (1935) 190: "Postquam frequentibus indultis pontificiis vigor Constitutionis 'Ambitiosae' multum fuit relaxatus, Urbanus VIII per decretum S.C.C. 7 september 1624 huiusmodi privilegia saltem intra Europam abrogavit et accuratam observantiam Const. 'Ambitiosae' restauravit."

Finally, it must also be assumed that part of the motivation was of a practical, bureaucratic nature. The decision to have the SCC issue the *De rebus regularium non alienandis*, and the concomitant choice to entrust the SCC with the execution of it, may have depended on the established ability of the dicastery to promulgate individual decrees, in this case licences. The speed of execution and the use of the instrument of the rescript, on which we will dwell at length later, in fact made the SCC particularly suitable for the purpose.

In 1624, there were other dicasteries in the Curia invested with gracious power that also dealt with the granting of alienation licences, especially for the secular clergy, such as the Apostolic Dataria.[68]

Although it is not possible to identify an unambiguous procedural practice which did not allow for any exceptions in the broad and intricate discipline of issuing apostolic beneplacites and rescripts on alienation, the fact that a path involving the SCC was chosen for the goods of the regulars points to a very specific aim.[69]

In fact, as De Luca stated, this meant favouring a bureaucratic process that was lighter, quicker, and above all cost-effective for the petitioners, compared

68 Corradi (1735b), lib. IX, cap. II, n. 1, p. 328: "Deviendo nunc ad praxim impetrandi, et exequendi rescripta Apostolica in forma supradicta, Si in evidentem, dicendum est illa duplici modo impetrari; Uno videlicet per supplicationem in Dataria Apostolica porrigendam pro Oratoribus saecularibus super qua postmodum expediuntur more solito literae sub plumbo, vel Anulo Piscatoris: altero modo pro Regularibus, pro quibus non expediuntur literae, sed tantum per Sacram Congregationem Concilii conceditur simplex rescriptum, vel simplex licentia, quae extenditur in calce supplicis libelli, seu memorialis inibi porrecti, ut infra dicetur." In this context, see also Peyrinis (1649) 97: "Nunc per decretum Sacrae Congregionis Concilii. De mandato Urbani VIII […] Regularibus, quibus directe, et immediate, non per communicationem, concessum erat ab Apostolica Sede aliquod privilegium alienandi, concedentur dictae commissiones, seu licentiae alienandi gratis a dicta Sacra Congregatione. Ceteris autem non habentibus directe privilegium alienandi, sed tantummodo illud habentibus per communicationem, conceduntur immediate per Papam per viam Datarie." – For a general overview of the activities and competences of the *Dataria Apostolica*, see Storti (1969); Del Re (1988) 447–456.

69 Corradi (1735b), lib. IX, cap. II, n. 19–20, p. 330: "[A]c propterea circa rescripta Apostolica dicendum est, quod in illis non potest dari firma, et certa regula, seu certa doctrina, propter diversitatem casuum occurrentium, et varietatem temporum, per quae Signaturae multipliciter, et saepissime variantur."

to the chancery fee standards of other Curia offices.[70] The rescripts of the SCC and other Roman congregations were, in principle, free:

> Generaliter autem, tam in ista, quam in quibuscumque aliis cardinalitiis Congregationibus, nulla pecuniarum, vel solutionibus emolumentorum mixtura dignoscitur, sed omnes expeditiones dantur gratis omnino, adeout neque aliquid petere vel recipere liceat per inferiore ministros, et operarios, sub praetectu nudi lavoris, vel operis personalis in scriptura; solumque partium corrrsponsalibus, qui negotiorum curam habent, aliqua moderata merces seu recognitio laboris debita est pro negotiorum qualitate, ac pro expensis copistarum, sive pro honorariis Advocatorum, et Procuratorum, quando eorum operam adhibere qualitas negotii exigat.[71]

What were the legal cases expressly prohibited by the *De rebus regularium non alienandis*, or to be exact, prohibited unless approval had been obtained?

To answer this question, one must be aware of both the multifaceted nature of ecclesiastical 'patrimony'[72] and of the multiple ways in which it was accumulated and managed in the context of the *mare magnum* of religious orders.[73] Monastic orders, mendicant orders and clerics regular, besides being founded at different times, each had a very distinct connection with temporal goods, since the role these religious families played within the society of the *ancien régime* was different.

According to studies by Fiorenzo Landi, who has analysed the European religious orders in a comparative perspective following a historical-economic approach, there was quite a lot of variance in how religious orders held and related to property.[74] The monastic orders, for example, could count on an initial endowment proportionally linked to the number of religious in the monasteries; from this endowment, they drew annuities and profits, which

70 See De Luca (1673), lib. VII, cap. II, n. 7, p. 15.

71 De Luca (1697), discursus XV, n. 15, p. 311. See also Analecta Iuris pontificii (1857), cols. 2422–2424.

72 The use of the term 'patrimony' rather than 'property', according to the most precise historiographical observations on the subject, is more appropriate to fully express both the variety of 'bona' that an ecclesiastical institution, whether secular or regular, could possess and the complexity of the ways in which they were managed and used. On this subject, see the considerations of Greco (1980) 333–334; Stumpo (1986) 265–268.

73 On the administration of the properties of the regular clergy, see the rich bibliography collected in Stumpo (1986) 272. For specific works on a local or regional dimension, see also Lepre (1970); Chittolini (1973); Fanfani (1981); Palumbo (1987); D'Esposito (2001). For a general historical introduction to the different types of religious orders and congregations and their institutional complexity, see Heimbucher (1987), vol. I, 12–33.

74 See in this regard Landi (1991, 1996, 2005); Landi (ed.) (1999).

in turn served to meet the needs of the individual communities. The Mendicants on the other hand, who arose at the beginning of the 13th century under the banner of individual and collective poverty, were dedicated to preaching and assisting the faithful, and consequently their income came mainly from begging and the management of resources from bequests and testamentary legacies. Their initial orientation changed after Trent (c. 3 Sess. XXV *de reg.*[75]), when even Mendicants were allowed to own property in common, albeit with some distinctions for certain strictly observant families. This generated a double advantage in that Mendicants could beg and at the same time receive income from real estate and other financial activities on a par with monastic congregations.[76] The new orders that arose in later times, such as the Jesuits for example, introduced new ways of acquiring property from an economic point of view, preferring the direct management of landed property.[77]

A further distinction to be taken into account is the different management of resources by male and female monasteries. While male communities were generally more inclined to the use of land or real estate annuities, female communities preferred interest-bearing loans because of the dotal accumulation they received.[78] This is certainly not a clear-cut distinction, but a common occurrence based on prevailing guidelines.

The patrimonial endowment of convents and monasteries in the early modern age, especially on the peninsula, consisted of landed property, the result of a long process of accumulation, as well as movable and immovable assets of various kinds. These temporal goods were either put to use directly or rented out to third parties, which generated considerable credit business.[79] The immense land patrimony accumulated by the religious also constituted an important source of income for the Holy See to draw from through taxation.[80]

75 COD 777.

76 See Landi (2005) 125–126.

77 See Landi (2005) 126. See by way of example how the Jesuits managed the patrimony of their colleges in Sicily Poidomani (2001).

78 See Landi (1996) 27. Concerning the impact of dowries on women's monastic patrimony and credit practice, see the study by Spredicato (2001).

79 See Landi (1991) 706.

80 About the papal taxation on the 12 monastic congregations in the context of the peninsula, see Giannini (2003) 22–32.

Between the 16th century and the second half of the 17th century, these large estates of land were consolidated, owing both to the abundance of testamentary bequests and to the practices of accounting management.[81] Of course, this by no means excludes the fact that small monastic centres in particular relied on subsistence economy, which was also limited by a persistent technical backwardness. The most recent studies, re-evaluating sources of individual communities with socio-economic approaches and cross-referencing them with data from the Innocentian enquiry,[82] have confirmed the considerable size of the regular patrimony in the 17th century.[83] The principle of inalienability played a considerable role in this process of accumulation of resources and income from rent.

One conclusion to draw from the foregoing is that the *De rebus regularium non alienandis* provided for various types of contracts concerning the modalities of *dominium* over goods to be subject to the approval of the SCC.

Furthermore, the general decree clearly links to the content of the *Ambitiosae*, as this language on the express prohibition of numerous cases of alienation shows:

> [O]mnium rerum, et bonorum immobilium, ac pretiosorum mobilium alienationem, omneque pactum, per quod ipsorum dominium transfertur, censos perpétuos, seu vitalitios hypothecam, locationem, et conductionem ultra triennium, concessionem in feudeum, vel emphyteusim, prater quam in casibus a iure permissis, fieri perpetuo prohibet.[84]

Some of the main types of contracts prohibited by the decree will now be discussed in the following pages.

81 On the early modern accounting techniques in use among the regulars, see Landi (1978).

82 See note 145 in the first chapter.

83 For the methodological use of the Innocentian enquiry as a historical source and on the reliability of the economic data produced by religious houses, see Campanelli (1999). Among the main works that have analysed religious orders on regional basis, using sources from the Innocentian enquiry, are Campanelli (1972), Mastroianni (1985) and Giana (2020).

84 AAV, *Congr. Concilio*, *Libri Decret.* 12, ff. 185v–186r. Cf. Friedberg (ed.) (1959), Extravag. Comm. Lib. III, tit. IV, cap. 1, p. 1269.

2.2.1 Alienations and exchanges

The first prohibition concerned the alienation of immovables and valuable movables. As had been the case with the *Ambitiosae*, it was still permitted to alienate without approval, even if there was a just cause and other solemnities, those fruits and goods of little value that could not be preserved or that would perish, or small plots of land *(terrulas)* and small vineyards *(vineola)*.[85]

Real estate included primarily plots of land, but also houses, small shops and premises, as well as grain mills, oil mills etc.[86] With regard to movable goods, the prohibition could refer, for example, to herds of cattle, work tools used on land and estates, and valuable furnishings in monasteries or churches.

In the early modern legal treatises, the term *alienatio* was frequently used in an all-encompassing manner to describe not only sales contracts as such, but also other transactions such as leases and exchanges.[87] As Francesco Monacelli aptly observed, *alienatio* is a word that is certainly widely used, "vocabulo latissime etiam sumpto",[88] implying that it refers precisely to different, sometimes very different types of contract.

Although mortgaging was expressly included in the text of the *De rebus regularium non alienandis* as among the legal institutions subject to apostolic approval, according to Fagnani it did not fall within the prohibited cases. As proof of this, the jurist reports a SCC pronouncement clarifying this matter.[89]

2.2.2 Leases *ad longum tempus* and ecclesiastical emphyteusis

The fact that a large part of the regular orders' real estate assets consisted of agricultural land meant that many communities entered into agrarian lease contracts. It was in the interest of the religious to rent out their land,

85 See Fagnani (1705), cap. V, n. 24–25, p. 224.
86 See Poidomani (1999) 1121.
87 See Couly (1935) 403. In this respect, see also Wernz / Vidal (1935) 222; Landi, A. (2004) 25.
88 Monacelli (1844), pars II, tit. XIV, formula II, n. 7, p. 162. On Monacelli's work, still little studied, but fundamental for understanding the practices of diocesan offices, see some considerations by Prodi (1982) 217 and D'Errico (2016) 33–38.
89 See Fagnani (1705), cap. V, n. 32, p. 225.

especially if it had a good yield, for periods that were not too long so that they could make the best possible profit from the rents and avoid frequent devaluations. The *De rebus regularium non alienandis* did not address short-term leases but rather leases (or tenancies) *ultra triennium* or *ad longum tempus*, because those constituted true alienations. Paolo Grossi has pointed out that the terms 'locationem' and 'conductionem' were used synonymously by the legislators, for instance in the *Ambitiosae*, in order to avoid misunderstandings of interpretation.[90] The same happened with the general decree. The introduction of this time factor was prompted by a long-established fraudulent practice: it frequently happened that clerics holding benefices allocated property for a long period, but demanded the advance payment of the total rent. This was fraudulent to the detriment of the successors of the benefices, or the owners of the land, who could no longer collect the rent due to them.[91]

In brief, a licence from the SCC was required for contracts of this type. Through the *De rebus regularium non alienandis*, the SCC gave itself the right to assess on a case-by-case basis whether or not to grant consent to enter into leases exceeding three years.[92]

By deduction, therefore, leases of shorter duration did not require apostolic approval. The same applies to leases of goods of little value, for which a lease without apostolic approval was permissible even beyond three years.[93]

The prior licence of the SCC was also required for another widespread contractual form, the ecclesiastical emphyteusis. In the emphyteutic praxis, the monastery granted, for example, a plot of land (emphyteutic fund) to a private individual (emphyteuta) who undertook to pay a rent, usually annually. At the same time, however, the various rights that the emphyteuta had,

90 See Grossi (1963) 133.

91 See Grossi (1963) 126. As mentioned in the previous chapter, the Council of Trent had already intervened in this matter through the c. 11 Sess. XXV *de ref*.

92 Cf. Monacelli (1844), pars I, tit. V, formula XV, n. 18, p. 180.

93 Monacelli (1844), pars I, tit. V, formula XV, n. 1, p. 177: "Locationes rerum Ecclesiae, et locorum Piorum Ecclesiasticorum, licet regulariter absque solemnitatibus fieri nequeant ultra triennium ad praescriptum formam Extravagantis Ambitiosae de rebus Ecclesiae non alienandis […] haec tamen regula non habet locum in locatione rerum parvi redditus, et modici valoris, pro quibus locatio tenet, et valida est, etiamsi fiat ultra triennium: quia sicuti in alienatione terrularum beneplacitum non exigitur, ita nec in locatione."

such as the right to transmit the land to his heirs, made this contract very similar to an alienation, which is why it was subject to the consent of the SCC.[94]

The long duration of the contract guaranteed the monastery that a piece of land, often uncultivated and unproductive, would be cared for and improved. Moreover, as Giorgio Chittolini has pointed out, this form of weak possession also served the monastery to preserve good relations with lay society, which was often the counterpart to the contracts, while avoiding to be burdened by the direct management of the land.[95]

From a purely formal point of view, it must be considered that there was no legal uniformity in emphyteutic contracts, from state to state, but also within the Papal States; in fact, local customs generated considerable distinctions from one area to another not only with regard to the different naming of contracts adopted, but above all with regard to the rights and obligations of the parties, rents etc.[96]

As the archival evidence shows, the SCC, when authorising these contracts, often used the expression *ad tertiam generationem masculinam*, meaning that the concession was valid until the third generation of male descendants of the emphyteuta, and then had to be renewed.

However, leases and emphyteusis remained contractual forms of low profitability for the religious body, also considering the modest amount of the rents agreed upon.

2.2.3 Contracts of *censo*

The *De rebus regularium non alienandis* also made contracts of *censo* conditional on the consent of the SCC. The term *censo*, which can be translated as the generic and all-encompassing "annuity", is a rather equivocal word.[97] In fact, this expression, widely used in the Italian states of the early and late

94 See D'Esposito (2001) 288–289. On ecclesiastical emphyteusis, see also Spredicato (1999) 395. For a European overview, see Congost / Luna (eds.) (2018).

95 See Chittolini (2015) 893.

96 On the practice of emphyteutic contracts in the early modern Marche region, see Rossi (1976) esp. 366.

97 For an exhaustive analysis of the complex terminological issue and the necessary historical-linguistic clarifications, see Trifone (1957); Alonzi (2008) esp. 345–346.

modern age, used to indicate both the contract itself and the rights arising from it.[98]

In fact, as Luigi Alonzi noted, when one speaks of *censi*, one must distinguish between *censi riservativi* (also *retentivi* or *perpetui*) and *censi consegnativi* (also *bollari* or *constitutivi*) and the buying and selling of annuities derived from *censi*.[99]

The *censo riservativo* was a contract by which the owner of a piece of real estate, in our case a monastery, ceded, for example, a piece of land in order to receive an annuity in return.[100] These negotiations, which may seem to resemble emphyteutic contracts, actually provided for a real transfer of ownership of the property.[101] *Censi riservativi* were expressly forbidden by the *De rebus regularium non alienandis*, because they were in fact alienations, since the monastery that ceded the property was unlikely to regain possession of it. The purchaser continued to pay the annual rent over time. This, however, in addition to resulting in the de facto loss of the asset, could also give rise to problems with regard to the collection of the annuity, which was also subject to depreciation. This practice was therefore conditional on the consent of the SCC, which would then be able to assess the appropriateness of the transaction and the possible risks.

The *censo consegnativo*, on the other hand, was primarily a lending instrument. This credit type was closely linked to the concept of annuity alienation, which is why we must include it in the dictates of the *De rebus regularium non alienandis*.[102] In the operation of *censo consegnativo*, there were usually two parties: the debtor *(censuario)* and the creditor *(censualista)*. The person who needed to borrow money imposed a *censo* (in Italian: *imporre il censo* or *accendere il censo*),[103] putting his real estate as collateral;

98 On census practices in early modern Italy, see Placanica (1972) esp. 375–419; Poli (1976); Alonzi (2005); Vaquero Piñeiro (2006); Polizzotto (2010). On the use of the *censo* contract in the Marche region, see Angelini (1976); Gaddoni (1985); Angelini (1989).

99 See Alonzi (2008) 379.

100 See Alonzi (2008) 348.

101 See Alonzi (2005) 88.

102 See Alonzi (2008) 87.

103 In archival sources one can also find the Latin expression "accipiendi ad censum" or in ancient Italian "pigliare a censo". See as an example a case in ASAF, *Processi si in evidentem*, Fermo 3 (1550–1660), n. f. [Conventual Franciscan friars, 1658].

the creditor in turn lent the agreed sum *(prestare a censo or dare a censo)* at a certain rate of interest.[104] The amount of interest varied according to context and contingencies, but usually had to stay below 10 %. Precisely because of the peculiar characteristics of these contracts, and in particular the value of the interest rates applied, the Church sought to prevent them from degenerating into the prohibited practice of usury.[105]

The debtor was therefore burdened with a *censo passivo*, the creditor boasted a *censo attivo*. If the party was not able to discharge the debt through regular payments, he would see his property confiscated. In this regard, the historian Gabriella Gaddoni compares this instrument to the modern mortgage.[106]

The *censi*, both active and passive, could be transmitted to third parties through the institution of *accollazione*; this generated a lively circulation and a very long series of transfers, which was often intensified by the widespread practice of using the *censo* also as a currency of exchange.[107] Monks and friars could logically act as both lenders and borrowers, depending on the circumstances; capital investment operations, i. e. lending activities, played a certain role especially in the economy of monasteries and abbeys.[108]

The aim of the *De rebus regularium non alienandis* was to protect the enormous landed property of the monasteries, especially those of male orders. This meant that the decree prohibited them, at least formally, from going into debt without the consent of the SCC. As we shall see in the following chapters, when we discuss the way in which supplications were drafted, this circulation and assignment of credits and debts makes the interpretation of the descriptions of the patrimonial affairs which the religious reported to the SCC in order to obtain such licences particularly complex and entangled.

From a historical-legal point of view, the SCC regulated the *censo* practice again only two years later, through a general decree that was a supplement to

104 See Gaddoni (1985) 181.

105 On the close link between the contract of *censo* and the risk of palliated (or hidden) usury, see Alonzi (2005) 86–88; Soffietti / Montanari (2013).

106 See Gaddoni (1985) 188.

107 See Gaddoni (1985) 182. In this regard, see also Placanica (1972) 413; D'Esposito (2001) 289–290.

108 See Placanica (1972) 414; Stumpo (1986) 268; Landi (1991) 724.

the *De rebus regularium non alienandis*.[109] Proof of this can be seen in the legal collections and treaties that very often mention the two decrees, one after the other.[110]

This new decree, issued on 21 March 1626, was intended to remedy the ambiguities that had evidently arisen between 1624 and 1626.[111] This pronouncement, which like the *De rebus regularium non alienandis* was signed by the SCC's prefect Torres and the secretary Fagnani, renewed the prohibition to impose *censi* without the consent of the SCC on the goods of monasteries and convents and their appurtenances.[112] Imposing or selling *censi* thus fell

109 In the *Libri Decretorum*, immediately after the text of the *De rebus regularium non alienandis*, there is a transcription, albeit barely legible, of the decree dated 21 March 1626. See AAV, *Congr. Concilio*, *Libri Decret*. 12, f. 187r–v. The handwriting clearly shows that the decree of 1626 was transcribed at a different time than the text of the decree of 1624. Indeed, the two decrees could not have been issued on the same day, let alone in the same year, and therefore logically should not have appeared one immediately after the other in volume 12 of the *Libri Decretorum*. It is therefore likely that this is a later transcription, useful for thematically linking the two decrees. As proof of what has just been stated, it should be noted that in the same vol. 12, but on f. 350r, placed precisely in the SCC session of 21 March 1626, one finds the following wording: "De reb reg. non alien. Cum post editum decretum", and then: "vide pagina 187". There is thus a clear reference to the previous pages of the same volume. The decree of 1626 is again transcribed in full and much more legibly in AAV, *Congr. Concilio*, *Libri Decret*. 14, f. 746r–v. Volume 14 is supposed to collect all the decrees issued between 1629 and 1633. In this case, the supplementary decree (that of 1626) is dated 4 June 1633. Evidently, the SCC had seen fit to re-emphasise this rule.

110 See Peyrinis (1649) 285. Eliseo Monsignani, former Procurator General of the Carmelites (1710–1722) and compiler of the *Bullarium Carmelitanum*, not only reports the text of the decrees of 1624 and 1626 in his collection, but also mentions that the ingregrative decree was later renewed on 19 September 1643. On this subject, see Monsignani (1718), pars II, p. 409. The date actually corresponds to a meeting of the SCC, as can be seen in AAV, *Congr. Concilio*, *Libri Decret*. 17, f. 229v. There, numerous cases concerning the *De rebus regularium non alienandis* are listed, but there is no precise act that explicitly renews the official decree of 1624 or 1626.

111 See Corradi (1735b), lib. IX, cap. I, n. 12, p. 325.

112 Below is the complete transcription of the 1626 decree taken from Corradi. Please note that this version is not perfectly identical to the original but not very readable version in the *Libri Decretorum*. See Corradi (1735b), lib. IX, cap. I, n. 12, p. 325: "Cum post editum Decretum de rebus Regularium non alienandis, compertum sit, Regulares, qui eodem Decreto prohibentur census imponere super bonis ad eorum monasteria pertinentibus, loco censuum huiusmodi, pecunias ad cambium, vel mutuo accipere cum solutione lucri cessantes, et damni emergentis, cumque ex huiusmodi contractu cludatur mens Sacrae

fully within the category of alienations.[113] At the same time, the decree of 1626 also introduced a ban on taking out loans, because they could conceal financial losses.

This kind of conduct, which had evidently remained doubtful until that time, was considered by the SCC, like the alienations, transactions "contra mentem Decreti", i. e. against the spirit of the general decree.[114]

2.3 The triple competence of the Congregation of the Council

What expertise did the SCC have on the execution of the *De rebus regularium non alienandis*? It is necessary to start with the studies, which have so far dealt with or touched upon the complex issue of the competences *(potestates)* of the SCC.[115] These should then be compared and applied, if possible, to the specificities of the general decree.

The SCC, *ratione tituli*, i. e. on the basis of the dichotomy between ordinary and delegated jurisdiction, exercised ordinary power. In theory, it would be possible to assume a delegated jurisdiction, by interpreting the SCC's power as deriving directly from the pope. Such was the case, in a way, but it would then have to be extended to any and all office, congregation, tribunal or bishop that operated in the context of the government of the universal Church. The SCC, like other dicasteries of the *ancien régime*, concentrated on itself a wide range of attributions that are not easy to classify schematically using the modern tripartition of legislative, judicial and administrative. Until the 18th century, in fact, the word *iurisdictio* itself

Congregationis, cui in primis, in votis fuit consulere Religionum indemnitati, qua ex impositione censuum huiusmodi plurimum laduntur Santissimo Domino Nostro approbante decrevit, ac declaravit eiusmodi contractus esse contra mentem Decreti, ut supra editi; Ideoque non licere Regularibus pecunias, ut proponitur accipere, ac si acceperint, in ipsius Decreti penas ipso facto incidere. Datum Romae; 21. Maii 1626." Note that Corradi gets the date wrong, writing May instead of March.

113 See Coelli (1656), cap. XXXII, n. 70, p. 254.

114 See Corradi (1735b), lib. IX, cap. I, n. 12, p. 325.

115 In addition to the aforementioned work by Varsányi see, among others, Plettenberg (1693), cap. XVIII, 679–683; De Luca (1697) discursus XV, n. 1–17, pp. 309–311; DSE (1842), vol. XVI, 170–179; Bangen (1854) 151–181; Hinschius (1869) esp. 456–464; Parayre (1897) esp. 272–378; Menniti Ippolito (2011) esp. 23–25.

indicated the entitlement of the same legal body to both produce and apply the law.[116]

The principle of separation of powers in the modern sense, which is the result of the codification processes that began in the 18th century and its doctrinal elaboration, is based on the fact that in the modern state, competences are identifiable insofar as they are entrusted to precise institutional bodies.[117] This rigid schematism cannot be applied to the states of the *ancien régime*, including the Papal States, let alone the congregations of the Roman Curia. In the context of the jurisdictional states, any rigid specialisation of the apparatuses in the modern sense was still lacking, so much so that individual dicasteries, offices, tribunals could cover several 'functions'.

Moreover, the SCC was one of the Curia congregations where this coexistence of attributions seems to be most evident. In fact, Prodi identified the SCC as the dicastery that united legislative and jurisdictional power (judicial, administrative and "power of the keys").[118] The pontifical measures by which the SCC was created, and by which its powers were clarified and extended, had in fact produced a body that interpreted Tridentine law exclusively, and also superintended its execution and application. This concentration of powers complicates any attempt to categorise the acts that the SCC issued in its day-to-day work.

Several scholars have made efforts to subdivide the competences of the SCC, or at least to create a conceptual structure that would serve to encapsulate the various acts issued by the dicastery. In the second half of the 19th century, the German jurist Hinschius opted for a tripartition into legislative *(gesetzgeberische Gewalt)*, judicial *(richterliche Gewalt)*, and administrative *(administrative Gewalt)* power.[119] A century later Varsányi, starting from the classical Aristotelian tripartition and evaluating the characteristics of the Roman Curia, chose a macro bipartition into legislative and executive power, further subdividing the former into *facultas interpretandi* and *dispensandi* (or *iurisdictio gratiosa*) and the latter into administrative, judicial, and

116 See Giovanni Tarello's general definition of *iurisdictio* in Tarello (1976) 53–54. On the concept of ecclesiastical jurisdiction in particular, see Fransen (1971).

117 See Costa (1969) 148.

118 See Prodi (2015) 279–283. See also Wassilowsky (2014) 150–155.

119 See Hinschius (1869) 458.

coactiva.[120] These categorisations are functional but must be carefully managed, and one should avoid considering the separation of these competences as 'watertight'; in fact, it is advisable to be flexible in applying them so as not to get caught up in the rigidity that this schematism inevitably brings with it. One must also consider that the SCC operated for several centuries, in the course of which its attributions certainly did not remain unchanged.

The difficulty of theoretically identifying distinct functions within the SCC also stems in part from the complexity of categorising the acts issued by the SCC itself. These in fact could be the expression of one function rather than another, or even have characteristics typical of several government functions at the same time. Consider, for example, the variety, even if only lexical, by which SCC measures were called: rescripts, *declarationes*, *resolutiones*, general decrees, particular decrees etc. In doctrine, with regard to rescripts for example, Pio Fedele spoke of "amphibious acts" (a sort of hybrid acts) to identify measures that are capable of embodying several functions, to varying degrees.[121] However, this does not prevent these acts from having a prevalent nature that allows them to be distinguished and, as far as possible, categorised.

Having said that, an analysis of the documentation produced by the SCC in connection with the application of the *De rebus regularium non alienandis* revealed that the dicastery in general issued three types of acts: decrees granting licences of alienation, decrees resolving interpretative doubts and finally decrees of absolution for prohibited conduct.

Before moving on to the analysis of these three categories, it is also worth bearing in mind in which territory the *De rebus regularium non alienandis* applied. The decree was effective "intra fines Europa existentibus".[122] This already marked a substantial difference from the *Ambitiosae*, which applied instead "cum ea sit per totum Orbem recepta".[123]

This meant that the *De rebus regularium non alienandis* only abrogated the privileges of religious orders that were valid within European borders while the *Amibitosae* was applicable worldwide; it also meant that, at least in principle, only religious located in Europe were obliged to apply to the

120 See Varsányi (1964) 93–116.
121 See Fedele (1946) 63.
122 AAV, *Congr. Concilio*, *Libri Decret.* 12, f. 185v.
123 Friedberg (ed.) (1959), Extravag. Comm. lib. III, tit. IV, cap. 1, p. 1269.

SCC for licences of alienation.[124] Therefore, the general decree imposed a jurisdictional and territorial limit on a congregation which by nature had no such limit, being endowed with universal jurisdiction.[125] However, distinctions and limitations were always possible.

From the quantitative analysis presented in the first chapter, we have already seen how much the *De rebus regularium non alienandis* had affected the workload of the SCC, at least with regard to the territory of the Marche; although there is still a lack of specific studies on the subject, it is reasonable to think that for other provinces and legations of the Papal States the situation was not very different.

It is not possible to deal with this question here, but studies addressing 17th-century Italian states under regional aspects would certainly be desirable in order to assess the incidence of the *De rebus regularium non alienandis* not only with respect to the workload of the SCC, but also with regard to the society of the time and from a socio-economic perspective.

On the other hand, as far as the territory beyond the Italian peninsula is concerned, a quick glance at the *Libri Decretorum* shows that in the European states, at least from a quantitative point of view, the relevance of the *De rebus regularium non alienandis* was limited. This does not mean that the SCC was not solicited at all; in fact, already in the aftermath of 1624, the dicastery took care of issuing alienation licences for the dioceses of Prague,[126] Krakow,[127] Cologne,[128] and Vienna,[129] to name but a few.[130] What happened outside the borders of Europe remains an open question.[131]

124 See Wernz/Vidal (1935) 190.

125 The aforementioned bull *Immensa Aeterni* entrusted the SCC in general terms with jurisdiction not only over the Papal States, or Rome, but over the entire *christiano orbe*. See Del Re (1988) 504.

126 AAV, *Congr. Concilio*, *Libri Decret*. 14, f. 58v, f. 200r.

127 Ibid., f. 114r, f. 239v, f. 246r, f. 31v, f. 403r, f. 411v, f. 472r, f. 485r.

128 Ibid., f. 704v.

129 Ibid., f. 757v, f. 763r.

130 The practice adopted by religious orders and congregations in the main states of the Old Continent with respect to the principle of inalienability of ecclesiastical property in the modern age still needs to be investigated. Concerning France, see the studies by Ducros (2010).

131 Many questions are still unanswered. To begin with, why did the abolition of the privileges of the regulars only involve European territory? Were there nonetheless bans on alienation in force in non-European territories, given that the *Ambitiosae* still remained

2.3.1 The granting of alienation licences

The main competence, at least in numerical terms, which the SCC exercised through the *De rebus regularium non alienandis* was the power to grant licences of alienation.

If the principle is valid that, as Augustine Borromeo says of the Congregation of Bishops and Regulars, it is the function that creates the body, then the execution of the *De rebus regularium non alienandis*, i. e. the granting of licences to alienate, was the activity that most characterised the dispensative faculty of the SCC throughout the 17th century.[132] In the context of the general workload of the SCC in the early modern age, only the licences granted by the SCC to reduce the number of masses in the context of the commutation of wills equals the licences of alienation in numerical terms.

The *De rebus regularium non alienandis* affirmed two principles: the principal inalienability of the regulars' assets and, at the same time, the obligation to obtain a licence from the SCC in order to be able to alienate those same goods after all. Any kind of contract would have been considered null and void if it had been concluded "absque ipsius Congregationis Concilii expressa licentia in scriptis, et gratis concedenda", i. e. without such licence.[133]

François-Régis Ducros explains that this apparent contradiction was actually the expression of a certain flexibility in the Church's system. The principle of inalienability, sanctioned to safeguard the patrimony of the Church, could be derogated if the aim was to benefit the Church itself, the faithful, and therefore God.[134] This goes back, at least in part, to the common practice of 'dispensation' by the Roman Curia and the societies of the *ancien régime*; an authority imposed prohibitions, but the scope of these

valid? If so, who was competent in this respect? What was the situation in the territories subject to *Patronato Regio*? What was the role, if any, of the Propaganda Fide congregation, which, with the Constitution *Inscrutabili divinae Providentiae* (22 June 1622), had assumed various competences of other Roman dicasteries? Did the *ius missionum* also embrace the inalienability of ecclesiastical property? On the avocation of jurisdiction by Propaganda Fide in the territories of the New World, Africa and Japan, see Bacon (1965) esp. 468. On the relationship between the SCC and Propaganda Fide and their mutual competencies, see Varsányi (1964) 117.

132 See Borromeo (2018) 116.

133 AAV, *Congr. Concilio*, *Libri Decret.* 12, f. 186r.

134 See Ducros (2010) 207–208.

were severely limited by other rules that were introduced at the same time.[135] In the case of the *De rebus regularium non alienandis* everything was wrapped up in a single measure, which embodied Rome's intention to centralise power.

The fact remains that the rationale behind the granting of licences was the benefit and utility that the Church would derive from it.

The dispensation is a special legal institution with ancient roots, which the Church used all the time, both in its internal procedures and in its relationship with external entities.[136] Various organs of the Roman Curia, each according to their sphere of competence, were endowed with the faculty of dispensation; one example is the tribunal of the Apostolic Penitentiary, which in the early modern era, among its many competences, also had the power to grant matrimonial and other dispensations.[137]

From a legal point of view, the instrument of dispensation can be classified in the macro field of gracious (also called voluntary) jurisdiction.[138] Bangen and Hinschius expressly included alienation licences in the *Dispensationsgewalt* (faculty of dispensation) of the SCC, mentioning, among others, dispensations to release someone from the obligation to reside, licences to modify testamentary dispositions etc.[139] In this regard, it should be noted that the term 'licence' is more appropriate for a change that affects solely the patrimonial status of a good, whereas the word dispensation relates to changes that affect the status of persons.[140]

Although Varsányi never expressly mentioned the *De rebus regularium non alienandis*, but only referred in general to the alienation of ecclesiastical

135 See Giovannucci (2016) 372.

136 On the dispensation as a legal institution in canon law, see among others, Stiegler (1901); Couly (1932); Berlingò (1978); Schmoeckel (2011); Kiedi Kionga (2020).

137 Concerning marriage dispensations granted by the early modern Apostolic Penitentiary, see Schmugge (2006).

138 On the dichotomy between gracious and contentious jurisdiction, see Naz (1957); Wacke (1989).

139 See Bangen (1854) 161 and Hinschius (1869) 460. Below is how Naz describes the dispensation power of the SCC in Naz (1949c) 1294: "La S. Congr. du *Concile* peut dispenser du jeûne; de l'abstinence; des conditions requises pour obtenir un bénéfice à la collation de l'Ordinaire; de l'inaliénabilité des biens d'Église, des irrégularités commises dans l'acquisition de ces mêmes biens (compositions); de l'exécution stricte des fondations pieuses; de l'observation du tarif des honoraires de messes, ce qui comporte réduction du nombre de messes à célébrer (can. 250)."

140 See Chironi (2005) 98.

property, he considered the granting of licences by the SCC not a *potestas dispensandi*, but an administrative power and therefore that part of the macro sphere which he called "executive" competence.[141] The same author, however, when referring to licences to reduce the burden of masses, included these in the *potestas dispensandi*.

But then is it a *ius dispensandi* or rather a *ius exequendi*, the right to enforce a rule? Do these two powers contradict each other? These two different categorisations can be traced back to two legitimate interpretations which are not necessarily conflicting but must be contextualised. If we consider the rescripts of the SCC as *legis relaxatio* with respect to the legal-theological principle of inalienability, then it would be more appropriate to speak of a licence. In that case we would be faced with an *ad hoc* suspension of the effectiveness of a rule or principle of general application. It could even be seen as an act that derogates from the existing law and has an effect that is almost *contra legem*. If, on the other hand, we consider rescripts to be acts that comply with the provisions of the *De rebus regularium non alienandis*, which seems to be Varsányi's view, then we are dealing with acts of an executive nature. According to this interpretation, in fact, the rescript would act *sub legem*, since it was the *De rebus regularium non alienandis* that imposed the approval of the SCC as a solemnity i. e. as a legal formality.[142] This interpretative ambiguity is thus the result of two equally valid perspectives. Seventeenth-century legal treatises, for their part, expressly speak of *praxis dispensandis super alienatione bonorum*.[143]

Regardless of whether the particular decrees issued by the SCC should be interpreted as dispensations or execution acts, they both fell within a sphere which in today's terms we would call 'administrative'.[144] Indeed, as legal historians have long pointed out, until the end of the 18th century there was a lexical-conceptual absence.[145] As Luca Mannori has stressed, however, the doctrinal lack of the concept of an 'administrative function', as well as of an administration in the legal sense, does not mean that there is a shortage of

141 See Varsányi (1964) 108.
142 See Varsányi (1964) 106.
143 Corradi (1735b), lib. IX, p. 313.
144 For an overview on the subject, see Hespanha (1990); Mannori (1990); Mannori / Sordi (2001) esp. 1–16.
145 See Mannori (1990) 326.

actual administrative activities.[146] Dispensations, and more generally voluntary jurisdiction measures, can be ascribed to this, albeit nebulous, typology.[147]

By delegating the execution of the rescripts to third parties, the licences of the SCC, as we shall see, triggered actual procedures at the local level that had a judicial 'guise'; this reflected the usual practice of judicial management of power *(amministrar giudicando)* in *ancien régime* states.[148]

2.3.2 Resolving Cases of *dubium alienationis*

The SCC's activity regarding the *De rebus regularium non alienandis* was not limited to the power to grant licences of alienation. The SCC could also be called upon to give interpretations on *dubia iuris* or *dubia de sensu legis* that might arise regarding the *De rebus regularium non alienandis* in the local context. These ranged from technical doubts about the subject matter of contracts or uncertainties about alienation procedures to questions about penalties for violations, and more. From a quantitative point of view, the execution of these competences did not keep the SCC particularly busy, compared to the number of licences they had to deal with. Requests might come from bishops or individual monasteries; sometimes it was the procurator general of an order, on whose role we shall dwell at length later, who approached the SCC motivated by the interest that their whole religious family adhere to uniform criteria in the application of the *De rebus regularium non alienandis*.

Here are some examples. Regarding procedural doubts, in 1666 the superior general of the Dominican Order asked the SCC if it was possible to alienate goods between monasteries of the same order without apostolic approval; to this question the SCC replied on 16th February of that year, giving a negative opinion. The decision of the SCC was later also submitted to the pontiff on 3rd March.[149] The SCC's pronouncement and that of the

146 See Mannori (1990) 416. On the late emergence of administrative law in the canonistic doctrinal debate, see Fantappiè (2012); Sordi (2016).

147 In this regard, see Mannori (1990) 433, 442–450; Schmoeckel (2021) esp. 229. On the dispensation act as an administrative act in canon law, see Baura (1999).

148 See Mannori (1997) 46–53.

149 AAV, *Congr. Concilio*, *Libri Decret*. 25, f. 50v. Pallottini also included the text of the decree in his collection. See Pallottini (1868), vol. I, 394: "Regularium Alienationis. Ut in or-

pope reiterated how any attempt at autonomy on the part of the religious orders had to be promptly rejected in order to avoid a return to the regime of privileges that had weakened control over ecclesiastical patrimony.

Other cases involved enquiries as to whether or not a particular type of alienation was covered by the prohibition imposed by the *De rebus regularium non alienandis*. For example, in 1683 the SCC was asked whether it was permissible for the superiors of religious orders to alienate the goods of oratories and confraternities erected within convents and monasteries without the need for a licence; again, the SCC's response was negative.[150]

The religious communities also sought clarification on whether or not their conduct constituted a violation *(Dubium incursionis in poena)* of the *De rebus regularium non alienandis*. In 1672 a religious had sold silver candlesticks and other furnishings to the value of 400 scudi, without the apostolic approval or that of the superior of his order. The petitioners asked the SCC whether the religious, given the provisions of the *De rebus regularium non alienandis* and the constitution of the order to which he belonged, should

dine PP. Predicatorum Decretum de rebus regularium non alienandis provide per hanc Sacram Congregationem peculiari potestate sibi a S. M. Urbano VIII attributa editum, Religiosi recte impleant; Atque ut magis, magisque explicata ipsius Decreti mente, dubitandi ac proinde errandi auferatur ansa, supplex petit P. Procurator Generalis Ordinis, ut cum eius est interpretari legem, cuius est condere, per hanc S. Congregationem declaretur. An Alienationes, de quibus in prenarrato Decreto agitur, quatenus inter Monasteria eiusdem Ordinis, et quidem cum utriusque contrahentis Monasterii utilitate fiant, ita prohibitae, atque interdictae censeantur, ut absque Sacrae Congregationis Concilii licentia perfici non possint. Sacra Congregatio respondit: ita esse prohibitas. Et die 3 Marti eiusdem anni, facta relatione Sanctissimo, Sanctitas Sua Congregationis sententiam probavit in Regularium alienationis die 27 Februarii 1666."

150 AAV, *Congr. Concilio*, *Libri Decret*. 33, f. 243r–v: "Dubium alienationis rerum ecclesiae. In Monasteriis et Conventibus regularium reperiuntur erecta auctoritate Apostolica plura Oratoria, et Confraternitates Secularium Virorum qui festis, et aliis anni diebus ibidem conveniunt ad christiane pietatis opera exercenda, et quia in eis oratoriis, et confraternitatibus comparata sunt, atque in dies comparantur ex pioru. elemosinis preciosa mobilia, et suppellectilia, que servando servari possunt. Quesitur. An Superioribus regularibus, qui huiusmodi Oratoriis, et Confraternitatibus presunt liceat absque solemnitatibus, et Apostolicae Sedis beneplacito dicta mobilia, et suppellectilia distrahere sine incursu poenarum quae per Sacros Canones sunt praescriptae adversus alienantes res ecclesiae? Die Sacra [Congregatio Cardinalium Concilii Tridentini] respondit Non licere, et incurrere."

be deprived of his office as penalty.[151] The SCC ruled in this case that a declaration made in *foro externo*, i. e. by an ordinary court, was necessary.[152]

2.3.3 Absolution for unlawful alienations

As mentioned, the SCC also had the power to absolve clerics who had carried out illegitimate disposals, i. e. those who had not sought approval in advance but had nevertheless completed the transaction.[153] As a rule, licences had to be applied for in good time *(dispensatio ad faciendum)*, and not after the contract had been concluded *(dispensatio post factum)*.[154]

The SCC had already been granted the power to absolve from censure and to make amnesties of various kinds in 1591 with the breve *Ut Securitati*.[155]

In analysing the role of the SCC with regard to penalties and censures in the field of alienations, one cannot limit oneself to what the *De rebus regu-*

151 AAV, *Congr. Concilio*, *Positiones Sess.* 268, ff. 1372r–1373v. Interestingly, the supplication was initially addressed to the Congregation of Bishops and Regulars (SCVR), and only later forwarded to the SCC. This suggests that the SCC did not share this interpretative faculty with the SCVR, as was the case with the granting of licences and acquittals of punishments.

152 The SCC decree dated 1 October 1672 can be found in AAV, *Congr. Concilio*, *Libri Decret.* 27, f. 510r–v. Here is the full text: "Dubium Incursionis in paenas. Ultra decretum de rebus regularium non alienandis. In quorundam Regularium Constitutionibus, ita decernitur. Praelati etiam cum consensu Capituli generalis, vel sui Conventus, qui census creare, aut bona vendere, aut alienare, aut similes contractus facere (…) fuerint, sint ipso iure Officio, Dignitate, et voce activa, et passiva privati. Eandem quidem Ordinationem, et statutum extendi etiam volumus, et observari decernimus in rebus ecclesiasticis, et aliis pretiosis mobilibus alienandis, ut sunt libri, vestes sacrae, seu paramenta, calices, et huiusmodi, quae etiam in pignus dari non possint. Quaeritur modo. An Praelatus Regularis, qui absque ulla licentia S. Sedis, vel superiorum sui Ordinis oppignoraverit sex candelabra argentea cum disco, et vase ad abluendas manus pro summa scutorum quadrigentorum incurrerit in poenas a dicta Constitutione inflictas videlicet privationis officiorum absque ulla alia declaratione. Sacra [Congregatio Cardinalium Concilii Tridentini] respondit requiri declarationem facti in foro externo."

153 DSE (1842), vol. XVI, 175: "Di assolvere dalle censure, e dispensare dalle irregolarità contratte per non aver fatto i depositi, o i rinvestimenti dentro il termine prescritto nei beneplaciti di alienazioni di beni ecclesiastici, solite ad accordarsi con la comminazione delle pene stabilite contra *alienantes bona ecclesiae*, nel caso che non si adempiano i depositi, o rinvestimenti."

154 See Schmoeckel (2021) 229.

155 See Varsányi (1964) 106.

larium non alienandis provided but must take into account what jurists today would call 'combined provisions'. In fact, as some of the jurisprudential collections of the SCC for internal use show, one must also refer to what the *Ambitiosae* and the Council of Trent had envisaged in this regard.[156]

The *Ambitiosae* had introduced two key elements. First, it had provided for the annulment of any type of contract that had been concluded without observing due solemnity, i. e. without apostolic licence. This meant that the legal transaction lost any and all effect. Secondly, the bull stipulated that the parties to the contract, both sellers and buyers, ran the risk of incurring a sentence of excommunication. For clerics it also established a whole series of spiritual and temporal sanctions, with different degreees of severity according to the titles and offices they held. These ranged from interdiction to enter the church to suspension from the government and administration of churches and monasteries as well as deprivation of benefices.[157]

The canon 11 of Sess. XXII *de ref.*,[158] considered by jurists to be the reception of the *Ambitiosae* within the Council of Trent, provided for the excommunication of those who had usurped ecclesiastical jurisdictions, seizing goods, fruits or *censi* without having any right to them.[159]

Thematically related to the norms just described, canon 2 of Sess. XXV *de reg.*,[160] which, specifically for the regulars, foresaw the impossibility for religious to possess property in their own name or in the name of the convent, established the deprivation of active and passive voice for transgressors for two years, in addition to the possible sanctions foreseen by the constitutions of the respective orders.

The *De rebus regularium non alienandis* for its part specified that the penalties provided for in the apostolic constitutions and in particular in the *Ambitiosae* remained in force.[161] Religious risked being punished *ipso facto*

156 AAV, Sala Indici, S.C.C. Synopsis Resolutionum, 1. (A–F), f. 17v: "Alienantes bona ecclesiarum sine consensu Sedis Apostolicae subiacent poenis contentis in c. 11 Sess. 22 de ref. S.C.T. et Decretis Ecclesie non alienandis. Mileten D. 3.11 Dubium Alienationis rerum Ecclesiarum 7 Augusti 1683. D. 33. 243."

157 Cf. Corradi (1735b), lib. IX, cap. I, n. 24, p. 327.

158 COD 741.

159 See Corradi (1735b), lib. IX, cap. I, n. 9, p. 314.

160 COD 776–777.

161 AAV, *Congr. Concilio*, *Libri Decret*. 12, f. 186r: "[S]ub pena privationis omnium officiorum, quae tunc obtinebunt, vocisque activa, et passiva ac perpetua inhabilitatis ad illa in poste-

by being relieved of their duties and perpetually deprived of active and passive voice.[162] This meant that the monks and friars found guilty could not vote in the chapter and therefore could not hold positions of prominence, but only perform menial tasks in the daily life of the convents.

The general decree also excluded any interference, denying the possibility of superiors general or cardinal protectors of religious orders independently limiting or mitigating penalties.[163] Specifically with regard to the cardinal protectors, who, it should be remembered, performed a function of protectorship of the orders as mediators between them and the papal power, an interesting detail can be noted. The provisions of the *De rebus regularium non alienandis* seem to have met the need that arose between the 16th and the 17th century to limit or at least mitigate the discretionary power of these cardinal protectors, who often exceeded their functions, going so far as to deal with affairs that concerned individual friars and monks.[164] In fact, they had to limit themselves to issues that concerned the orders as institutions. This limitation expressly imposed by the *De rebus regularium non alienandis* on the absolutory faculty of the cardinal protectors, as we shall see, did not prevent them from taking an interest in the administration of the regulars' real estate, so much so that the SCC in some cases delegated the execution of alienation licences precisely to them.

Concluding negotiations without being authorised by the Apostolic See, and therefore in an illegitimate manner, was by no means a merely formal digression because it could open the gates – or be symptomatic – of much more serious violations or misappropriations to the detriment of the Church.

rum obtinenda, quam ipso facto; absque alia acclaratione incurrant; Sublata etiam Generali, et Protectori illam moderandi, aut relaxandi facultate; poenis nihilominus Apostolicarum Constitutionum, et praesertim felicis recordationis Pauli II, qua incipit Ambitiosae, in suo robore permansuris."

162 On the meaning of *ipso facto* penalty, see BC (1890), vol. VI, 217: "Poena, seu lex poenalis latae sententiae in iis, quae aliam exsecutionem externam non requirunt, obligat in conscientia ante sententiam declaratoriam de crimine commisso, nisi lex in specie addat clausulam."

163 See AAV, *Congr. Concilio*, *Libri Decret*. 12, f. 186r.

164 See Witte (2020) esp. 136–141. On the role of the early modern cardinal protector of religious orders, see Giannini (2006a). For an analysis of the emergence of the figure of the cardinal protector as an intermediary between papal power and religious orders, see Andenna (2013).

Who, then, was responsible for acquitting those who had alienated without a licence?

The SCC itself in 1648, when questioned by several procurators general of the orders, made it clear that this faculty did not belong to either the nuncios or the bishops, but was reserved exclusively to the pope and the SCC.[165] This is also easily verified by looking at the many particular decrees that contained absolutions.[166]

Although the matter would need to be investigated further, it seems that petitioners did not turn to the Sacred Apostolic Penitentiary, because these requests for absolution from censure were ascribable to the broader sphere of ecclesiastical alienations. In fact, these kinds of petitions often implied a request to enter into the merits of the transactions, and therefore the SCC was the most appropriate dicastery.[167]

This is also confirmed, for example, by the seventeenth-century jurist Carlo Antonio Thesauro, author of the treatise *De Poenis Ecclesiasticis*, who, examining the complex ecclesiastical practice, attributes the power of absolution exclusively to the SCC.[168]

However, this did not prevent the SCC from delegating absolution or the imposition of penalties to a bishop or cardinal protector once the case had been assessed. Regardless of which route was chosen, the Apostolic See was involved. It must be considered that the SCC evaluated the gravity of the case and the conduct of the guilty cleric; there could in fact be situations that excused or at least mitigated the position of the accused, such as just cause, naivety, ignorance, or errors of evaluation or interpretation of the law; one element that could not be lacking, however, was the good faith of the one who had alienated.[169]

165 AAV, *Congr. Concilio*, *Libri Decret*. 18, f. 541r: "Sacra [Congregatio Cardinalium Concilii Tridentini] censuit Nuntios et Episcopos non posse absolvere regulares incursos poenas in decreto de rebus regularium non alienandis expressas et absolutione spectare ad Sanctissimus et ad hanc Sacram Congregationem dumtaxat."

166 AAV, *Congr. Concilio*, *Libri Decret*. 17, f. 247r: "Sacra [Congregatio Cardinalium Concilii Tridentini] attenta oratoris incuria, benigne illum a quibuscumque poenis et censuris hac de causa incursis absolvit, et in pristinum statum restituat, iniuncta tamen ei aliqua poenitentia salutari per illius Confessarium imponenda."

167 See Belloni (2006) 119.

168 See Tesauro (1769), pars II, cap. VI, p. 82.

169 See Corradi (1735b), lib. IX, cap. VI, n. 17, p. 353.

In this regard, it is interesting to take a look at an affair dating back to 1665, involving Antonio Zaccardi,[170] a Conventual Franciscan friar of the Convent of S. Francesco in Monte Santo (today Potenza Picena, diocese of Fermo).[171] Zaccardi, in order to pay a mason who had carried out work inside the convent, illegitimately agreed to the alienation of a *censo* of 150 scudi, pledging to return the sum to the convent's coffers as soon as possible. Francesco Sartorio from Castelfidardo,[172] provincial commissioner of the Conventual Province of the Marca – appointed by the provincial father – had ascertained that the business had not only been carried out illegitimately, but had also caused the convent to lose incomes and suffer damages. The commissioner then enquired against Zaccardi, accusing him of incurring the penalties provided for by the *De rebus regularium non alienandis*. Zaccardi, for his part, immediately showed his willingness to atone for his sins by establishing an annual annuity (a *censo* of 25 scudi) to return the unduly used money to the convent. Sartorio referred him to the judgement of the SCC, as far as punishment was concerned. In the plea addressed to the SCC, with the enclosed memorial from the commissioner, Zaccardi added in his defence that he had been absent from the convent for several years and thought that the other brothers who had taken part in the transaction had in the meantime compensated the convent.[173] Taking mitigating circumstances into account, the SCC issued a decree on 11 July 1665, referring the matter to the cardinal protector of the Conventual Franciscan Order[174] with

170 Antonio Zaccardi from Montemarciano had been guardian of the convent in Potenza Picena from 1650 to 1665. This information is taken from Merletti (2018) 252.

171 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 31 (F), n. f. [Conventual Franciscan friars, Monte Santo, 1665].

172 I hypothesise that this was Fra Francesco Sertorio (or Sartorio) from Castelfidardo, who in 1636 held the position of Inquisitor of Istria. See the complete list of Inquisitors of Istria in Maračić (2015) 403, 413. See also the description given by Maračić of Fra Francesco Sertorio in Theuli (1655) 83–84: "Magister Franciscus Sertorius de Castro Fidardo, ex provincia Marchiae, fuit Magister Studentium Firmi, post lauream fuit Lector Sacrorum Dogmatum Nepolis, Secretarius Procuratori Generalis de Montono, fuit Inquisitor Generalis Iustiniapolis, Adriae, et Rodigii, tandem Inquisitor Generalis Senarum, nunc Paternitate perpetua suae Provinciae ob (…) labores honorificos, et tranquillitate laetatur."

173 The *positio* contains Zaccardi's supplication, pleaded by the Conventual Franciscan Procurator General Angelo da Sonnino, and in an annex, the memorial by the Conventual Commissioner Sartorio.

174 In the SCC's decree, the name is not given, but it should be Cardinal Flavio Chigi Romano. For the complete list of cardinal protectors of the Conventual Franciscan Order,

instructions to acquit the accused, only after verifying the patrimonial reintegration of the convent, and the infliction of "salutary penalties".[175] There is thus the involvement of the ecclesiastical hierarchy through the use of the institution of delegation.[176] This would seem to contradict what we have reported earlier about the prohibition imposed by the *De rebus regularium non alienandis* on the cardinal protectors to mitigate the penalties for unlicensed alienations. In this case, however, it was the SCC that had ordered and delegated the absolution, and thus any misgivings were taken care of.

Although the SCC claimed to have exclusivity with regard to absolutory power, in 17th-century practice the dicastery actually shared this with the Congregation of Bishops and Regulars (hereafter SCVR). This is shown in the case of two abbesses of the Monastery of S. Anna in Jesi, Girolama Franciolini and Vittoria Colini, who, via the bishop of Jesi, informed the SCVR that they had alienated 250 scudi of monastery property without having a licence. As an excuse, the Benedictine nuns put forward the very poor shape the monastery was in, and informed Rome that they could not even reimburse that sum. They then pleaded with the SCVR to approve this alienation *ex post*.[177] On 15 June 1646, Cardinal Marzio Ginetti,[178] prefect of

see the *Manuale De' Frati Minori Conventuali Di S. Francesco Per Istruzione de' Novizi* (1733) 231–234. On the position of the cardinal protector in the Franciscan Orders, see Da Siena (1940).

175 AAV, *Congr. Concilio*, *Libri Decret*. 24, f. 560v: "Sacra [Congregatio Cardinalium Concilii Tridentini] auctoritate benigne remisit Eminentissimo ordinis Protectori, ut Veris existentibus narratis, et postquam reintegratio Conventus integre subsecuta fuerit, pro suo arbitrio et prudentia petitam absolutione, praevia salutari poenitentia Oratori Gratis impertiatur."

176 On the ability of the cardinal protectors to execute apostolic rescripts or letters, see Penco (1968) 269.

177 AAV, *Congr. Vescovi e Regolari*, *Positiones Monial.* "1646 giugno–settembre", n. f. [Monastery of S. Anna, Jesi, 1646]: "Eminentissimi et Reverendissimi Signori, Sora Vittoria Colini, et Sora Girolama Franciolini Monache professe nel Monasterio di S. Anna di Jesi essendo state Abbadesse in detto Monasterio per mera necessita hanno alienato scudi Docentocinquanta che erano proprietà del detto Monastero le quali essendo afatto impotente di potere reintegrare il Monasterio suplicano humilmente l'Eminenze Vostre a degnarsi di aprovare la detta necessaria allienatione per cautela e salvezza delle loro consienze. Che di tanta carità etc." This source is taken from one of several series of *Positiones* stored in the archives of the congregation of bishops and regulars. From an archival point of view the huge *Positiones* series is not uniformly organised. The existing finding aids are the Index 1104, the *Rubricelle* and the *Protocolli*. Each box contains numerous *positiones*, packaged in envelopes. Each envelope is organised chronologically, according to the deliberative meetings of the Congregation. The *positiones* are in turn sorted alphabetically by diocese of

the SCVR, wrote a letter to Tiberio Cenci, bishop of Jesi between 1621 and 1653, in which he acknowledged the reasons put forward by the nuns, and entrusted the ordinary with the task of absolving the accused from any censure that may have taken place, of inflicting "salutary penances" and of declaring them deprived of active and passive voice.[179] Tiberio Cenci obeyed, executing the rescript.[180]

2.3.4 The Congregation of Bishops and Regulars: overlapping or shared tasks?

The Sacra Congregatio negotiis et consultationibus episcoporum et regularium praeposita was born as a result of the unification in 1593 of two separate organs that had come into being, the Sacra Congregatio super consultationibus episcoporum (1576) and the Sacra Congregatio super con-

origin. In general, therefore, in order to trace the desired *positio*, it is necessary to know the date on which the Congregation discussed that particular matter. If it issued letters or rescripts, the exact chronological reference can be found in the diocesan archives, which usually keep copies of incoming correspondence from the Roman Congregations. For the years 1573–1625, in each envelope there are two distinct groups, *Episcoporum* and *Regularium*. In the *Regularium* grouping there are also papers relating to nuns. Beginning with the year 1626, the *Positiones* series is divided into three distinct sections: Bishops, Regulars, and Nuns.

178 On the figure of Cardinal Ginetti, see Tabacchi (2001).

179 Below is the text of the letter stored in ASDJ, *Classe XXI*, b. 352, n. 405, n. f. [Monastery of S. Anna, Jesi, 1646]: "La Sacra Congregazione ha inteso con dispiacere che suor Vittoria Colini e Suor Girollama Franciolini professe in S. Anna di Jesi, habbiano, mentre sono state Abbadesse, alienato senza la necessaria licenza di questa Santa sede, scudi dugento cinquanta ch'erano di proprietà di quel Monasterio; Tuttavia attese le ragioni addotte in loro discolpa e la compuntione che mostrano dell'errore commesso, le istanze che fanno di essere assolute. Questi Eminentissimi miei Signori sono benignamente condescesi a dare facoltà a Vostra Eminenza di potere assolverle dalle censure, nelle quali perciò fossero incorse, con imporre alle medesime una penitenza salutare, a suo arbitrio e dichiararle prive di voce attiva e passiva a beneplacito della medesima Sacra Congregazione con ammonirle seriamente a guardarsi di non incorrere più in simile mancamento. Si compiacerà in oltre l'Eminenza Vostra d'incaricare alla presente Abbadessa et alle Monache che de primi danari liberi che entreranno al Monasterio, si faccia il rinvestimento effettivo di simile somma in tanti stabili fruttiferi e sicuri. Il che le partecipo di commissione dell'Eminenze loro et io le bacio humilmente le mani di Vostra Eminenza. Roma 15 Giugno 1646. Humilissimo et affettuosissimo Signore M. Cardinale Ginetti."

180 The rescript was processed by the diocesan chancellery on 6 August 1646. See ASDJ, *Classe XXI*, b. 353, n. 405, n. f. [Monastery of S. Anna, Jesi, 1646].

sultationibus regularium (1586). This dicastery boasted so many competences that Menniti Ippolito considers it, together with the SCC and the Congregation of Immunities, to be a sort of super ministry of ecclesiastical affairs, since it was mainly concerned with the ordinary administration of the Church, especially for the Italian territory.[181]

The division of competences between Roman congregations is not always clear and easy to discern, especially since different dicasteries could be assigned the same faculties or tasks. In addition, attributions changed over the centuries as a result of specific or general reforms. Consequently, one must be particularly precise in the analysis, while also making sure that the sources used – in this case the treatises on the Roman Curia – describe precisely the period under investigation.

In the almost unanimous opinion of some authors, there is a close proximity between the SCC and the SCVR, which can be seen above all in the executive sphere, but also in the power they had in common to grant dispensations and licences.[182] These prerogatives were not strictly linked to the power of interpretation, for which the SCC had exclusive competence. Indeed, De Luca specified that:

> Ultras istas partes interpretandi, aliaque decernendi, quae dicti Concilii observantiam concernunt; Et super qua parte interpretativa, aliae Congregationes se non intromittunt, altera verò exequutionis vel observantiae, est cumulativa cum aliis, et praesertim cum proxime sequenti Congregatione Episcoporum, et Regularium.[183]

The subject matters on which both the SCC and the SCVR had to decide were certainly numerous and concerned many areas of the life of Church and clergy, especially the regular one. As Gabriella Zarri rightly pointed out, both dicasteries mainly dealt with the shortcomings that resulted from the hastily drafted *Decretum de regularibus et monialibus*.[184] Niccoló Del Re reported that the SCC and SCVR shared jurisdiction over disputes between secular and regular clergy and over the nullity of religious professions.[185]

181 See Menniti Ippolito (2011) 29–30.

182 Cf. Plettenberg (1693) 681; Zamboni (1812), vol. I, cap. IX, pp. 57–65; Analecta Iuris pontificii (1857) cols. 2260–2266; Varsányi (1964) 122–123. On the fact that the archives of the two congregations often hold records on similar issues, see Menniti Ippolito (2011) 150–151.

183 De Luca (1697), discursus XV, n. 6, p. 310.

184 See Zarri (1986) 399.

185 See Del Re (1988) 370.

With regard to the faculty of granting alienation licences for regular clergy, De Luca first identified in the 17th century that both congregations were vested with this task.[186]

However, looking at the text of the *De rebus regularium non alienandis*, one realises that it exclusively entrusted the SCC with the power to grant such licences.[187]

As the archival evidence shows, competing competence was undeniable and manifested itself not long after the *De rebus regularium non alienandis* came into force. Consequently, there were conflicts of attribution between the two dicasteries.

The SCC in fact considered this sharing of competences illegitimate, so much so that on 9 November 1647 it addressed Cardinal Marzio Ginetti, prefect of the SCVR, thus:

> Sacra [Congregatio Cardinalium Concilii Tridentini] iniunxit Eminentissimo Cardinali Ginetto Praefecto Congregationis Episcoporum et Regularium praesenti, ne in dicta Congregatione in futurum expediantur facultates alienationum, hypothecarum, locationum, et aliorum contentorum in decreto de rebus Regularium non alienandis, cum haec facultas privative expectet ad hanc S. Congregationem.[188]

This intervention proves that between 1624 and 1647, the interference of the SCVR had evidently become so massive that the SCC intervened decisively to reassert its exclusive competence. However, from the archival evidence in both the SCVR and diocesan archives it seems clear that the SCC's complaints did not have the desired results.[189]

Attempts by the SCC to curb this interference by the SCVR continued in the late 17th century. On 1 December 1691, the SCC was forced to issue a new decree on the matter. The superiors and procurators general of the religious orders had complained to the SCC that both the SCC and the

186 De Luca (1697), discursus XVI, n. 20, pp. 313–314: "[I]stud bene placitum concedi solet per organum istius Congregationis [Congregation of Bishops and Regulars], ac etiam per illud alterius Congregationis Concilii."

187 AAV, *Congr. Concilio*, *Libri Decret*. 12, f. 186r.

188 AAV, *Congr. Concilio*, *Libri Decret*. 18, f. 416v.

189 As an example, see AAV, *Congr. Vescovi e Regolari*, *Positiones Regul.* "1676 novembre–dicembre", n. f. [Conventual Franciscan friars, Montegranaro (diocese of Fermo), 27 novembre 1676]. A local procedure *si in evidentem* at the diocesan tribunal of Fermo also resulted from that licence. See ASAF, *Processi si in evidentem*, Montegranaro 28 II (1653–1702), n. f. [Conventual Franciscan friars, Montegranaro, 1676].

SCVR used to refer petitions to the Secretariat of Brevi or the Apostolic Dataria, and this in particular was criticised by the religious because involving the aforementioned dicasteries not only required more time to process the petitions, but this process also entailed high costs.[190] The high-ranking representatives of the regular clergy demanded that the *De rebus regularium non alienandis* be respected and that the SCC and the SCVR rule on the matter. The SCC then issued a decree in response, confirming the provisions of the *De rebus regularium non alienandis*. However, since this was a very important matter, Ranuccio Pallavicino,[191] secretary of the SCC at the time, reported to the pope on the matter. Innocent XII ruled on 4 December 1691,

190 AAV, *Congr. Concilio*, *Libri Decret*. 41, ff. 348r–349r: "Romana Declarationis. Iussu Sanctae Memoriae Urbani Octavi dudum haec Sacra Congregatio Religionum indemnitati consulere cupiens prohibuit, atque interdixit omnibus Generalibus, et Provincialibus Capitulis, vel Congregationibus Abbatibus generalibus, et quibuscumque aliis Superioribus regularibus cuiusquis Ordinis, Societatis, vel instituti omnium rerum, et Bonorum immobolium, ac pretiosorum mobilium alienationem, omneque pactum per quod ipsorum dominium transfertur, census perpetuos, seu vitalitios, hipothecam, locationem, et conductionem ultra triennium, concessionem in feudum, vel emphiteusim, absque expressa ipsius Sacrae Congregationis licentia in scriptis, et gratis concedenda sub poena privationis omnium officiorum vocis active, et passive, ac inhabilitatis ipso facto prout ex annexo huius Decreti exemplari ad literam ex originali dictae Sacrae Congregationis authografo Regesto cui titulus lib. 12 Decr. S.C.C Trid. fol. 185 a tergo. Inviolabiliter abinde citra Decreto huic parverunt omnes Religionum Superiores, et in quocumque casu recurrentes, comprobata evidenti Religionum utilitate petitas licentias gratis reportarunt, quia vero nuperrime nullo alio supervento Decreto in scriptis, huius, et Sacrae Congregationis Episcoporum, et Regularium Secretarii, quando agitur de Contractibus perpetuis, et ad tempus pretendunt, et de facto remittunt expeditiones, vel ad Secretariam Brevium, vel ad Datariam haec exponentes Procuratores Generales Religionum supplicant idem Decretum omnino servari, ut servatum fuit pro praeterito, petita Regularium Beneplacita per simplex Decretum, et gratis extradendo. Die (…) Sacra [Congregatio Cardinalium Concilii Tridentini] censuit, si Sanctissimo D.N. placuerit Decretum praefatum omnimode executioni demandandum esse, ac (…) observandum iuxta illius formam, et tenorem, et facta per Secretarium relatione Sanctissimo die 4.ª eiusdem mensis Decembris, Sanctitas Sua, Sacrae Congregationis sententiam benigne approbavit, et Decretum supradictum (…) confirmavit, ac quatenus opus sit renovari mandavit, ita ut gratis et per Sacram Congregationem Concilii Regularium in eodem Decreto contentorum contractus expediantur." This decree has been cited by several authors in various collections. See Lambertini (1739), t. II, 409–410; Monacelli (1844), pars I, tit. VI, formula XX, n. 31, p. 237; BC (1890), vol. VI, 588.

191 Ranuccio Pallavicino was secretary of the SCC from 1690 to 1696. See Palazzini (1964b) 378.

establishing two principles: the exclusivity of the SCC's competence in issuing licences, and that these licences be free of charge. In fact, the involvement of the SCVR in the granting of alienation licences for regular clergy was indirectly and again rejected. Even this measure, however, did not prevent all that many cases from continuing to be processed by the Congregation of Bishops and Regulars in the 18th and 19th century. This is proved not only by abundant archival evidence, but also through various publications.[192] Cardinal Giuseppe Andrea Bizzarri, who was intimately familiar with the procedures and competences of the Congregation of Bishops and Regulars, as he had been its secretary, published a collection of decrees of the SCVR and confirmed that in 1863 the two congregations still shared the subject of alienations.[193] Many other authors, from Zamboni, Moroni, and Hinschius to Varsányi, also agree on this point.[194]

192 See ASDJ, *Classe XI*, b.182.

193 See Bizzarri (1863) 8: "[I]dcirco ne Religiosi praesertim pauperes cogantur subire sumptus, qui desuper necessarii sunt pro expeditionibus Datariae, vel Secretariae Brevium, istud beneplacitum concedi solet per organum istius Congregationis, ac etiam per illud alterius Congregationis Concilii."

194 Cf. Zamboni (1812), vol. I, cap. IX, p. 60; DSE (1840), vol. V, 93–94; Hinschius (1869) 467: "[S]ie erlaubt ferner die den Regularen verbotenen Veräusserungen in Fällen einer dringenden Nothwendigkeit und eines evidenten Nutzens"; Varsányi (1964) 117.

Chapter 3: The *Iter si in evidentem*: A Voluntary Jurisdiction Procedure

The obligation established by the *De rebus regularium non alienandis* to resort to the SCC had triggered a complex multi-level system of gracious (or voluntary) jurisdiction procedure. On the one hand there were those procedures which we can define as 'ordinary' and which concerned transactions of little importance; the decree of 1624 did not apply to these, and they continued not to require apostolic approval. On the other hand, there were the 'extraordinary' procedures involving the SCC itself.

An explanatory outline is provided below, to enable framing the role of the Roman dicastery within this broad dimension that embraced local and central institutions. The scheme, supported by the archival findings of the dioceses of Jesi and Fermo, certainly has no pretensions to be exhaustive and complete, but it is plausible to assume that the dynamics of alienation were the same or similar at least across the Papal States.

One must bear in mind that although presented here in a deliberately schematic manner, this does not mean that the system was static, rigid and always the same. Indeed, it is impossible to theorise a model that is valid *tout court* in other geographical and political contexts, and applicable to everyone; in fact, differences related to local customs and usages, as well as the singularity and uniqueness of each case, cannot be excluded. It is not necessarily the case that all religious communities, even those belonging to the same order, behave consistently and uniformly. The ways of seeking grace, like justice, in various systems of the *ancien régime* may have been different, which is why generalisations must be avoided.

With this in mind, see the diagram below:

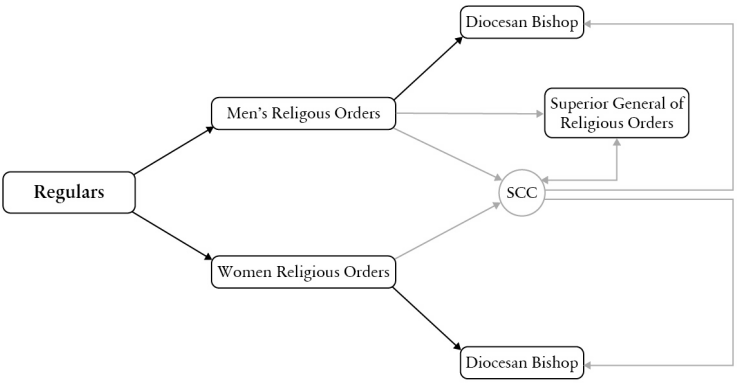


Chart 7: Multi-level system of ecclesiastical alienation procedures (regular clergy).[1]

For minor matters, the regular male clergy could turn either to the diocesan bishop or to the superiors general, probably via intermediaries provided by the provincial system, depending on the orders. As for licences to sell goods up to a certain amount, the quantification of which is somewhat complex and certainly not unequivocal, the (male) religious had to apply to the Congregation of the Council (or to the SCVR).

The regular female communities, in matters of economically negligible transactions, turned to the diocesan ordinary, to whom in most cases they were institutionally subject; for more important matters, nuns and sisters turned to the SCC (or the SCVR).

The third and fourth chapters of this book are devoted to the analysis of that bureaucratic process, traced in red in the figure above, which allowed religious men and women to alienate property belonging to their communities by virtue of a rescript of the SCC.

1 The alienation procedures, both ordinary and delegated, concerning the assets of the secular clergy are deliberately excluded from this diagram, as they are not the subject of this work. These are still lacking in precise historiographic evidence. Suffice it to say that for what have been some very first and provisional surveys, the secular clergy in the ordinary procedure deferred to the local bishop, while the delegated procedure envisaged a passage through the SCC (c. 11 Sess. XXV *de ref.*) or the Apostolic Dataria, who acted as delegating entities.

This long chain that functionally linked various institutions and actors reflected a specific practice. This procedure was mainly structured in three consecutive stages: local chapter stage, Roman stage, and diocesan stage. At the capitular stage, the individual monastery in a local chapter decided to make a transaction and thus began the procedure; the Roman stage encompasses both the phase in which the monastery engaged with its superiors, and the whole phase involving the SCC and concluding with the issuing of the licence. The diocesan stage, to which the fourth chapter of this book will be dedicated, was the one in which the rescript of the SCC, which contained the licence, returned to the local level via the structures of the episcopal government.

In this book, for the sake of practicality, this multi-stage *iter* or "path" is referred to as *iter si in evidentem (utilitatem)*. The expression *si in evidentem*, often distorted into *si in euidentem*, *in evidentem*, *sinevidente*, belongs to the lexicon of ecclesiastical diplomatics.[2]

This term is clearly inspired by the ancient concept of *utilitas*; in fact, as a very interesting study by the legal historian Michael Hoeflich has shown, the notion of *utilitas ecclesiae* goes back as far as the 4th century.[3] Hoeflich in particular identifies the pontificate of Leo I as the period in which this concept, translated from Roman legal language, was applied precisely to the preservation of Church property.[4] The papal chancellery began to use it assiduously, and it became part of the governing language of the Church.[5] From an administrative point of view, safeguarding the material patrimony of the Church also implied a sense of responsibility on the part of those who were entrusted with the management of these assets.

In our case, the key phrase *si in evidentem*, which implied *Si in evidentem monasterii / conventus utilitatem*, was peculiar to the world of ecclesiastical alienations. The noun *utilitas* is joined by the adjective *evidens*, in the sense of clear, manifest. This is the parameter that had to be fulfilled in the SCC's assessment of an economic advantage that would allow derogation from

2 See Verducci (1986) 15. Regarding medieval diplomatic evidence, see the entry "si in evidentem" of the *Lexikon der Papstdiplomatik* in Frenz (2013a).

3 See Hoeflich (1981) esp. 63–71.

4 See Hoeflich (1981) 65.

5 See Hoeflich (1981) 66.

what was prescribed by the *Ambitiosae* and the *De rebus regularium non alienandis*.

In the praxis of the SCC, officials used it, for example, to note on the *positiones* (understood as files) in a hurried manner the subject of the pleas, as well as the decision taken on them. *Si in evidentem* was also the expression to classify a particular kind of apostolic letters.[6] The decree-rescripts promulgated by the SCC or the SCVR and intended for local ordinaries were also called *decreta-rescripta si in evidentem*. The same applied to apostolic briefs or letters *(Breve si in evidentem)*[7] issued by the Apostolic Dataria.[8]

Moreover, diocesan chancelleries, like that of Fermo for example, also used to name the local proceedings held at episcopal tribunals with the same formula: "Processus super evidenti utilitate".[9]

This practice is also reflected in today's inventories of diocesan archives, which identify with the denomination *si in evidentem* those archival series that collect legal cases of this kind.[10]

This formula thus comes to take on a meaning that goes beyond mere linguistic expression; it emerges as a pattern capable of effectively characterising an entire topic as well as an entire legal procedure. It became a category used centrally and locally, spreading effectively in the treatises and formularies of practicians and jurists of the time.

In the present work, the analysis of the three aforementioned stages consistently respects the logical and chronological sequence in which the ecclesiastical institutions issued the individual acts that made up the *iter*. The aim is to provide as linear a view as possible of a system that, at least at first glance, may seem tangled. The description of the individual stages will focus mainly on the leading ecclesiastical institutions, the decision-making procedures of the various levels, and the role and functions of the main actors involved.

6 See De Luca (1673), lib. VII, cap. II, n. 1, p. 12.
7 See De Rosa (1676) 488–490.
8 See Amydenii (1701), cap. XV, n. X, pp. 149–165.
9 ASAF, *Processi si in evidentem*, S. Vittoria in Matenano 60 I (1558–1660), n. f. [Conventual Franciscan friars, 1652].
10 As an example, see the inventory of the diocesan archive of Prato in Bandini / Fantappiè (1999) esp. 126–136.

3.1 Methodology and framework

3.1.1 Methodological issues

The complete historical reconstruction of the *iter si in evidentem*, even of a single case, poses quite a few challenges to the researcher, who has to consider several institutions, and thus multiple local and central archives.

It requires patience and a little luck to duly trace, cross-reference and integrate the documentation in order to recompose the 'mosaic'. As one can well imagine, apart from the problems related to the precarious state of preservation of these records especially in local archives, there was a whole series of methodological issues that had to be addressed in order to offer a satisfactory thematic analysis.

Precisely because of the way the procedure was carried out, an individual case could leave traces in several places: monastic archives (meaning archives of individual convents or monasteries or hermitages), general archives of religious orders, SCC archives, diocesan archives and even notarial archives.

From a methodological point of view, one must first of all consider that the *iter* ended at the diocesan curia; the diocesan archive, therefore, as the place institutionally deputed to preserve the final documentation, also becomes a privileged place for the researcher. The records collected there in fact sometimes make up for gaps in other archives, where for various reasons the intermediate steps of the *iter si in evidentem* left no trace.

Given the manner of the survey conducted for the present work, it was necessary to restrict the scope of analysis to only two dioceses in order to increase the probability of reconstructing complete *itinera*.

In the course of several research visits, it became clear to me that the diocesan archives of Jesi and Fermo offered good guarantees in this regard.[11]

11 For a general overview, albeit outdated, of diocesan archives in the Marche region, see Urbanelli (1984). For an initial survey of the judicial series kept in the Marche diocesan archives, see Osbat (2009). Given that this book will often refer to the sources of the historical archive in Jesi and Fermo, it seems appropriate to provide a brief note on their archival history and structure. Between 1987 and 1992, the Bishop of Jesi commissioned Don Costantino Urieli, diocesan archivist, to reorganise and inventory the historical diocesan archive of Jesi. The reorganisation work retained, as far as possible, the original structure of the catalogue produced by Don Francesco Menicucci in the early 19th century and the index by Don Ezio Balestra dating back to the early 1940s. The archive is

This means first and foremost physical accessibility of the archive, accessibility of the individual archive series, availability of the staff employed, and of course documentary evidence.

Two different contexts also make it possible to find procedural similarities or differences, especially with regard to the diocesan stage. It goes without saying that larger dioceses such as Fermo, with more articulated peripheral government structures, allow the researcher to uncover more details.

Naturally, the choice of diocesan archives resulted in the forced restriction of the investigation to those convents, monasteries or hermitages that existed in that particular geographic-administrative context.

The methodological difficulties also concerned the historiographical level. Historians have, to a degree, neglected the traditional monastic and ancient mendicant orders in the post-Tridentine period, which were considered to be in a waning phase of their historical cycle. Concerning the studies on the modern and contemporary Franciscanism, Giuseppe Buffon speaks of historiographical disengagement.[12] On the other hand, new orders established in the 16th centuy, such as the Jesuits, fully involved in the reformist drive, have aroused the interest of many scholars from various perspectives.[13]

Apart from the obvious differences between monastic, mendicant and regular clerical orders, which will be discussed later, it should be noted that this institutional and constitutional plurality did not constitute a methodological obstacle to an organic approach to analysis.[14]

In the early modern age, a certain tendency towards uniformity in the internal organisation and hierarchies of orders and congregations had been established; this played into the homogenisation activity of the Council of

organised into 25 classes (or series) and has a typewritten analytical inventory, which remains the main finding aid for scholars today: Urieli (1995–1998). In particular on the diocesan archive in Jesi and especially on the vicissitudes of the diocesan tribunal records, see Conversazioni (2009). On the diocesan archives of Fermo, its archival and institutional history, see Tassi (1987) and Romanelli (2026). The finding aids commissioned by Cardinal Urbano Paracciani in the 18th century remain essential for consulting the documentation to this day.

12 See Buffon (2011) esp. 27–57.

13 Several scholars have produced historiographical overviews of studies on religious orders in the early modern age. See in particular Fantappiè (1993) 5–18; Feci / Torre (2005); Motta / Pavone (2005); Giannini (2006b); Rurale (2008) esp. 21–25; Rocca (2013).

14 On the differences in forms of governance of monastic, mendicant and regular clerical orders, see Moulin (1955); Boaga (1971b); Melville (1995).

Trent. In fact, many historians agree that the original differences in governance structures gradually decreased at the beginning of the early modern age, and there was a move towards a common top-down model and centralism.[15]

One thinks, for example, of the territorial subdivision on a provincial basis, the centralisation of decision-making, the prominent role assumed by the headquarters of the religious orders (general curia) and the superior general, the stable representation in the Roman Curia through the procurators general, etc.

This similar institutional physiognomy, as one will see in the following pages, was also reflected in the manner in which friars and monks 'walked' the *iter si in evidentem*.

Analysing different religious communities in the same work undoubtedly poses challenges. One thinks of the lexical richness of the religious nomenclature, the variety of characters that came into play at all levels, up to the normative plurality of the various orders. Each individual monastery in fact had its own local superior, congregation or order of reference, constitution, superior general, procurator general etc. Then there are the inescapable archival problems. As mentioned, the choice of diocese inevitably conditioned the identification of the individual religious communities that were located in that territory at the time. This also had a direct impact on the archives to be consulted. In the attempt to come to grips with the monastic archives of religious communities in the Marche region, one encounters several obstacles. Bernacchia, for example, regarding the Cistercian archives in the Marche, used the apt term of "dispersed Marche" to indicate a geopolitical context that had suffered heavy depletion, which in turn severely hampered the possibility of wide-ranging research.[16] This expression could also be extended to many other orders. This is largely due to a long phase at the end of the 18th and throughout the 19th century; during this troubled phase for the peninsula, considerable damage was caused to the archival and cultural heritage of the numerous religious communities scattered throughout the Papal States, first through the Napoleonic suppressions and then by *leggi eversive*, laws enacted by the new "liberal" Italian state to suppress

15 This opinion is shared by Penco (1968) 239; Boaga (1982) 114–115; Fantappiè (1993) 52–53; Landi (2005) 29; Battistoni (2017) 21.

16 See Bernacchia (2018) 379.

religious orders and confiscate their property.[17] In the Marche region, the suppression of religious orders and the subsequent confiscation of their real estate was already implemented in 1861 by the Extraordinary Royal Commissioner Lorenzo Valerio.[18]

The monastic archives were in fact partially destroyed, or at best dismembered, experiencing varying fates and fortunes, as was also the case for cloistered libraries.[19]

Depending on the case, the material ended up either in the state archives where the religious community was physically located, or in the provincial (where existing) or general archives of the respective orders, or even in municipal historical archives.[20] For example, the Fermo State Archive in its *fondo aggregato* entitled "suppressed religious corporations" – a typical heading commonly used in state archives throughout Italy – preserves as many as 70 archival pieces originally belonging to numerous religious institutions, especially mendicant ones, once present in the Fermo area. Looking at the chronological details of these records, however, it is immediately clear that they cover a rather short and recent time span, compared to the ancient origin of the ecclesiastical institutions.

3.1.2 Selected cases: an institutional and constitutional framework

The tables below, which show the licences issued by the SCC regarding the religious communities present in the dioceses of Jesi and Fermo in the period 1624–1681. For the diocese of Jesi, the 38 particular decrees are divided as follows:

17 On the historical vicissitudes surrounding the confiscation of religious property by the new Italian state, see Romanato (2007).

18 On the figure of the commissioner, see Polverari (1978). See also, by way of example, an analysis of the suppression of the Friars Minor in the Marche region in Brocanelli (1974).

19 For an overview of the state of Italian religious archives, see Boaga (1999); Bustreo (2007).

20 See Andrea Cicerchia's study on the Camaldolese records stored in the State Archives of the Marche region in Cicerchia (2016). For the province of Macerata, see the work of Avarucci (1982).

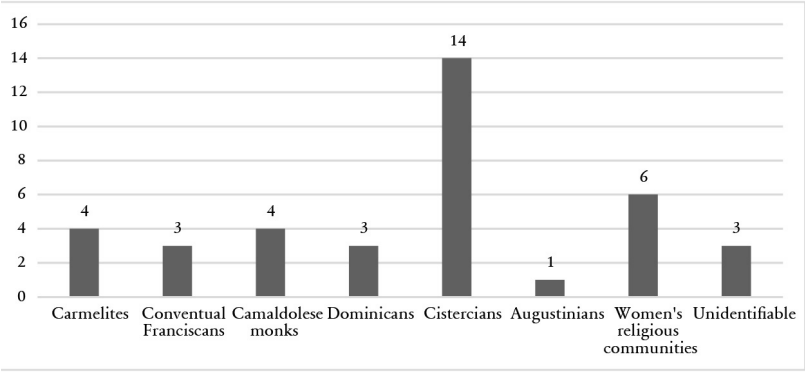


Chart 8: Quantitative survey of cases concerning the *De rebus regularium non alienandis*, processed by the SCC in the Jesi area for religious orders and congregations (1624–1681).[21]

21 Men's communities: the Dominican friars of the Convent of San Domenico in Jesi; Augustinians of the Convent of Sant'Agostino (or San Luca) in Jesi; Cistercian monks of the Abbey of S. Maria in Castagnola at Chiaravalle; Carmelite friars of the Convent at the Santuario delle Grazie in Jesi; Conventual Franciscan friars of the Convent of S. Floriano in Jesi. Four cases refer to Camaldolese communities, but unfortunately, the *Libri Decretorum* do not specify the exact beneficiaries of the licences. By cross-referencing the data extracted from the *Libri Decretorum* with those of the *Positiones*, I have been able to match two cases with certainty: Coronese hermits of the Eremo delle Grotte in Cupramontana (1 case), Camaldolese monks of Monastery at the Church of S. Lorenzo in Cupramontana (1 case). The two remaining cases could refer either to the communities just mentioned, or to the Camaldolese monks of the Abbey of Beato Angelo (or Santa Maria in Serra) in Cupramontana, or to the Camaldolese monks of the Parish of S. Salvatore in Poggio Cupro. –Women's communities: Franciscan Monastery of S. Caterina in Cupramontana (2 cases), Benedictine Monastery of S. Anna in Jesi (1 case); Poor Clare nuns *(Clarisse)* of the Monastery of S. Chiara in Jesi (2 cases); Poor Clare nuns *(Clarisse)* of the Monastery of Santissima Annunziata in Jesi (2 cases). For an overview of religious settlements in the Jesi area in the 17th century, with important references also to the suppression of some of them following the Innocentian suppression (1652), see Urieli (1986) esp. 497–498.

There are 334 decrees for the diocese of Fermo:

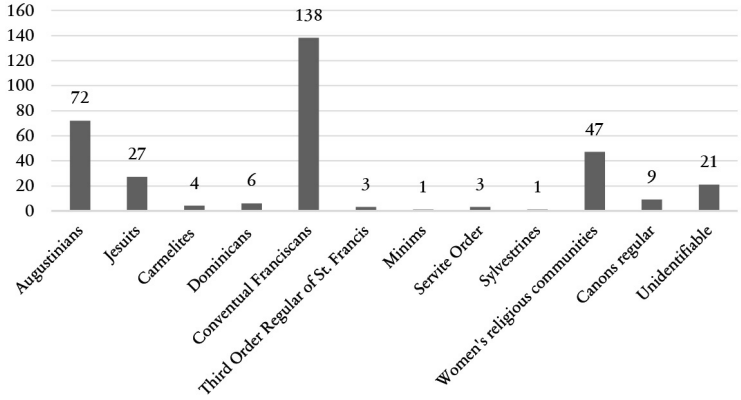


Chart 9: Quantitative survey of cases concerning the *De rebus regularium non alienandis*, processed by the SCC in the Fermo area for religious orders and congregations (1624–1681).

Given the large number of religious communities in the Jesi and Fermo districts, it was necessary to select only a few that were adequately representative of the institutional plurality of the regular clergy, on the basis of the orders: monastic orders, mendicant orders and clerics regular. The following paragraphs will list the individual religious settlements used in this work, providing the necessary historiographical information about the institutional set-up of the respective order or congregation to which they belonged, and the diffusion of the latter in the Marche region during the reference period.

At the same time, whenever possible, indications will be given as to the actual reception of the *De rebus regularium non alienandis* in the corpus of norms of the various religious families, in order to hopefully provide a more effective normative framework. Without any claim to be exhaustive or systematic, since not all the congregations promulgated or renewed their constitutions after 1624, the following pages are an attempt to understand how far the *ius proprium* of each order was open to the general provisions of the SCC.[22]

22 On the process of the formation of the *ius proprium* of the various religious families, see, among others, Lemoine (1976); Fantappiè (1994b); Melville (1997).

The term *constitutiones* has taken on various meanings over time, ending up designating different things. In an all-encompassing sense it can mean the entire legislative corpus of an order or congregation; in other cases, it can denote the normative acts that regulated only institutional and governmental structures, and in still others it has been used to connote those that are simply additional statements concerning the original 'Rule', the fundamental guiding principles, of the order in question.[23]

From the 15th century onwards, constitutions in the abovementioned form of the legislative corpus of a monastery became widespread. They were considered a special category, in terms of content and form, and were structured in two parts. The first part contained the *declarationes super regulam*, i. e. the various pronouncements of the order's institutional bodies above the Rule, which sometimes are improperly referred to as 'constitutions'. The second part comprised the actual constitutions, also called *Ordinationes* or *Institutiones*.[24] Precisely because they were often subject to periodic updating, as well as to the approval of the Holy See, and because they served as a form of adaptation of the fundamental Rule to the more contingent and day-to-day issues of the various communities, the texts of the constitutions proper offer a fairly accurate view of the *status quo*. They are particularly useful for the purposes of this work, as they often show what the guidelines of the various orders were regarding the administration of goods and therefore also in relation to alienations. What was contained in the constitutions was in fact binding on all the communities that were part of that same religious family.[25]

3.1.2.1 Monastic orders

Beginning at the end of the 14th century, the widespread phenomenon of the Observant reforms, i. e. the drive towards a return to the original ideals

23 It is customary to divide the normative sources of religious orders mainly into three categories: *Regulae*, *Consuetudines* and *Statuta*. On this, see Melville (2005).

24 See Witters (1976).

25 For the purposes of the complex search for normative references for individual orders and congregations, see the aforementioned work by D. Osler, which brings together in a specific section a list of all the editions of juridical works published in Italy between 1601 and 1700 about statutes of religious orders and congregations. See Osler (2009b) 449–493.

from the time the various orders had been founded, had engendered profound reforms throughout the world of the regular clergy. The proliferation of religious communities with their own rules of communal living and devotion also brought about institutional changes.[26]

For the ancient monastic orders, this was closely linked to the foundation and development of numerous 'modern' monastic congregations, i. e. federations of monasteries linked by a common observance. This process, which historiography identifies as the congregational revolution, and which manifested itself between the 15th and 16th centuries, had started from the experience of the Cassinese Congregation (1408).[27] The model that emerged at that juncture was later replicated in 11 other monastic congregations, leading to significant institutional changes.[28] These religious families could also, as in the case of the Camaldolese Order, have further sub-branches within them, as we shall see.

The main characteristics of the congregations, which also determined their success, could be summarised as follows: centralisation of decision-making in the hands of the general chapter and the superior general, a unitary and centralised governance structure, functional organisation into territorial districts (provinces), rotation and temporariness of offices, and the end of the perpetuity of the office of abbot.[29]

This impulse was fostered by the Council of Trent, which had mandated that all religious communities be framed within orders and congregations. In fact, as Penco points out, by the 16th century, male monasteries were all incorporated into a congregational system.[30] The top-down model was also functional to the centralising and controlling action of the Roman Curia.

26 See Elm (2001).

27 On the European monastic model that emerged from the Cassinese Congregation, see the results of a recent conference in Furlan / Trolese (eds.) (2022).

28 The 12 monastic Congregations present in the Italian states were: *Congregatio Casinensis*, *Congregatio Lateranensis*, *Congregatio Sanctissimi Salvatoris* (also called *Renana*), *Congregatio Sanctae Mariae Montis Oliveti*, *Ordo Cartusiensis*, *Congregatio Canonicorum Sancti Georgii in Alga Venetiarum*, *Congregatio Vallis Umbrosae Ordinis Sancti Benedicti*, *Ordo Hospitalis Sancti Johannis Ierosolimitani*, *Congregatio Camaldulensis*, *Ordo Cruciferorum*, *Ordo Cisterciensis*, *Ordo Coelestinorum*.

29 See Fantappiè (1993) 72. Cf. Landi (2005) 18.

30 See Penco (1968) 252.

This long process of statutory change also involved the numerous monastic centres, both cenobitic and eremitic, scattered throughout the Marche region.

Since the Middle Ages, the territory between Umbria and Marche had known a rich spread of religious families united by their spiritual belonging to the ancient *Ordo* of St. Benedict. One thinks, for example, of the Camaldolese experience and the related Avellanite branching, as well as the Olivetans, the Silvestrines and the Cistercians.[31]

The present work specifically made use of the case studies concerning some Camaldolese and Cistercian communities.

In the 17th century, when it was at its most widespread, the Camaldolese Order comprised five congregations, four eremitic and one cenobitic.[32] The eremitic congregation of Monte Corona originally known as the *Compagnia degli Eremiti di S. Romualdo* (or *Compagnia di S. Romualdo*) was officially founded in 1524, on the initiative of Paolo Giustiniani, who had detached himself from the original nucleus of the Holy Hermitage of Camaldoli. The institution was organised into five 'nations': Ecclesiastical, Venetian, Neapolitan, Polish, and German-Hungarian.[33] The Ecclesiastical nation counted 12 hermitages, three of which were located in the Marche region.[34]

The present work analyses some cases of alienation related to the Hermitage of S. Romualdo at Massaccio (Cupramontana, diocese of Jesi), commonly called *Eremo delle Grotte* (hermitage of the caves) because it was built, or rather, dug into the tuff mountains.[35]

31 It is not possible to cite here the enormous bibliography produced on all the religious orders just mentioned. See, among others, Spinelli (2008).

32 See Heimbucher (1987), vol. I, 319. For an overview of the Camaldolese Order in the modern age, see Croce / Fossa (eds.) (2015). The eremitic Camaldolese congregations: Congregation of Camaldoli, Congregation of Monte Corona, Congregation of Piedmont, and Congregation of France. The cenobitic Camaldolese congregation: Congregation of S. Michele da Murano.

33 On the Coronese congregation, see Lugano (1908).

34 On the Camaldolese Hermits of Monte Corona in the Marche region, see Croce (2008). These were the hermitages: the Hermitage of S. Romualdo at Massaccio (today Cupramontana, diocese of Jesi), the Hermitage of S. Benedetto and S. Pietro at Monteconero (diocese of Ancona), the Hermitage of S. Leonardo al Volubrio (Montefortino, diocese of Fermo), and the Hermitage of Monte Giove (diocese of Fano).

35 For more on the history of the hermitage, see Tesei (1985); Mariano (1997). The archives of the hermitage suffered heavy depletion and dispersion as a result of the ups and downs that characterised the individual community as well as the entire Coronese family between the 18th and 19th centuries. The surviving documentation is partly located in the

From an institutional point of view, the entire congregation, and therefore also the aforementioned hermitage, went through a turbulent period between 1634 and 1667, which was characterised by the attempt to unite the three hermitic camaldolese congregations; this ended with a final separation on 24 October 1667 at the behest of Clement IX.[36]

As far as the constitutional sphere is concerned, in 1524, during the course of their general chapter, the Coronese hermits had endowed themselves with the "Istitutione eremitica" (or "Regola della Compagnia di S. Romualdo").[37] In 1669, following the aforementioned unsuccessful attempts at unification, they drafted new constitutions during another general chapter, which were approved by Clement IX.[38]

In these constitutions, which were officially published in 1670, one can find the reference to the *De rebus regularium non alienandis* in the first part concerning the commentary on the Rule of St. Benedict[39]

At the time, the Marche region also comprised other settlements belonging to the Camaldolese 'trunk', but incorporated within the cenobitic branch, namely the congregation of S. Michele da Murano.[40] Officially cre-

Historical Archive of the Municipality of Cupramontana, as an aggregate fonds. Since no updated finding aid is available, we must necessarily rely on the only information that can be found in the Unified Information System for Archival Superintendence (SIUSA) file, updated in 2008. The fonds consists of 15 pieces (11 volumes, 3 registers and 1 envelope) and covers a period from the 16th century to 1840. The collection is divided into 9 series. In general, with regard to the methods of citing archival documentation, I will provide the old reference number and any information useful for identifying the archival unit (volumes and registers). As already mentioned, the material, which does not appear to have been physically reorganised, has suffered a significant depletion compared to what may have been its original consistency. In order to reconstruct the archival history of the archive of the Hermitage, it would be necessary to compare it with the material (about 60 units) preserved in the Coronese General Archive at the Hermitage Tuscolano (Monte Porzio Catone, Frascati), today the seat of the Coronese General Curia. The surviving heritage of the ancient hermitage library is located in the municipal library of Cupramontana.

36 See Lugano (1908) 398.

37 See Lugano (1908) 173.

38 See Lugano (1908) 404–410.

39 Regola di S. Benedetto e Costitutioni della Congregatione degli Eremiti Camaldolesi di Monte Corona (1670), pars I, cap. III, p. 30.

40 For an effective historical reconstruction of the institutional events that characterised the cenobitic Congregation of S. Michele da Murano, see Fornaciari (2005).

ated in 1616, this congregation was divided into four provinces: Veneto, Tuscany, Romagna and Umbria-Marche.[41] In the Marche province, among others, was the Monastery of S. Biagio located near Fabriano; one case study concerning this religious house has been analysed in this work.[42]

With regard to statutory aspects, these monasteries belonging to the congregation of S. Michele da Murano used the constitutions published in 1649 as a normative reference for the period under consideration, but these were simply a reprint of those of 1572 and therefore do not provide any particular indications on the implementation of the *De rebus regularium non alienandis*.[43]

An accurate and interesting work by Fiorenzo Landi has attempted to shed light on the financial state of the Camaldolese cenobitic monasteries in the mid-seventeenth century, and on the patrimonial strategies they applied.[44] The congregational organisation required the individual communities to regularly pay their dues to the congregation to which they belonged, which formed a large part of the Holy See's 'spiritual' budget.[45] Landi noted that on the one hand, the cenobitic communities in the Marche region – including S. Biagio – were heavily indebted and unable to make the payments due to the mother congregation. On the other hand, as he pointed out, there existed solidarity mechanisms, albeit insufficient and limited to the provinces of the congregation in the Papal States, through which the most prosperous monasteries tried to make up for the shortcomings of others.[46]

Besides the Camaldolese presence, the Marche region was also home to several communities belonging to the *Ordo Cisterciensis*. The Cistercian

41 See Penco (1968) 259.

42 Regarding the presence of the Camaldolese cenobitic monks in the Marche region, see Fornaciari (2008). I am not aware of any specific historiography on the monastery of S. Biagio. On the church pertaining to the monastery, see Facchini (1925). The original archives of the Monastery of S. Biagio were transferred to the State Archive in Rome, specifically in the section *Corporazioni religiose.* In this regard, see Gabbrielli / Parasassi (2009) 114–115.

43 There are only a few general references to the practice of alienation in the text of the constitutions. See in this regard In Regulam Divi Patris Benedicti Declarationes; Et Constitutiones Patrum Ordinis Camaldul. (1649), liber I, esp. 42–43.

44 Landi (2015).

45 See Landi (2015) 74.

46 See Landi (2015) 79–81.

movement, whose foundation can be traced back to 1098, the year of the first settlement at the Mother House in Cîteaux *(cistercium)* in France, underwent a fruitful expansion in the Italian territory; specifically, the spread in Italy derives from the proto-Abbey of Clairvaux, one of the four primary French abbeys.[47]

The Cistercian presence in the Marche region dates back to the 12th century, with the Fiastra Abbey (S. Maria di Chiaravalle di Fiastra) as its first settlement, and reached its greatest expansion between the 12th and 13th centuries, with no fewer than nine communities.[48] Among them was the Abbey of S. Maria in Castagnola at Chiaravalle, nestled between the dioceses of Jesi and Senigallia.[49] Due to a lack of sources, historians cannot agree either on the date of the first monastic settlement, which probably was Benedictine, or on the precise date of the Cistercian foundation, probably at some point in the first half of the 12th century.[50] Inhabited by the Cistercians not always continuously throughout its history, Castagnola Abbey owed its name to the fact that it was located near a forest of oak trees *(castagnole)*.

The Cistercian communities were usually led by an abbot (cloistered), who in turn appointed a prior and a bursar *(cellerario)*[51] to take care of day-to-day affairs, including those of a patrimonial nature. Castagnola Abbey also applied the typical Cistercian community farm management methods,

47 See Lekai (1975).

48 On the Cistercian presence in the Marche region, see, among others, Viti (1982); Adorisio (2008). For a historiographical overview of studies on the cistercians in Italy, see Cattana (1986).

49 On the Monastery of S. Maria in Castagnola, see Scolari (1976); Amatori (1994). The original archive of S. Maria in Castagnola has undergone quite a few ordeals that have at least partly compromised its integrity, especially the oldest part. Some residual pieces have been placed in the section *Corporazioni religiose* at the Macerata State Archive. The largest part of Castagnola Abbey's original archive was relocated to the Monastery of S. Croce di Gerusalemme in Rome following the definitive departure of the Cistercians from Castagnola Abbbey in 1985. On the misfortunes that befell these archival, see Adorisio (2008) 240–241. Nowadays, the monastery archive, together with archives of other Italian Cistercian communities, is part of the General Archive of the Cistercian Order of St. Bernard in Italy, located at the Abbey of Chiaravalle Milanese. The entire archive is currently being inventoried by Dr. Matteo Savoldi, whom I thank for allowing me to inspect the documentation.

50 See Viti (1982) 128–129.

51 The other religious communities frequently used the term "economo".

i. e. *grange*, farms subject to the monastery; they made use of religious who had not taken vows *(conversi)* to render plots of land productive by tilling fields or reclaiming marshland.[52]

After the most prosperous and productive phase, Castagnola Abbey was subjected to the regime of commendatory as early as 1408, which meant that the patrimony of the abbey came under the control of commendatory abbots, often cardinals, who were not linked either to the abbey centre or to the Cistercian family. This juridical institution, widely used by the papacy to stabilise balances of power inside and outside the Curia, in fact led to a strong disempowerment of the prerogatives of cloistered abbots and priors of individual monasteries; Castagnola was not an exception. The Council of Trent had attempted to curb the excesses of the commendatory regime but with little result (c. 21 sess. XXV *de reg.*[53]), until a century later, in 1654, Innocent X repealed the commendatory jurisdiction over the religious family of the monastery. In many contexts, this led to a separation of the *mensa*, namely between the monastic (or conventual) and the abbey *mensa*, the former administered by the cloistered abbot, the latter by the commendatory abbot. However, judging from admittedly scant information, apparently in Castagnola Abbey, in the period covered by this work, this separation did not occur. In any case, it seems that throughout the 17th century there was no shortage of financial difficulties to make the maintenance of the monasteries a challenge.[54]

With regard to the institutional set-up, it is important to emphasise two elements.

From the 16th century onwards, Castagnola Abbey was formally abbey *nullius*, i. e. an administrative-ecclesiastical unit separated from the neighbouring diocesan territories. According to Polverari, since the monastery was endowed with the care of souls, it was subject to the bishop of Senigallia, as the Council of Trent had foreseen (c. 11 Sess. XXV *de reg.*[55]).[56]

With regard to the practice of alienations, the status of *nullius* did not exempt the monastery from having to apply to the SCC for licences, nor did

52 See Villani (1984) 24–25. On the organisation of the cistercian communities, see Rapetti (1999).

53 COD 783.

54 See Amatori (1994) 22–25. Concerning the "commenda" as as a tool of governance, see Rosa (2000).

55 COD 780.

56 See Polverari (1988) 507.

it prevent that dicastery from delegating the bishops of Jesi and Senigallia (depending on the case) to deal with such affairs.

The second element concerns the fact that the Cistercian family, too, in order to cope with the decadence that characterised many Cistercian communities in the early modern age, adopted the structure of modern monastic congregations.[57]

In the 17th century, all the Cistercian houses on the Italian peninsula were organised into two main congregations: the Roman Cistercian Congregation and the Cistercian Congregation of S. Bernardo in Italy. Each of these had their own structures and decision-making bodies, although they were formally dependent on the General Chapter of the Order and the Abbot of Cîteaux.

Castagnola Abbey was involved in the complex institutional and therefore constitutional changes that intertwined these two institutions. Between 1623 and 1660 Castagnola had in fact been incorporated into the Roman Cistercian Congregation, created on 6 April 1623 by Gregory XV with the brief *Sacrosanti Apostolatus ministerio*.[58] During that time, the Abbot *Preside* (or *Presidente*) of the entire congregation also resided in Castagnola.[59]

The Roman Cistercian Congregation was partially reduced in size in 1652 (constitution *Instaurandae regularis disciplinae* of Innocent X), and then definitively suppressed in 1660 (breve *Pastoralis Offici* of Alexander VII), so much so that all the monasteries affiliated to it, including Castagnola, became part of the Tuscan province of the Congregation of S. Bernardo in Italy.[60]

These intertwined institutional steps also had consequences for the constitutional references of the Monastery of Castagnola. During the period when the abbey was incardinated into the Roman Cistercian Congregation, it was subject to the constitutions approved by the Holy See on 2 October 1643.[61]

57 See Adorisio (2008) 232.

58 See Zakar (1997) 260. The text of the bull is given in Tamburini (1650) 423–424.

59 See Pacchierini (1990) 308.

60 Ibid. The Congregation of S. Bernardo in Italy had been founded in 1497 and reformed in 1630 by Urban VIII, who separated the Italian congregation from the French one and structured it into two provinces: Tuscany and Lombardy. On the history of the Congregation of S. Bernardo in Italy, see Cattana (1997).

61 See Zakar (1997) 260. Luca Molignini tracked down this constitution at the Vittorio Emanuele II National Library (*Sessoriano*, ms. 434, Constitutiones Congregationis Romanae, f. 252v). See Molignini (2015) 306. The *Fondo Sessoriano* collects the manuscripts that

After 1660, however, Castagnola Abbey, now subject to the Congregation of S. Bernardo in Italy, had to submit to the constitutions valid for that congregation and issued in 1641.[62] These included the full text of the *De rebus regularium non alienandis* as an annex, which represents a clear reception of the general decree of the SCC in the *droit cistercien.*[63] This open reference to the principle of non-alienability was not reiterated in the later 1668 constitutions.[64]

3.1.2.2 Mendicant orders

As far as mendicant orders are concerned, with reference to the Franciscan family, the present work has mainly used alienation cases of convents belonging to the Order of Friars Minor Conventual of St. Francis, commonly known as Conventual Franciscans *(Conventuali)*.

The famous bull *Ite Vos* of Leo X in 1517 had sanctioned the definitive institutional separation of the two Minorite families; on the one hand the Observant Friars Minor, proponents of a lifestyle more adherent to the original Rule, and on the other the Conventual Friars Minor, whose life of poverty according to their own principles had long been mitigated thanks to papal privileges.[65] This split, now enshrined in law, came at the end of the golden age of the phenomenon of Observances which had so strongly affected the Franciscan order. The Marche context subsequently experienced further splits, as the cases of the reformed Friars Minor (1532) and the Capuchins (1528) demonstrate.[66]

belonged to the Cistercians of S. Croce di Gerusalemme and came to the National Library in Rome at the end of the 19th century. See Trasselli (2018) 229–231.

62 See Regula S. P. N. Benedicti Abbatis, Una cum Constitutionibus Monachorum Congregationis S. Bernardi in Italia (1641). On the long gestation process of the 1641 Constitutions see Trasselli (2007) 823–825. For a complete collection of all the Constitutions issued for the Congregation of St. Bernard in Italy, see Andrés Gutiérrez (ed.) (1998).

63 See Regula S. P. N. Benedicti abbatis, Una cum Constitutionibus Monachorum Congregationis S. Bernardi in Italia (1641), 137–139. On the codification of Cistercian law, see Bock (1956).

64 See Andrés Gutiérrez (ed.) (1998) 209–361.

65 On the historical evolution of the Minorite Order, see Heimbucher (1987), vol. I, 718–724.

66 Concerning the Friars Minor Observant in the Marche context, see the rich and comprehensive bibliographic collected in Raia (2018). On the evolution of Franciscanism in the Marche, see Pellegrini / Paciocco (eds.) (2001).

However, from an institutional point of view, as Fiorenzo Landi has pointed out, in the mendicant system the new religious groupings had not arisen in the monastic sense, but as a sort of internal duplication.[67] In fact, the mendicant orders in general already provided for a centralised, top-down model, with a branched structure split into provincial units below which there were further local groupings *(custodie)*. The various Franciscan branches, albeit with some differences, maintained a rather similar internal hierarchical organisation with regard to the governance of their respective bodies.[68] The provinces remained a link between the centre and the periphery, and unlike the monastic congregations, they were true intermediate governing structures, especially for the Conventual Minors.[69]

Conventual Friars Minor were particularly widespread in the Marche province, also known as *Provincia Marchie Anconitanae*.[70] The number of communities, organised into seven 'custodie' *(Ascolana, Fermana, Camerte, Anconetana, Aesina, Fanese, Feretrana)* increased considerably during the 16th century and reached a peak of 103 in the mid-17th century.[71]

As far as the *Aesina* custody is concerned, this work has made use of the alienation cases concerning the Convent of S. Floriano in Jesi.[72] With regard to the custody of Fermo, see the list in the footnote.[73]

67 See Landi (2005) 19.

68 For a quick overview of the historical-normative evolution of the entire Franciscan Order and for an effective and schematic summary in a comparative key of the different governance systems for Observants, Conventuals and Capuchins, see Etzi (2005) esp. 157–179.

69 See Fantappiè (1993) 82.

70 From the chapter of July 1643, held in Osimo, the conventual province changed its name to *Provincia almae domus lauretanae*. On the history of Conventuals in the Marche region, see Parisciani (1982).

71 See Spagnoli / Gallia (2017) 117. The work is a study based on the *Provinciale Ordinis Fratrum minorum S. Francisci* (1771) written by Antonio Maria Righini, which provides detailed information on the Franciscan provincial organisation and the convents belonging to each custody.

72 On the convent of S. Floriano in Jesi, see Parisciani (1996).

73 I have used cases concerning the following convents: S. Francesco in Fermo, S. Francesco in Monte Santo (nowadays Potenza Picena), S. Francesco in Montegranaro, S. Francesco in Sarnano, S. Francesco in Mogliano; S. Francesco in S. Angelo in Pontano and S. Francesco in Montegiorgio. I have also used cases concerning the Convent of S. Francesco in S. Vittoria in Matenano, which, although officially part of the Ascolan custody, depended on the bishop of Fermo in cases of alienation. The archives of each convent now mentioned are part of the Archive of the Marche Province of the Friars Minor Conventual,

In matters of patrimonial management, the Conventuals differed from the Observants and Capuchins in that it was possible for them to own goods in common; it is reasonable to think, therefore, that the principle of inalienability played a significant role in the internal dynamics of the administration of temporal goods.[74]

In this regard, it should be noted that the *De rebus regularium non alienandis* became part of the *ius proprium franciscanum* to all intents and purposes. In fact, the Conventuals incorporated the general decree into their Constitutions approved by Urban VIII in 1628.[75] In the text of the Constitutions, which remained in force with due modifications and updates for almost three centuries, one finds the procedure to which the individual convents had to adhere, with explicit and precise reference to the decree of the SCC.[76]

In this regard, Gustavo Parisciani has pointed out that the weak point of this Constitution of 1628 was the fact that the guardians of the convents could borrow money, albeit with the necessary guarantees, and that this had led to the convents being heavily in debt. The SCVR intervened to declare that this provision was not to be understood as a derogation of the *De rebus regularium non alienandis*.[77]

once located at S. Francesco alle Scale (Ancona) and recently transferred to the new premises at the Convent of S. Giuseppe da Copertino in Osimo (Ancona). Concerning this move, see Carletti (2021). As a result of the well-known events surrounding the suppressions at the end of the 19th century, unfortunately the records of the convents suffered heavily from deterioration and dispersion, with the pre-18th-century documents suffering the most.

74 Concerning the inalienability of book patrimony and, more in general, the Franciscan legislation for the management of conventual libraries with particular regard to the Minor Conventuals of the Marche, see Bocchetta (2008) esp. 269.

75 Constitutiones Urbanae Fratrum Ordinis Minorum Conventualium S. Francisci (1628). For an in-depth analysis of the long gestation phase of these constitutions, see Parisciani (1984) 384–425.

76 Constitutiones Urbanae (1628), cap. IV, tit. II, n. 23, pp. 144–145: "Alienationes autem, et permutationes Bonorum immobilium, et pretiosorum mobilium nemo attentare praesumat, nisi quando in evidentem cedant Conventus utilitatem, et commodum, et tunc servatis conditionibus, et solemnitatibus requisitis iuxta sacros Canones, et Pontificias Sanctiones, ac Sacr. Congr. Conc. Decret. sub die 7. Septembris 1624 emanatum, seu alia in posterum emananda."

77 See Parisciani (1984) 395–396.

In order to provide an overview of how the *De rebus regularium non alienandis* was also applied in the female religious communities, the present work has used case studies concerning the Second Franciscan Order, the Poor Clare nuns *(Clarisses)*.[78]

In particular, the cases concerning the Monastery of S. Chiara in Jesi and the Monastery of S. Chiara in Fermo have been considered.[79]

Although the female branch of a religious order was linked to the male one from a spiritual point of view, they were – especially after the Council of Trent – often dependent on the bishop's jurisdiction, especially in the peninsula.[80] This meant that the constitutions governing the internal organisation of individual religious communities were often 'donated' by the local bishops.[81]

On these very occasions, the local ordinaries therefore also regulated the more purely patrimonial sphere. For example, on 5 November 1668, on the occasion of his visit to the Monastery of S. Chiara, Cardinal Alderano Cybo-Malaspina (1613–1700),[82] Bishop of Jesi (1656–1671), donated the *Constitutioni per le Monache di S. Chiara di Jesi*, also giving precise indications on how the transactions involving monastery property were to be carried out. The constitutions show that the bishop used to elect so-called 'sindaci' from among the gentlemen of the city, who were required to assist the monasteries of nuns, especially in administrative and economic matters, such as the purchase of plots of land, permutations with licence from the SCC, the purchase and extinguishment of *censi*, and various contracts:

> I Sindici, che in numero di quattro dovranno essere eletti dal Vescovo tra Gentiluomini della città dè più prudenti, e caritativi, si contenteranno (come sono pregati) di far carità di assistenza, e opera al Monastero, e Monache; e singolarmente nelle cose seguenti, cioè Nelle compre dè Predii, e stabili: ò permute di essi con

78 On the spread of the Poor Clares in the Marche region, see Parisciani (1995); Marano (1997); Sensi (1998).

79 For a brief description of the Fermo and Jesi monasteries, respectively, see Parisciani (1995) 74 and 77. The Monastery of S. Chiara di Fermo belonged to the Observant Friars Minor of the Marche; see in this regard Talamonti (1938) 120.

80 With regard to the female branches of the monastic congregations, exceptions were the Celestine, Cassinese and Camaldolese nuns, who also depended on the male line in terms of jurisdiction. See Lunardi (1990) 526.

81 For a case study, see Zarri (2012).

82 See Stumpo (1981).

licenza della S. Congregazione. Nelle compre di censi e estintioni di essi: in tutti gli altri contratti, che occorreranno celebrarsi.[83]

In addition to cases from the variegated Franciscan family, this book also analyses some cases concerning another mendicant order, namely the Carmelite Order.[84]

The presence of the Carmelites in the Marche dates back to the second half of the 15th century, when the Congregation promoted a restructuring of the existing provinces, creating *ex novo* the *Provincia della Marca Anconetana*, also called *Provincia Romagnolo-Picena*. By the middle of the 17th century, there were around two hundred religious in total for the entire Marche district.[85]

In Jesi, the convent at the *Santuario delle Grazie* founded around 1486 – which housed the Carmelite Friars of Ancient Observance ('with shoes', or *calzati*) – was counted as one of the main spiritual centres of the province as well as the seat of the novitiate.[86]

With regard to the way their patrimony was managed, the Carmelites, through the *Constitutiones fratrum Ordinis beatissimae Dei genitricis Mariae de Monte Carmeli*, approved during the General Chapter of 1625, incorporated the practice established by the *De rebus regularium non alienandis* into their own regulations.[87]

3.1.2.3 Clerics regular

Among the regular clergy, one must also count a number of new orders, such as the Jesuits, Theatines, Barnabites, and Somaschi, to name but a few, which arose and expanded considerably from the 16th century onwards.[88]

83 The text of the printed edition of the Constitutions can be found in ASDJ, *Classe IV*, b. 87, vol. 93 [Costitutioni per le Monache di S. Chiara di Jesi]. The reference to the alienation praxis is on page 80 of the Constitutions. This small, practical book, intended for daily use, has a handwritten note (ownership note) on the frontispiece, which tell us that it belonged to sister Agata Maria Baleani.

84 See Heimbucher (1987), vol. II, 54–95.

85 See Boaga (2006) 78–79. On the Carmelite presence in the Marche, see also Sabatini (1964).

86 See Boaga (1981).

87 See Constitutiones fratrum Ordinis beatissimae Dei genitricis Mariae de Monte Carmeli (1766), pars I, cap. II, n. 9, p. 4.

88 For a general overview of the ecclesiastical context in which regular clerics emerged, see Fois (1989).

They had a close relationship of dependency with the papacy, and centralised internal structures that reflected this top-down institutional organisation.

This work will refer exclusively to some cases concerning the Jesuit family.[89] This order quickly became the major representative of Catholic renewal, not least because of its strong closeness to the papacy, to which it was bound by a special vow of loyalty. The Jesuits skilfully inserted themselves into the networks of society at the time, enjoying particular success in the field of youth education and contributing to a large extent to the formation of the European elite, both clerical and secular, thanks to the widespread diffusion of its prestigious colleges.[90]

The Jesuits had a flexible administrative organisation, with divisions on a national basis *(assistenze)*. Each *assistenza* comprised several provinces, and the Italian peninsula was divided into *sicula*, *neapolitana*, *romana*, *mediolanense*, and *veneta*. The Marche had numerous Jesuit institutions.[91]

From a normative point of view, the Jesuits did not have a Rule, in the canonical sense of the term; the basis of their system was a *formula vitae* (or *institutum*) approved by the Holy See. The normative corpus of the Jesuits consisted mainly of the *formula*, the Constitutions of St. Ignatius, the *regulae*, and – as for other orders – the decrees and canons promulgated by the general congregations (general chapter) as well as papal norms (*ius pontificium*). All these normative sources constitute the *Institutum SJ*.[92]

The Jesuit Order consisted of professed houses *(domus professae)* and colleges. From an economic and patrimonial point of view, these were subject to different regimes. While the members of the professed houses, who had taken a vow of poverty, lived on alms, the situation in the colleges was quite different: Jesuit colleges were endowed with annuities from the time of their foundation in order to ensure their safe and lasting operation; in addition, the members had the advantage of holding goods privately, like seculars, but

89 It is not possible to enclose here the seemingly limitless historiography on the Jesuits. See, among others, Pavone (2021).

90 See Po-chia Hsia (2009) 48.

91 In the Marche region there were the following Jesuit colleges: Macerata (1561), Montesanto (1574), Recanati (1575), Loreto (1580), Ancona (1598), Fermo (1611), Ascoli (1612), Fabriano (1629), and Fano (1674). For an overview of Jesuit sources concerning the Marche and held in the Jesuit General Archive (ARSI), see Danieluk (2010).

92 See Rocca (1983) 1435–1437.

also collectively.[93] This made them particularly prone to accumulation of resources and more unconstrained management compared to the rigidity of other orders. The main sources of income for Jesuit colleges were legacies and annuities, house and land rents.

The high degree of Jesuit accountability and management practices achieved excellent results, also due to the dissemination of efficient manuals, which circulated among colleges throughout Italy. One thinks for example of the *Trattato del modo di tenere il libro doppio domestico col suo essemplare* written by the Jesuit Lodovico Flori in 1636, or the *Instructio pro administratione rerum temporalium collegiorum ac domorum probationis Societatis Jesu* (1649) by Valentino Mangioni.[94]

In the management of all businesses, as Francesco Renda noted, the various communities, although they were endowed with a fair degree of autonomy, were subject to the apex responsibility of the superior general.[95] With regard to alienations, prior to 1624 the Jesuits benefited from specific privileges that allowed the superiors general to carry out patrimonial business without special limitations in the various Jesuit colleges and houses scattered around the world, as is evident from the provisions contained in the *Compendium privilegiorum et gratiarum SJ*.[96]

Archival evidence shows that after 1624, the requirement of obtaining authorisation from the SCC also applied to the Jesuits. In particular, the present work has made use of case studies concerning the College of Fermo and the College of Montesanto (today Potenza Picena) belonging to the Romana province.[97]

3.2 The local chapter stage

Before moving on to the description of the first phase of the procedure *si in evidentem*, which took place in the local context, it is appropriate to provide some brief information specifically on the ordinary management of temporal goods within the individual religious houses. Orders and Congregations

93 See Poidomani (2001) 307. On Jesuit property in modern Italy, see Guasti (ed.) (2013).
94 Cf. Quattrone (2004) 664–665.
95 See Renda (1974) 70–71.
96 Compendium privilegiorum, et gratiarum societatis Jesu (1584) 16–19.
97 On the settlement of the first Jesuits in Fermo and the subsequent opening of the college, see Curi (1880) esp. 74–75.

had over time established specific positions, to whose holders ordinary administration tasks were usually delegated.

If we look at the Conventual Franciscans for example, we note that the local chapter commonly appointed three officials *(officiales)* who would have distinct roles in the government of the convent. The *depositarius* was tasked with drawing up the inventory of the convent's goods and providing for the proper storage of money and precious goods in a chest *(in arca trium clavium)*. The *dispensator* (or *expensor*) was allowed to use the money for daily expenses, appropriately recording any movements in the *liber expensarum*. The *exactor*, on the other hand, had the task of collecting and claiming money, income and credits due to the convents and monasteries. Convents received fruits of the land, such as wheat, wine, oil, meat, eggs, flax, wool, etc., as well as alms. In order to diligently record the money that was added to and subtracted from the treasury, the constitution required that a *liber Aerarii* be kept in each convent. From time to time, the guardian of the convent would then sign the entries that were recorded in this register.[98]

There was also the position of the procurator, who was mainly involved in the management of plots of land, buildings and rents; they had to take care of the goods and act promptly so that their value would not decrease. This is how the provincial chapter of the Marche Conventual Minors, celebrated in 1622, described this role: "Procuratoris partes erunt praediorum, edificiorum, et similium curam gerere, necessaria tempestive conquirere, ne publice res damnum aliquod patiantur, curare, vicissimque omnium commodo, et utilitate prospicere."[99]

These procurators were therefore the first to see the most pressing needs; they might, for example, find that some lands had low yields and that it was therefore more profitable to sell them. They were the first to realise that a grant of emphyteusis had to be renewed, or that the rent for a property had to be raised.

Beyond these players, however, the focal point of the convent's property management (and thus also of its alienations) was the convent chapter.

The local chapter stage was the initial decision-making moment of the *iter si in evidentem*. It was in fact the expression of the deliberative autonomy and

98 See Constitutiones Urbanae (1628), cap. IV, tit. II, pp. 137–143.

99 Acta in Capitulo Provinciali Ord. Min. Conventualium Provinciae Marchiae (1622) 26.

strong collegiality that shaped the constitutional structure of individual religious communities.[100]

This institution, which to borrow from the Franciscan lexicon we could also call conventual chapter, had assumed a very important role in the early modern age, especially in economic, administrative and financial matters.[101] The Constitutions governed the conduct of these assemblies, regulating in detail who was entitled to attend, when and in what manner these meetings were to take place, and above all what matters were to be discussed there. These assemblies were presided over by the local superior, who, depending on the religious family, could be called abbot, prior, guardian, rector, etc.[102] He was responsible for convening the chapter when there were particularly important matters that required a collegial decision. In the case of the Coronese hermits, for example, this convocation was marked by the ringing of the bell, "per lo spatio di un Miserere con dieci tocchi in fine", and was attended by priests and clerics who had been professed for at least a year, as well as visitors.[103] Those present each had to express their opinion and then vote secretly.

The local chapters usually deliberated, albeit with distinctions according to the individual orders and congregations, also on matters of a patrimonial nature. In this regard, it may be interesting to see what the constitutions of the Conventual Franciscans provided. The brothers congregated in the local chapter could not only discuss and examine the expenses to be incurred, but also decide to rent out agricultural land, houses and goods of the convent, or to constitute *censi* in favour of the convent:

> Possunt autem hi omnes praedicto modo legitime congregati rationes expensarum, quae quotidie a Conventus Officialibus fiunt, examinare, ac supputare, ex illique admittendas admittere, reiiciendasque reiicere. Possunt Agros, Fundos, Praedia, Domus, aliaque huiusmodi ad Conventum quomodolibet spectantia bona ad triennium dumtaxat locare, annuos census ad favore Conventus constituere, servatis servandis.[104]

100 See Lesage (1975) 174. On the concept of collegiality in the governance of the religious, see Moulin (1954).

101 See Penco (1968) 249.

102 See DSE (1855), vol. LXXI, 52.

103 See Regola di S. Benedetto e Costitutioni della Congregatione degli Eremiti Camaldolesi di Monte Corona (1670), pars I, cap. III, pp. 28–30.

104 Constitutiones Urbanae (1628), cap. VIII, tit. XLIX, p. 321.

In order to closely analyse this phase, a case from 1660–61 involving the Camaldolese Cenobitic Monastery of S. Biagio in Fabriano (at the time diocese of Camerino), and the Camaldolese Coronese hermitage in Cupramontana (diocese of Jesi) is particularly useful.

The court file, traced among the records of the Coronese Hermitage kept in the Municipal Historical Archive of Cupramontana, reports the case of these two communities belonging to the great Camaldolese family (albeit in two separate congregations), who intended to make an exchange of their respective lands.[105]

The minutes of the meeting of the Coronese local chapter held on 2 November 1660 reveal that Prior Vincenzo[106] submitted for discussion the need to make an exchange that would have consequences for the hermitage's common patrimony.[107]

105 ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], ff. 180r–194v. The archival unit in question probably belongs to the 'Cause' series; the volume, which shows clear signs of damp, has been refurbished with a new paper cover and bears the following inscription, added recently: 'Correspondence of the White Friars Hermitage'. It consists of deeds concerning the assets of the hermitage located in various places (*Rosora*, *Retorscio*, *Sasso* etc.), which were subsequently bound to form a single volume. Unfortunately, the original foliation of the sheets is inaccurate and contains errors; however, I have adhered to it in order to provide as precise a reference as possible. The file entitled "si in evidentem permutatio" is nothing more than a copy of an entire *si in evidentem* procedure held at the bishop's tribunal in Camerino. Exceptionally, the dossier also contains the transcripts of the meetings of the chapters of both the hermitage and the monastery. It is conceivable that the original dossier is kept at the Archdiocesan Historical Archive in Camerino, which is now, however, inaccessible due to the earthquake that hit central Italy in 2016.

106 In the Coronese Congregation, the dignity of abbot was not usually used to indicate the superiors who governed the hermits, but that of prior. See Regola di S. Benedetto e Costitutioni della Congregatione degli Eremiti Camaldolesi di Monte Corona (1670), pars I, cap. II, pp. 26–27. As is often the case, the indication of the monastic name alone, sometimes followed by the place of birth, makes it difficult to identify the individual monk, especially in the absence of repertories on the priors of individual monasteries.

107 ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], f. 182v: "Adì 2 novembre 1660. Convocato il Capitolo nel luogo solito et a suono. Il Molto Reverendo Padre D. Vincenzo Priore propose, che essendosi altre volte trattata permuta d'alcuni terre lavorative, ma separati, che quest'eremo delle Grotte possiede nella pertinenze del Poggio Cupo, in contrada le Rancore [or Rancora], con altre delli Monastero Reverendi Padri Monaci Camaldolesi di S. Biagio di Fabriano nella Contea di Retorci [or Retorscio] in loc. le Cerquetelle, parte arativa, e parte selvata, senza conclusione, et havendo il suddetto Molto Reverendo Padre Priore ripreso il

The 1670 Coronese Constitutions provided for decisions of this kind to be put to a vote, and stipulated that the subsequent approval of either the Coronese General Chapter or the Diet was required; alternatively, the procedure involved approval by the Father General or the Visiting Fathers.[108] In both cases, the subsequent consent of the Apostolic See was considered indispensable.[109]

Such a decision-making process also took place in the Cenobitic Local Chapter of the Monastery of S. Biagio. On 13 November 1660, Abbot Pietro Gallina[110] expounded, albeit briefly, the same details of the matter before the chapter fathers.[111]

trattato, sperarebbe concludere con evidente utilità di quest'Eremo, quando fosse giudicato bene dal presente Capitolo, quale havendo odito li pareri, e trattati con periti, passati e lette le stime, et appassi fatti ultimamente da huomini eletti d'ambe le parti, attesa l'utilità, et anco l'inquietudine de nostri lavoratori ben spesso travagliati da Fitti carii, o Fattori de detti Padri Monaci, per esser detti loro beni fra posti tra nostri della possessione delle Cerquetelle (che farebbe un bel corpo) con altri nostri vantaggi: dopo longo discorso, con tutti li voti favorevoli, per segreta, et canonica ballottazione, li conclusi, si facesse quanto prima detta permuta servatis servandis. Et parimente con tutti li voti, come sopra, fu fatto et costituito Procuratore ad effettuarla, secondo le stime, et appassi fatti dagl'huomini comunemente eletti il Molto Reverendo Padre D. Vincenzo Priore sopradetto. Ita est D. Valentinus de Mecerata scriba Capituli manu propria."

108 The Visiting Fathers were high-ranking figures within the Coronese monastic hierarchy; their office was mainly one of control and corrections of hermitages and monks, especially on the occasion of regular visits.

109 Regola di S. Benedetto e Costitutioni della Congregatione degli Eremiti Camaldolesi di Monte Corona (1670), pars I, cap. III, p. 30: "[C]irca le quali alienationi 'osservino in ogni modo l'infrascritte cose: cioè, che si proponghi prima nel Capitolo Conventuale distintamente l'alienatione, si haverà da fare, e accettato il partito dalla maggior parte de voti, dopo si porti al Capitolo Generale, o alla Dieta, o infra anno al P. Maggiore, e Visitatori; da quali rispettivamente approvato, e confermato detto partito, se ne procuri poi in Roma la debita licenza; avertendosi, che non si faccia l'instrumento dell'alienatione prima dell'assenso Apostolico, o se si fa con la riserva di detto assenso, non si dia il possesso prima che sia ottenuto l'assenso Apostolico."

110 Brief notes on Petrus Gallina can be found in Mittarelli (1764), t. VIII, liber LXXVII, p. 395.

111 ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], f. 182r–v: "Adì 13 Novembre 1660. Il Reverendo Padre D. Pietro Gallina Abbate di S. Biagio di Fabriano Congregazione camaldolese espose alli Padri del suo Monastero di S. Biagio, cioè al Padre D. Alessio Rizzotti Priore, al Padre D. Giacinto da Udeni, al Padre D. Adriano dalla terra Serra S.Quirico, al Padre D. Gioseppe Maria de Cerreto, al Padre D. Filippo da Sassoferrato, al Padre D. Girolamo da Bologna, al Padre D Gio. Maria da Venezia, et al Padre D. Clemente da Jesi, tutti capito-

The Camaldolese Cenobitic Constitutions also emphasised that exchanges, as well as other types of transactions, must first receive the approval of more than a majority of the local chapter.[112] They also provided for procedural distinctions based on the value of the business.[113]

The minutes from the 1660 chapter meetings show that this was not the first time the two communities had tried to agree on an exchange of some of their land, but that previously no mutually satisfactory agreement had been reached.

The *si in evidentem permutatio* would have benefited both parties, and in particular the Coronese hermits, who would have been able to unite previously separate possessions. They would have exchanged some of their lands located in the 'contrada' (municipal district) *le Rancore* (or *Rancora*) near Poggio Cupro (diocese of Jesi), while the Camaldolese monks would have exchanged their lands in the area around the castle of Rotorscio (also referred to as *Retorscio*, or *Rotoscio* or *Retorsio*, near Serra S. Quirico, at the

lari, che essendosi più volte trattata una permuta con li Padri Eremiti delle Grotte del Massaccio di certe terre contigue alli beni del suddetto Monastero di S. Biagio con evidenti utilita d'ambedue le parti, trattandosi di unire le terre spezzate: […]. Tutti li suddetti Padri nemini discrepanti diedero il loro consenso. Io D. Adriano Honorii, Procuratore del suddetto Monastero Cancelliere de Mandato."

112 In Regulam Divi Patris Benedicti Declarationes; Et Constitutiones Patrum Ordinis Camaldul. (1649), liber I, pp. 42–43: "[N]omine rerum precipuarum volunt Patres intelligi, alienationes omnes bonorum immobilium, permutationes, emptiones, locationes ad longum tempus, institutiones procuratorum, et ea omnia, quae secundum Sacros Canones, si fierent a Prelato, sine omnium fratrum, et Capituli consensu, et voluntate, nullius essent, valoris. Quae inquam omnia (sic exigente horum temporum qualitate) antequam praeponantur universo Capitulo, volunt mature tractari cum senioribus primum, deinde cum reliquis Monachis in Capitulo; et si a maiori parte, ultra medietatem, probabuntur, tum essecutioni mandari, et non aliter, nec alio modo. Nomine vero rerum minorum, pro quibus exequendis debet Abbas uti tantum consilio seniorum, volunt Patres intelligi, locationes bonorum annuas; […] iudicium discreti Abbatis."

113 Ibid., p. 43: "Ordinaverunt praetera, et inviolabiter servari mundaverunt, ut nullus Praelatus, aut Monasterium possit bona immobilia alienare, aut ad emphiteusim tradere, excedentia valorem vigintiquinque aureorum, absque speciali licentia Reverendissimi Difinitori, quam licentiam non possit Praelatus petere, nisi prius rem cum senioribus tractaverit, et deinceps cum omnibus vocem habentibus in capitulo. Quantum vero ad bona immobilia minoris precii XXV aurerorum quomodolibet ad Monasterium devoluta, ut iterum locentur, sive vendantur, sufficiat licentia Patris Generalis, aut Vicarii Provinciae; accedente nihilominus consensu in his, et aliis alienationibus, si opus fit, Sacro Sanctae Sedis Apostolicae, et fiant cum timore Dei."

time belonging to the diocese of Camerino), more precisely in the contrada called *Cerquetelle*.[114]

Prior to this exchange, the Coronese hermits had had the land under discussion appraised.[115] The technical evaluations by the experts allowed the fathers gathered in chapter to have an overall view of the issue and consequently also of the benefit that each community would receive from the successful conclusion of the agreement. Fortunately, the minutes of these technical expert reports are also part of the dossier. The first document, dated 16 August 1660, is the transcript of an estimate of the economic value of the four plots of land involved in the exchange, made by Nicolò di Marco from Poggio Cupro on behalf of the Camaldolese monks, and by Simone d'Alessandro, also from Poggio Cupro, on behalf of the Coronese hermits.[116] It should be noted that the value was initially expressed in florins, and would later be converted into *moneta romana*, hence into scudi, when the relevant plea was submitted to Rome.[117]

In the file there is also the transcript of two deeds, both dated 30 October 1660, in which Filippo Martinelli from Poggio Cupro (an *appasatore*, i. e. someone carrying out the measurements), attested that he had made an estimate (expressed in *canne*[118]) of the surface area of all the plots of land

114 The castle of Retorscio is nestled between the territories of Serra S. Quirico, Cupramontana and Apiro, in today's province of Ancona. On this place name and its origins, see Castagnari (ed.) (1990) 259–262.

115 ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], f. 182v.

116 Ibid., f. 183r. Below is the text of the estimate:
"Adi 16 Agosto 1660. Nicolò di Marco dal Poggio Cupo huomo eletto dal P. D. Girolamo Governatore della Badia della Porcarella [today Poggio S. Romualdo] a stimare certe terre delle sue nel territorio di Retorscio, et Simone d'Alessandro dal Poggio Cupo, homo eletto dal P. D. Vincenzo Priore delle Grotte a stimare dette terre, et anco le terre sue nel Poggio Cupo, li quali dicono in sua coscienza, che vagliono, come sarà notato qui sotto. In prima nel territorio di Retorscio appresso li beni delli Padri Eremiti, selvati, et seminati, che vagliono fiorini sessantacinque la soma. dico £ 65. Et un'altro pezzo di terra appresso li detti Padri pure a fiorini sessantacinque la soma. Nel territorio del Poggio Cupo delli Padri Eremiti nella contrada del Cereto, o Ranine appresso li Padri Camaldolesi et Sig. Nicolò Rossi, la via comune da capo e da piedi fiorini cinquanta la soma. dico £ 50. Ibi un altro pezzo di terra in detta contrada appresso li beni di Tommaso di Leonardo, et altri lati, di prezzo pure di fiorini cinquanta la soma. dico £ 50. Io Fabiano Fabiani di commissione."

117 Ibid., f. 181r. On the coins in circulation at that time in the Papal States and their equivalences, see Urieli (1986) 293–294.

118 1 *canna di terra* = 16m^2. See Urieli (1986) 294.

in question.[119] In this case, a single technical expert had been mandated by both parties.

The Coronese Constitution stipulated that in cases of alienation a majority vote was needed.[120] The Coronese hermits, after careful consideration, voted in favour, through a secret ballot *(ballottazione)* as was the custom in the local chapter.

The Monastery of S. Biagio also agreed to the exchange.

The local chapter stage, which ended with these votes, was a prelude to moving on to the next stage, that of sending the licence application, by way of supplication, to the SCC.

What is interesting is that already at this early stage it was considered fundamental by chapter members to achieve a patrimonial benefit for their community. The judgment on the evident usefulness of the contract, clearly expressed in both chapter sessions, was in fact already requested and promoted by the local governing body of the individual monastery, well before the SCC's evaluation. This meant that the local chapter was a key part of the decision-making process.

119 Below is the measurement of land in the *Retorscio* area: ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], f. 183r: "Adi 30 ottobre 1660. Io infrascritto eletto d'ambedue le parti, fo fede a chi spetta d'haver misurato un pezzo di terra delli Monaci Camaldolesi di Fabriano territorio di Retorscio in contrada delle Cerquetelle, appresso li beni da quattro lati, li Padri Eremiti delle Grotte del Massaccio di canne doicentoventitre. C. [canne] 223. Ibi un pezzo di terra delli detti Monaci Camaldolesi in detto territorio in contrada delle Cerquetelle, apresso li beni da tre lati li detti Padri Eremiti delle Grotte dal'altra la via (…) di canne tremilatrecentoventiquattro C. [canne] 3324. Io Filippo Mantinelli dal poggio Cupo Appasatore." – Below is the measurement of the land in contrada *Rancora* near Poggio Cupro: ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], f. 183r–v: "Adi 30 d' ottobre 1660. Io infrascritto fo fede à chi spetta d'haver misurato un pezzo di terra delli Padri Eremiti di S. Romualdo delle Grotte del Massaccio in territorio del Poggio Cupo in contrada del Rancora appresso li beni da una il Sig. Nicola Colino, dall'altro Tomaso di Leonardo, da piedi il fosso, da capo la via (…) canne cinquecento C. [canne] 500. Ibi un pezzo di terra delli suddetti Eremiti in detto territorio in contrada del Rangora, appresso li beni da una il Sig. Nicolò Rossi, e Baldo di Gregorio, dall'altra li beni della Chiesa di S. Salvatore delli Monaci Camaldolesi della Badia di S. Biagio di Fabriano, da piedi, e da capo la via comune, di canne mille quatrocento novanta uno C. [canne] 1491. Io Filippo Martinelli dal Poggio Cupo Appasatore."

120 Regola di S. Benedetto e Costitutioni della Congregatione degli Eremiti Camaldolesi di Monte Corona (1670), pars I, cap. III, p. 30. On the electoral and deliberative techniques of religious orders, see Moulin (1998).

The SCC, when taking over the case, not only recognised that the supplicants had complied with the correct procedure, but also took note of the assessments that the clerics had previously made at the local level.

As evidence of the relevance of local chapter considerations, the case presented here as an example shows an important element.

The technical expert's reports showed a difference in value between the two pieces of land that were the objects of the exchange; this would have meant a loss for the Cenobitic monks. In this regard, in the joint supplication that was later sent to the SCC, the Coronese hermits committed to paying additional money to the Monastery of S. Biagio, so that the exchange would be fairer. The monks of S. Biagio, in turn, in the same petition, asked to use this money to pay off the debts (chamber fee) that their monastery owed to the Apostolic Chamber[121] The exchange of land owned by two Church entities required that the evident usefulness be guaranteed to both parties.

Both local chapters instructed their respective procurators to carry out the business.[122]

The petition sent to Rome was approved by the SCC on 29 January 1661.[123] Subsequently, a procedure at the Episcopal Tribunal of Camerino ensued that resulted in a positive outcome.[124]

It is worth noting that some ten years after the events just described, the Coronese hermits again made an exchange that would expand their possessions located in the same territory that was the subject of the transaction just discussed, namely at Retorscio. The minutes of the chapter meeting, which are transcribed here in the footnotes, is further proof that the hermits decided collegially how to manage their patrimony.[125]

121 ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], f. 181r.

122 Ibid., f. 182r–v.

123 AAV, *Congr. Concilio*, *Libri Decret.* 22, f. 423r.

124 For the bishop's judgment, see ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], f. 187r–v.

125 ASCMC, *Fondo Procura*, *Grotte*, vol. XII, f. 111r: "Adi 23 Febbraio 1673. Convocato il Capitolo a suono nel luogo solito Il molto Reverendo Padre Ignatio Priore premessa la solita oratione vocale, espose, come si trovava occasione di permutare la nostra parte toccataci nella possessione della Breccia lasciata dalla bona memoria del S. Sacripante Agostini da Mosciano, con altre terre contigue alla nostra possessione delle Cerquetelle nella Contia di

In conclusion, it is clear that both religious communities were aware of the solemnities to be fulfilled, both with regard to their own congregation and to the Roman Curia. The *De rebus regularium non alienandis* seems to have been fully implemented not only formally in the constitutions, but also in local practice.

3.3 The Roman stage

The expression 'Roman stage' means that part of the *iter si in evidentem* which took place properly in Rome. The requests of the regular communities could follow different paths. Sometimes, if necessary, the superiors general of the orders could intervene and give their assent, inserting themselves into the process halfway between the individual convent and the SCC. Petitions often passed directly into the hands of the procurators general of the orders, who performed an important intermediary function between the interests of the religious houses and the prerogatives of the SCC.

At this point, the officials and the secretary of the SCC usually took charge of the plea and activated the most appropriate decision-making process. The SCC analysed the content of the petitions, asked for further opinions at local level if necessary, and decided whether or not to grant the licence.

3.3.1 The superiors general of religious orders

Once the local chapter phase was over, sometimes an intermediate stage opened, which could have as its protagonist the superiors general of the orders.[126] This

Retorscio, quali da questo Eremo si vedono, del Sig. Angelo Colocci Gentilhuomo di Jesi, il quale l'offerisce a stima, e vuole stare alla stima fatta della nostra quando si venne a pactire con l'altre due Religioni; et perchè si vede di grande utilità per questo eremo, stante che oltre la vicinanza, non si pagano collette, ne altro peso, come in quella di Mosciano, che ascendono ad otto scudi in circa annui: considerati anco altre ragioni et emergenze, et discorsi, si venne finalmente alla segreta ballottatione, e passò con quattuordecimque voti favorevoli servatis servandis. F. Valentino E. C. manu propria." After the decision made in the chapter, the hermits formulated a petition to be addressed to the SCC. The supplication can be found in ASCMC, *Fondo Procura*, *Grotte*, vol. XII, ff. 112r–113v.

126 Superiors, depending on the religious order, could have different titles to indicate that they were the order's highest representatives. See in this regard DSE (1844), vol. XXVIII,

does not mean, however, that all *itinera si in evidentem* followed the same path in a uniform manner.

The development and consolidation of the figure of the superior general at the top of the hierarchical structure went hand in hand with the structuring of the religious headquarters (General Curia), which were permanently established in Rome from the 15th century onwards. Their role was described in detail in the Constitutions, which regulated what responsibilities they had, duties and prerogatives, duration of their office, eligibility criteria, etc.[127] It is not surprising that they dealt with patrimonial affairs, since it was their duty to take care not only of internal discipline but also of the sustenance of the communities. So much so that the general archives of religious orders often contain interventions by the superiors general themselves, who for example granted those licences which did not require apostolic approval, such as those for leases of minor goods *(terrulas)*.[128]

To describe this intermediate phase, a case concerning the Carmelite Order is particularly pertinent. As already mentioned, the Carmelites had incorporated the *De rebus regularium non alienandis* into their 1626 Constitutions, and it was in that text that they regulated how alienation procedures were to be carried out:

> Item prohibemus ne aliquis Prior localis, vel Procurator indebitet locum absque inevitabili necessitate, sine Priori generalis licentia, vel provincialis ultra summam taxatam ab illis: nec vendat, commutet, vel quovis modo alienet possessiones, aut annuos census Ordini acquisitos, sine consensu prioris Generalis, vel Capituli provincialis (et Licentia S. Sedis. Paulus II. Bulla Ambitiosae, et S. C.Con), sub poena depositionis ab officio, et inhabilitationis, tam Prioris, quam Clavariorum, et patrum, si assensum ad hoc praebuerint.[129]

229: "Il generale, maestro generale, priore generale, preposito generale, rettore generale, superiore generale, abbate generale, presidente generale, ministro generale, visitatore generale, correttore generale è il nome dei superiori generali degli ordini e congregazioni religiose."

127 On the ecclesiological foundation underlying the power of the superiors general, see Ghirlanda (2019).

128 See, for example, the case of the Jesuit superior general (or *Praepositus Generalis*) Giovanni Paolo Oliva (1664–1681), who on 30 May 1676 granted a licence to the Jesuit College of Monte Santo, in ARSI, Inst. 153–II, f. 285v.

129 Constitutiones fratrum Ordinis beatissimae Dei genitricis Mariae de Monte Carmeli (1766), pars I, cap. II, n. 9, p. 4.

Any local prior, or procurator appointed by him, was forbidden to alienate goods without the Carmelite prior general's licence and without the permission of the Holy See.[130] The Constitution also specified that this provision was governed by the *Ambitiosae* and by the SCC.

The case that will now be used to describe this intermediate phase is recorded in the papers of the Carmelite Convent of Jesi, preserved in the General Archive of the Carmelites.[131]

In September 1633 Paolo Talacchia, prior of the Carmelite convent at the Santuario delle Grazie in Jesi, decided to make a sale.[132] He wished to purchase a plot of land with an estimated value of about 600 scudi, but in order to obtain the necessary money he had to sell other assets and *censi*. In fact, the convent already owned a vineyard in the area called *S. Francesco* worth one hundred scudi that yielded four *some*[133] of must per year (equivalent to eight hectolitres), and also had possession of 14 *coppe*[134] (about 29,750 square metres, or 2,975 hectares) located in the contrada *Gorgolongo*,[135] worth five hundred scudi and yielding 15 scudi per year for must and grain.[136] The Carmelite friars also had 225 scudi *a censo* distributed in a very fragmented

130 In Carmelite nomenclature, the prior general corresponds to the superior general. At that time, the Carmelite prior general resided at the *conventus romanae curiae*, located in S. Maria in Transpontina.

131 AGOC, *Prov. Romandiolae et Piceni*, Conventus singuli: Iesi (1603–1776), n. f. [Carmelite Convent at the Santuario delle Grazie, Jesi, 1633]. The documentation of the entire folder is in the form of several small files, neither ordered nor numbered. In the right margin of the various fascicles one finds annotations written in crayon, undoubtedly of a later date, which provide a very approximate chronological dating of the documents. For a better understanding of this specific case, the information from this archive has been cross-referenced and integrated with that kept at the SCC's archive and at the Diocesan Archive of Jesi.

132 On the series of Priors of the Convent at the Santuario delle Grazie in Jesi, although incomplete, see Bagliardi / Santini (eds.) (2006) esp. 58–67.

133 The *soma* was an ancient unit of measurement of surface area and capacity for liquids.

134 The *coppa* was an ancient unit of measurement of agricultural land area, and of its yield. One *coppa* of land was equivalent to the area needed to sow one *coppa* (a receptacle) of grain. In Jesi during the period in question: 1 *coppa* = 2,125m^2. In this regard, see Urieli (1986) 293–294.

135 The district took its name from the *Gorgolongo* ditch (and stream) that surrounded Jesi on its south-eastern side. For brief notes on *Gorgolongo,* see Cappelletti (1987) 69. On the Carmelites' possessions in this district at the end of the 18th century, see Bagliardi / Santini (eds.) (2006) 43.

136 On vine cultivation in the early modern Vallesina area from a historical perspective, see Paci (2002).

manner. The sale of these goods would have allowed the convent to buy a plot of land owned by Honofrio di Domenico Corradi, and to make further improvements to make it more productive.[137]

It was a purchase and sale that had to take place with a certain speed, given the advantageous offer of the contract. According to Prior Talacchia's words, in fact, the deal was of "very obvious utility" to the convent, and it was for this reason that several third parties tried to prevent the deal from succeeding by offering advantageous exchanges to the other party, or by asserting that the licence would not be granted.[138] The parties had made a kind of pact, and even the deposit had already been paid before the necessary licence was obtained. From the correspondence, it appears that after the first request by the convent, the general of the order, since these were evidently his prerogatives, asked the local prior Talacchia to provide him with further information regarding the nature of the plots of land and the object of the deal.[139] After explaining the matter in detail, Paolo Talacchia, who was particularly anxious that the matter proceed expeditiously, addressed the Prior General Theodorus Stratius[140] on 16 September 1633, saying that all the monastery was still waiting for was the alienation licence to be able to complete what had been started.[141]

137 In this regard, see the text of the supplication that was later sent to the SCC. ASDJ, *Classe XI*, b. 181, n. 355, fasc. 19, n. f.: "[E] perche detti beni sono separati e di poco utile, et il danaro molto scommodo ad esigere, vorriano comprare una Possessione, ch'è di M Honofrio di Domenico Corradi per il prezzo di scudi seicento ancorche sia stimana assai più; e desiderando renderla una buona Possessione, da poterci tenere un paro di bestie, e alcune pecore, essendovi una casa commoda, compraranno alcune terre vicine a detta possessione, quali haveranno ad assai buon prezzo, onde verrebbe anco la detta possessione a dare da dodici some di mosto, e da sette di grano ogn'anno, o altre per biade, e frutti di maniera che verrebbero a cavare del suo danato almeno sette per cento."

138 Ibid.

139 AGOC, *Prov. Romandiolae et Piceni*, Conventus singuli: Iesi (1603–1776), n. f. [Carmelite Convent at the Santuario delle Grazie, Jesi, 1633].

140 Theodorus Stratius (Teodoro Straccio) had previously served as Carmelite procurator general between 1613 and 1620. He then served as prior general from 1632 to 1642. For some biographical notes, see Wessels/Doswald (1934) 54.

141 AGOC, *Prov. Romandiolae et Piceni*, Conventus singuli: Iesi (1603–1776), n. f. [Carmelite Convent at the Santuario delle Grazie, Jesi, 1633]: "Non s'aspetta altro che la licenza di poter alienare; quello farà di bisogno; della Sacra Congregazione et il consenso di S. P. Illustrissima", and then again: "Tutti nel monastero stiamo aspettando grata resposta; et licenza di poter condurre a fine quanto s'e principiato."

Talacchia was aware that the prior general's consent was necessary in order to apply for the next licence, that of the SCC. On 1 October 1633, Theodorus Stratius, on the basis of the information and deeds received, consented to the alienation, reaffirming that his assent was limited to what was within his competence ("quantum Ad Nos spectat") and that the execution of the alienation remained conditional on apostolic approval.[142]

The plea which the convent subsequently sent to the SCC summarised all the information that had already been given to the prior general about the case. Among the advantages of a successful conclusion of the agreement, the Carmelite friars also listed that owning property in the vicinity of the monastery would allow them to make a greater profit than at present, since they would not have to send a religious outside of the city to demand and collect credits.[143]

The SCC gave a favourable opinion on 10 December 1633, delegating the execution of the decree to the bishop of Jesi.[144]

3.3.2 The procurators general of the orders: representatives and intermediaries

The consent of the superior general, as just described, was an intermediate step that did not always take place. In most cases, monasteries and convents presented their petitions directly to the SCC.

This moment involved, especially for the male orders, the intervention of an actor who effectively mediated between the individual religious community and the SCC: the procurator general of religious orders at the Roman Curia. These officials were a particular type of *procuratores curiae*. In fact, since very remote times, within the Roman Curia the principals *(petenti)* had the possibility of being represented before the pope and, more generally, before the various Roman offices, tribunals and congregations, by professional agents appointed for this purpose.[145]

142 Ibid.

143 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 19, n. f.: "[P]oiche havendo li loro beni più uniti, ne cavaranno assai più, che non cavano al presente, e non spenderanno in mandare fuori della città un religioso ogni volta che matura un censo, ad esigerlo, ond potrà servire alla Chiesa, e l'Oratori staranno con maggior quiete e pregaranno per l'Eminenze Vostre."

144 The SCC's decree can be found in AAV, *Congr. Concilio*, *Libri Decret*. 15 A, f. 11v.

145 Historians have explored the genesis of these curial officials; they have generally concentrated on the various forms of representation of the petitioners before the pope, starting with the

The presence of procurators general of religious orders, limited to a few religious families, is traced back to the beginning of the 13th century.[146]

They were in fact the representatives of the entire religious order to the Holy See, which meant that the individual communities scattered throughout the territory entrusted their procurators general with the task of pursuing their interests.

The Rules, but above all the Constitutions, and the acts of the general chapters regulated the role and functions of these delegates, with due distinctions according to the family. It is precisely in the Constitutions that one finds information on the duration of office, the qualities and skills required for eligibility, duties, tasks, procedures for dismissal or replacement, penalties for harmful conduct, and even the description of personal seals.

The prerogatives for being elected to the position of procurator general strongly reflected the role they would later hold in the Curia. They were chosen on the basis of their education, skills and personal abilities. Those in charge of their election also had to assess their character and temperament.[147] The procurators were required to be faithful and diligent and exercise their functions with the honour and good of the entire order as their objective.[148] They even, as in the case of Conventual Franciscan procurators, had to swear allegiance to the superior general.[149]

The election usually took place during the general chapter meetings, and in some cases the candidature could be proposed by the superior general.[150]

pontificate of Innocent III during which these actors began a phase of marked institutionalisation. On the curia procurators see, among others, Heckel (1924); Sohn (2002); Dell'Asta (2016).

146 See Hofmeister (1963) 236.

147 See by way of example what the Conventual Franciscan Constitutions required in this regard. Constitutiones Urbanae (1628), cap. VIII, tit. XIV, n. 1, p. 264: "[V]irum scilicet prudentia praeditum, doctrina conspicuum, rerum usu probatum, negotiis gerendis aptum, fidelem, promptum, sollicitum, bonae famae, amabilem, affabilem, qui conspectui Summi Pontificis, et Cardinalium apparere possit, qui Religionis numeribus, et omnibus, quae exercuit, laudabiliter functus fuerit, qui non sit cupidus, et ambitiosus, paratus pro Republica Ordinis, et pro observantia, et defensione Regulae et Constitutionum."

148 Constitutiones fratrum Ordinis beatissimae Dei genitricis Mariae de Monte Carmeli (1766), pars II, cap. I, n. 5, p. 54.

149 Constitutiones Urbanae (1628), cap. VIII, tit. XV, pp. 265–266. The same was true for the Carmelite procurators. See Constitutiones fratrum Ordinis beatissimae Dei genitricis Mariae de Monte Carmeli (1766), pars II, cap. I, n. 5, p. 54.

150 See DSE (1852), vol. LV, 278.

Various criteria had to be met in the election; the Coronese procurators, to give just one example, could not come from the same nation as the *Padre Maggiore*.[151] Furthermore, the Conventual Franciscan Constitutions recommended that their procurator should be at least 40 years old at the time of election.[152]

Procurators usually held their office for three years, although in practice reappointments were not uncommon.[153] In some cases, longer terms were set by the Constitutions, such as in the case of the Coronese procurators, whose office lasted four years.[154]

Given that they had to plead petitions at the various Roman offices and congregations, the procurators resided at the papal court. After an initial fluctuating and itinerant phase, characterised by the movements of the papal court, and the Avignonese period, from the 16th century onwards not only were many orders equipped with procurators as institutionally established positions, but these resided permanently in Rome.[155] They usually shared their residence with the superior general at what was originally called the *conventus romanae curiae*.[156] In other cases, they inhabited separate structures, such as the Conventual Franciscan procurators, who lived permanently at S. Salvatore in Onda at Ponte Sisto (known as *Ponterotto*), and only for a short period at the General Curia in S. Apostoli.[157]

In the case of monastic congregations, the procurators also simultaneously held the office of (cloistered) abbots in the monasteries in which they resided in Rome. For example, the Cistercian Congregation of St. Bernard in Italy, being structured into two provinces in the 17th century, Lombardy and Tuscany, had two procurators general, one from each province, and both permanently resident in Rome. For the entire Lombard province, the procurator was usually the abbot of the Abbey of S. Croce in Gerusalemme,

151 Regola di S. Benedetto e Costitutioni della Congregatione degli Eremiti Camaldolesi di Monte Corona (1670), pars II, cap. X, n. 5, p. 269. *Padre Maggiore* is the title used in the Coronese Camaldolese family to refer to the Superior General of the order.

152 See Constitutiones Urbanae (1628), cap. VIII, tit. XIV, n. 1, p. 264.

153 See the actual terms of office of the Conventual Franciscan procurators in Benoffi (1830) 9–45.

154 See Regola di S. Benedetto e Costitutioni della Congregatione degli Eremiti Camaldolesi di Monte Corona (1670), pars II, cap. X, n. 7, p. 270.

155 See Boaga (1996) 44–47.

156 See Boaga (1996) 48.

157 See Parisciani (1984) 274–275.

while for the Tuscan province it was the abbot of the Abbey of Tre Fontane.[158]

As far as human capabilities were concerned, the procurator had to be *negotis gerendis optum*, i. e. able to deal with a wide variety of affairs, and had to put all his efforts into pursuing them.[159] In the 17th century, apart from a few exceptions the various religious communities, scattered throughout the territory, could not individually negotiate their requests with the Roman dicasteries. In fact, monks and friars who travelled to Rome were required to present themselves before the procurator.[160]

The role of the procurator was, specifically, to act as a collector of requests, in order to achieve the goal more effectively; he also had to possess the human skills necessary to maintain solid relations with the prelates and officials of the Curia.

Among his various tasks was to obtain dispensations, graces and licences.[161] The involvement of the procurators in matters with a strong economic character reached its peak during the Innocentian enquiry, when they participated in the commissions that processed the data coming from the reports which individual convents and monasteries submitted to Rome to certify their economic and patrimonial status.[162]

In practice, the pleadings containing the requests for alienation licences were physically submitted by the procurators themselves to the SCC in writing in duplicate, according to a predetermined form and style. On the

158 See Regula S. P. N. Benedicti Abbatis, Una cum Constitutionibus Monachorum Congregationis S. Bernardi in Italia (1641), cap. LXVII, p. 64. For a listing of of all superior abbots of the Monastery of Santa Croce, i. e. the Cistercian procurators general of the Lombardy Province, see Besozzi (1750) 216–222. For the chronotaxis of the commendatory and cloistered abbots of the Monastery of S. Vincenzo e Anastasio alle Tre Fontane, see Pautrier (ed.) (2010) 486–489.

159 See Constitutiones Urbanae (1628), cap. VIII, tit. XXIX, n. 1, p. 288.

160 Here is what the Constitutions of the Cistercian Congregation of S. Bernardo in Italy stipulated in this regard. Regula S. P. N. Benedicti Abbatis, Una cum Constitutionibus Monachorum Congregationis S. Bernardi in Italia (1641), cap. LXIX, p. 66: "Qui vero cum sufficienti licentia Romam fuerint accessuri, iurabunt de non impetrando aliquid contra ordinis libertatem, vel Instituta, si eos ita iurare Deffinitoribus, vel Regimini expedire videbitur. Omnes etiam Abbates Romam accedentes suberunt Procuratoribus suarum Provinciarum respective, qui contra eos, si deliquerint, poterunt processos instruere, sententias ferre, et quibuscumque poenis ad praescriptum legum punire."

161 See Constitutiones Urbanae (1628), cap. VIII, tit. XXIX, n. 1, p. 288.

162 See Landi (1991) 714.

first copy, the SCC would write a quick and concise response; this copy went to make up the *positio*, and was kept in the congregation's archives. On the second copy, the SCC then wrote the decree in full, which was sent to the beneficiaries of the licence by rescript.[163]

The manner in which pleadings and briefs were presented, so standardised and serial, also required technical legal expertise on the part of the procurators.

From the perspective of diplomatics, the intervention of a procurator, which one might call *Prokuratorenvermerke*, to use German terminology from this field, is visible in the signature on *recto* of the petition presented to the SCC.[164] This intervention is only visible in the copy that remained with the dicastery.

Among the various *positiones* examined for this book, these interventions are not always present. This may suggest either that the procurators did not intervene systematically, or that they did not always leave a trace, at least from an archival point of view. It should also be noted that in the same way as described above, the superiors general could also play an intermediary role.[165]

The procurators general were very often – albeit not systematically – interested in cases concerning the male religious communities in the Jesi and Fermo area.

163 Cf. Boaga (1996) 92–93.

164 On *Prokuratorenvermerke* in 12th–13th-century papal documents, see Dell'Asta (2016) 216–219.

165 This is the case of the Roman Jesuit College, which, having some possessions in the territory of Fermo, asked the SCC in 1658 for a licence to sell them; the supplication was pleaded by the Jesuit Superior General Goschwin (Goswinus) Nickel, probably because it was Roman College business. See the text of Nickel's intervention on the supplication [AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 28 (F), n. f.] [Jesuit College, Fermo, 1658]: "Ego infrascripto Praepositus Generalis Societatis Jesu ut satisfaciam petitioni S. Congregationis super memoriali ad me remisso, censeo posse si ita videatur concedi licentiam alienandi dicta bona stabilia in eodem memoriali axpressa ad effectum ut pretium retrahendum in alia bona prope riliqua eiusdem Collegii convertatur." The SCC granted the licence and remitted it to the Jesuit superior general. The SCC's decree can be found in AAV, *Congr. Concilio*, *Libri Decret.* 21, f. 265r. – A similar case is that of Abbot Bernardo Bartocci, superior *(Preside)* of the Roman Cistercian Congregation, who in 1641 advocated a licence for the Cistercian Monastery of Castagnola. A copy of the supplication submitted by the Cistercians to the SCC can be found in ACCSBI, S. Maria in Castagnola – Chiaravalle d'Ancona, b. 21, ff. 38v–39r.

In 1658, for example, the Jesuit Procurator General Pirro Gherardi[166] intervened in favour of the rector of the Jesuit college in Montesanto, diocese of Fermo.[167] In 1662, Gherardi took charge of a request from the Jesuit College of Fermo for the construction of the S. Ignazio Church. Three years earlier the college had in fact obtained a licence from SCC to borrow money (to take money *a censo*), which it had not yet been able to repay in full, and now requested a three-year extension to pay off the debt.[168] The matter did not end there, because Gherardi later pleaded for a further three-year extension to pay off the same loan; to this, however, the SCC granted only a one-year extension, on 13 June 1665.[169] Remaining in office for long periods certainly allowed the procurators to establish long-lasting relationships with the curial bureaucratic apparatus, and with the SCC itself, and this benefited the interests of individual religious communities.

The requests of the Lateran canons regular were also mediated by these officials. For example, in 1662 their procurator Gasparo da Castel San Pietro, who resided at S. Maria della Pace at the time, brokered a request (to take a loan) for the canons regular of S. Caterina in Fermo.[170] The procurators of this congregation also used to take care of the affairs of the Congregation of Windesheim, which was affiliated to the Laterans.[171]

The archive papers also revealed several interventions by Franciscan procurators, which can be explained by the spread of convents in the Marche region. In 1658, the Conventual Franciscan Procurator General Giovanni Battista De Nisi from Monte Granaro intervened in favour of a request from the convent in Monte Ottone, which wanted to borrow 100 florins at 7% interest.[172] In March 1665, Lelio Spada from Faenza supported the request

166 Pirro Gherardi was Jesuit procurator general from 3 July 1642 to 4 January 1681. On Gherardi and the series of all Jesuit procurators general, see: Synopsis historiae Societatis Jesu (1950) 639.

167 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 28 (F), n. f. [Jesuit College, Fermo, 1658]. The SCC issued the decree on 31 August 1658. See AAV, *Congr. Concilio*, *Libri Decret.* 21, f. 372v.

168 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 29 (F), n. f. [Jesuit College, Fermo, 1662]. The SCC's decree in AVV, *Congr. Concilio*, *Libri Decret*. 23, f. 378v.

169 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 32 (F), n. f. [Jesuit College, Fermo, 1665]. The SCC's decree in AVV, *Congr. Concilio*, *Libri Decret.* 24, f. 522r.

170 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 29 (F), n. f. [Canons Regular of S. Caterina, Fermo, 1662]. The SCC's decree in AVV, *Congr. Concilio*, *Libri Decret*. 23, f. 293v.

171 See Egger (1975) 60.

172 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 28 (F), n. f. [Conventual Franciscans, Monte Ottone (Fermo), 1658]. The SCC approved the request on 31 August 1658. See AAV,

of the friars of the convent in Sarnano to lease some of their plots of land to a third generation.[173] In the same year, Spada's successor, Angelo Petricca from Sonnino, took action for the Convent of S. Francesco in Mogliano, asking for 40 scudi (the fruit of alms left by a brother of the convent), to be able to provide and repair the convent dormitory, which was in a bad state.[174] In 1666, Sonnino dealt with a request from the guardian of the convent in S. Angelo in Pontano, for the sale of an estate.[175] That same year, Sonnino was responsible for a request from the Convent of S. Francesco in Montegiorgio, which wanted to commute some of its credits *(censi attivi)* in order to buy land.[176]

Even in monastic congregations we find numerous interventions of procurators general in cases of alienation. In 1664, for example, the Coronese procurator general D. Bruno – who held the office together with others – intervened in favour of the hermits of Cupramontana.[177]

On 11 May 1658, the Camaldolese Cenobitic vice procurator general, Abbot Tiburzio Buffa, pleaded a case for the erection of a new house in

Congr. Concilio, *Libri Decret.*, vol. 21, f. 372v. Giovanni Battista De Nisi from Monte Granaro was procurator from 1656 to 1659. See Benoffi (1830) 39.

173 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 29 (F), n. f. [Conventual Franciscans, Fermo, 1665]. The SCC decree can be found in AAV, Congr. Concilio, *Libri Decret*. 24, f. 471r. Lelio Spada from Faenza was procurator from 1661 to 1665. See Benoffi (1830) 39.

174 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 31 (F), n. f. [Conventual Franciscans, Mogliano (Fermo), 1666]. The corresponding SCC decree can be found in AAV, *Congr. Concilio*, *Libri Decret*. 24, f. 650v. Angelo Petricca from Sonnino was procurator from 1665 to 1668. See Benoffi (1830) 39.

175 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 31 (F), n. f. [Conventual Franciscans, S. Angelo in Pontano (Fermo), 1666]. The corresponding SCC decree can be found in AAV, *Congr. Concilio*, *Libri Decret*. 25, f. 21v.

176 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 31 (F), n. f. [Conventual Franciscans, Montegiorgio (Fermo), 1666]. The corresponding SCC decree can be found in AAV, *Congr. Concilio*, *Libri Decret*. 25, f. 263r.

177 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 27 (E), n. f. [Coronese hermits, Jesi, 1664]. For the complete series of Coronese procurators general, see Lugano (1908) 527–532. The Coronese procurator general, an office created in 1579, resided permanently in Rome at the Church *(ospizio)* of S. Leonardo alla Lungara. The archive of the Coronese procurators general, now part of the Coronese General Archive at the Eremo Tuscolano in Frascati (ASCMC), is organised by hermitages, and consists of approximately 72 volumes. Volume XII deals specifically with the *Eremo delle Grotte* in Cupramontana. I sincerely thank Father Winfried Leipold who allowed me to consult the documentation.

Cupramontana, namely the Monastery of SS. Lorenzo and Angelo,[178] on behalf of his congregation.[179]

In 1657, the Cistercian procurator general (Abbot) Benedetto Pennazzolo took charge of the Cistercian Abbey of S. Maria in Castagnola (diocese of Jesi).[180] In 1662, the procurator general (Abbot) Ferdinando Ughelli intervened favour of this abbey, whose congregation, as we have already seen, had undergone institutional changes in the meantime.[181] For a monastery to move from one province to another also meant changing the procurators of reference in Rome. In addition to this, in the case of the Cistercians one must take care not to confuse the procurators of the 'Italian' Cistercian congregations with the procurator general of the entire *Religio Cisterciensis*.[182]

178 Today, the records of this monastery are kept at the State Archive of Perugia. See Gabbrielli / Parasassi (2009) 91–92.

179 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 27 (E), n. f. [Coronese hermits, Jesi, 1658]. Tiburzio Buffa, who was also a native of Cupramontana, held the position of Camaldolese cenobitic vice procurator general as early as 1656, while the chief procurator was Odoardo Baranardo Gallo. Some fragmentary information on this can be obtained from Mittarelli (1764), t. VIII, liber LXXVII, pp. 362, 364–365, 368–369. The procurator general's office during the early modern age was located in the Monastery of S. Romualdo in Rome, now destroyed. The procurator's archive, which has suffered from heavy deterioration over the years, is now kept at the Rome State Archive. See Gabbrielli / Parasassi (2009) 114–115.

180 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 27 (E), n. f. [Cistercian monks, Jesi, 1657]. Unfortunately, we have very little and only vague information about Benedetto Pinnazzolo (Pinnazzoli or Pennazzolo), and in particular about his appointment as procurator general. Molignini mentions Benedetto Pinnazzolo as Prior of the Abbey of Casamari in 1636, deriving this information from the Acts of the General Chapter of the Roman Cistercian Congregation celebrated at the Monastery of S. Croce in Jerusalem in that year. See Molignini (2015) 307. In 1638, Pinnazzolo had been cloistered abbot (prior) of S. Maria in Castagnola. On the series of superiors of Castagnola, see Amatori (1994) 34–36. The aforementioned work was only printed in 1994, but was written by Amatori around 1843. The 1994 publication unfortunately does not present the actual dates of the term of office of the superiors, which were at least sketched out in Amatori's preparatory works and notes, kept today at ACCSBI. In these drafts it is said that Pinnazzolo held the position of superior of Castagnola until 1647. This data, however, must be taken with due caution, also because a precise chronological reconstruction of the series of regular priors of Castagnola still remains to be done.

181 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 27 (E), n. f. [Cistercian monks, Jesi, 1662]. Since 1637, Ferdinando Ughelli, as abbot (cloistered) of the Abbey of the Tre Fontane in Rome, held by right the position of procurator general for the Tuscan Province of the Cistercian Congregation of St. Bernard in Italy. About Ughelli, see Schwedt (1997).

182 On the early modern Cistercians procurators, see Müller (1907); Hermans (1968); Scherg (2015).

The signatures subscriptions of the pleadings by the procurators are certainly significant and useful elements for the understanding of the Roman stage, but obvously, all they offer is a name. Relying on them alone, it would be very difficult to gain a deeper insight into the role of these actors. Local sources may prove a valuable contribution in this regard, especially in understanding the relationship between procurators and the SCC's secretaries.

Within a file for a *processus si in evidentem*, i. e. a local procedure that took place after the issuing of the licence by the SCC, there is a trace of a correspondence between the Convent of S. Francesco in S. Vittoria in Matenano and the Conventual Franciscan procurator general.

The procurator general Biagio Posaric from Cres, who is also often referred to as 'F. Biasio' in relevant documents,[183] wrote to the guardian of the convent on 20 May 1637, enclosing with his letter the decree issued by the SCC on 9 May 1637,[184] and saying:

> Reverendo Padre e frello nel Signore. Mando l'accluso memoriale a V. D. col Decreto ottenuto dalla Sacra Congregazione per vender i (…) estinguer li debiti come si supplicava; potrà V. D. prevalersene in quel modo che questi Eminentissimi Signori comandano, e Dio nostro Signore le conceda vero bene. Roma 20 maggio 1637.[185]

These few lines confirm that the procurators were the bearers of a full representative mandate, which bound them technically and legally. It was the procurators themselves who personally sent the rescript containing the licence to their principals, i. e. the beneficiary convents. The procurator then took charge of the entire bureaucratic procedure of the petition until its completion.

On 29 May 1637, nine days after the previous letter, Biagio Posaric wrote again to the guardian of the convent. On the one hand, the procurator wanted to ensure that the previous letter containing the rescript had been received, and on the other hand he referred to a new case to be pleaded in

183 Biagio Posaric (Posareki) from Cres, former provincial minister of Dalmatia, was elected Conventual Franciscan procurator general in May 1635 and remained in office until May 1641. See Benoffi (1830) 38.

184 The rescript of the SCC is annexed to the court documents of the process *si in evidentem* held at the diocesan curia of Fermo. See ASAF, *Processi si in evidentem*, S. Vittoria in Matenano 60 I (1558–1660), n. f. [Conventual Franciscans, 1637]. The SCC's decree can also be found in AAV, *Congr. Concilio*, *Liber Decret*. 15, f. 530v.

185 ASAF, *Processi si in evidentem*, S. Vittoria in Matenano 60 I (1558–1660), n. f. [Conventual Franciscans, 1637].

front of the SCC. What is very interesting is that Posaric informed the friars of S. Vittoria that it was his intention to speak personally with the SCC's secretary Paolucci, leaving the physical petition with him. He hoped for a positive response at the first available session. Below is the text:

> Il decreto della Sacra Congregazione del Concilio per l'alienatione d'alcuni pezzi di terreno li 21 del cadente lo mandai, e mi credo chea quest'hora l'haverà ricevuto: In quanto poi alla revocatione del decreto per poner a censo li Danari, lo procurarò per quest'Congregazione ch'appunto hoggi si fa, sono andato ad informare Monsig. Paolucci e datoli la istanza, starò aspettando l'esito, e quello uscirà seinvero poi a V. P., e Dio la contenti. Roma 29 maggio 1637.[186]

Beyond the subject matter of the letter, it is a relevant document precisely because it offers a glimpse into the daily practice of the SCC. The relationship between procurators and the secretary seems to be very close and personal. One can therefore understand why the Constitutions required the procurators to establish a good network of relations, to make contact with the various officials and secretaries, and to know the days on which they met.

3.3.3 On the content of supplications and memorials

Having clarified the role of the procurators, it is necessary to delve into the manner in which the pleas and memorials on the subject of alienation were drafted, in order to identify what standard criteria the petitioners *(oratori)*, or their agents, had to adhere to in order to obtain the desired dispensations. The historiography of recent decades has offered numerous contributions on the instruments of communication and more generally on the ways of dealing with power in the context of ecclesiastical institutions in the modern age.[187] As a starting point, it should be considered that any request made to those in authority placed the petitioners within an imaginary vertical relationship, in which they were necessarily in a condition of subjection that imposed certain cautions and formalities. Moreover, as Irene Fosi points out, supplication implied recognition, and thus legitimisation of authority, by the supplicants.[188] This instrument, widely used at both judicial and administrative levels, not only put the periphery in communication with the

186 Ibid.
187 On this topic, see, among others, Tamburini (1995); Fosi (2002); Ostinelli (2004).
188 See Fosi (2007) 193.

centre, the bottom with the top, but also allowed knowledge and therefore control of the periphery by the centre.

From an analysis of all the supplications on the subject of alienation, which can be categorised as petitions *si in evidentem*, it is easy to observe a certain stylistic standardisation that results from the use of established formulas by the petitioners. In terms of content, the pleas do not seem to differ from those with which the secular clergy requested similar licences from other dicasteries.[189]

From a practical point of view, it was in the interest of the petitioners to draft letters that manifested the just causes on which their requests were based. In this regard, pleas should be handled with due caution, as they tended to provide a partially flawed or exaggerated representation of reality: the use of certain suggestive images – for example, one thinks especially of those petitioners who, in the context of criminal justice, asked for a relative to be released from prison or saved from capital punishment was – to make the pleas more effective.[190] Menniti Ippolito rightly spoke of biased acts that could conceal manoeuvres to profit from the Church's assets, precisely with regard to the memorials addressed to the Congregation of Bishops and Regulars that contained requests for alienations.[191] Indeed, it is evident that this documentation offers a forced point of view.

The *positio si in evidentem* was in most cases physically understood as a single file consisting of a single supplication. This file might sometimes also contain within it one or more memorials. Although in common parlance the two words "supplication" and "memorial" are used indistinctly, for ecclesiastical diplomatics, and especially for papal diplomatics, these terms are not strictly synonymous.[192] The memorial was in fact a document that generally

189 Corradi (1735b), lib. IX, cap. II, n. 3, p. 328: "[E]x quo, ut plurimum contingit, multa de necessitate narrari debere in ipsa supplicatione; ut exinde discernatur, an vere adsit Ecclesiae evidens utilitas super quo nimis urgebit prudentia conficientis supplicationem; quae more solito, porrigitur D. Datario qui materiam considerat, an tali sit, ex qua clare constet, petita cedere in evidentem utilitatem; adeo ut non possit aliquo modo de ea haesitari; quod si res talis erit, ut ipsi videatur, gratia super ea esse concedenda, tunc curabit supplicationem ipsam per Summ. Pontificem in Camera signari. Si vero viderit utilitatem non adesse, vel uatenus adsit, non tamen esse evidentem; supplicationem ipsam reiicit, et in illius calce apponit haec verba, *Utilitas non est evidens*."

190 See Fosi (2007) 191.

191 See Menniti Ippolito (2011) 89.

192 On the use of the term supplication, see Zendri (2004).

had the purpose of integrating, summarising, and specifying the actual subject of the petition, so that the entire file would be exhaustive and comprehensive to the addressees. It also served to integrate any intermediate steps that had been stratified along the chancellor's bureaucratic procedure.[193]

A petition *si in evidentem* usually contained a clear and detailed indication of the property to be alienated, with references as to its economic value and its exact location. If it was a plot of land, the supplication had to include, for example, information about the status of the neighbouring lands and the presence of any debts encumbering the property. It also had to be specified how and where the money from the sale was to be reinvested. In the case of requests to rent a property, such as a house, the petition also had to indicate the expected profit.[194] As sanctioned by the 1626 supplementary decree, pleas could also concern requests to borrow money *(accipere ad censum)*; in that case the petition also had to indicate what was to be pawned, how the money was to be used, and how soon the debt would be repaid and in what manner.

In general, precise information on the actors involved and their respective property rights in the transaction should also be included.

The petitions had to show very clearly that the envisaged transaction would be of obvious utility *(utilitas Ecclesiae)*, which, as Tommaso de Rosa emphasised, had to be clear and unquestionable, on pain of denial of the licence: "Que vero dicatur haec evidens utilitas nec obscure percipi potest: aiunt enim Nostri, quod debet esse clara, manifesta, et indubitata, quae nulla scilicet tergiversatione celari possit."[195]

Petitioners often emphasised the low profitability of the good to be sold, thus referring to the principle of *incommoditas* (or *inutilitas*), i. e. a situation

193 See DSE (1847), vol. XLIV, 179: "Memoriale, *libellus*, nel suo primiero naturale significato vuol dire, cio che serve per ricordare alcuna cosa, ed in linguaggio di segreteria importa uno scritto che si da a chiunque per tenergli presente qualche affare in cui egli debba operare. Significa pure una preghiera che porgesi a persona autorevole per ottenere qualche grazia, e corrisponde al latino *supplex libellus* […] lo spirito di novità estendendosi anche nell'alterare i veri e buoni vocaboli dell'Italiana favella, alla parola semplice ed espressiva memoriale nel primo senso, si è voluto sostituire un composto, cioe promemoria, ristringendo il memoriale a significar supplica."

194 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 27 (E), n. f. [Monastery of Santissima Annunziata, Jesi, 1664].

195 De Rosa (1676), pars I, cap. IV, n. 313, p. 116.

when keeping a certain good was more inconvenient than getting rid of it, for example when a piece of land had a very low yield or was particularly difficult to cultivate.

In 1664, the Monastery of S. Chiara in Jesi, needing to make an exchange of land and having some money to invest for this purpose, wrote to the SCC:

> Eminentissimi e Reverendissimi Signori. Le Moniche di S. Chiara di Jesi humilissime Oratrici rappresentano all'EE.VV. che havendo un podere nella contrada di Monte Granaro[196] di valore di £ 2225 assai scomodo e di poco frutto al monastero e si ritrovano haver in cassa £ 1325 moneta et altri £ 120; che presto devono conseguire Vorriamo per tanto investire detta moneta e permutare detto predio con un altro Predio di Pietro Colini posto in detta Città contrada del pozzo di valore £ 3670 più commodo più fruttifero, et più utile al monastero onde stante l'evidente utilità del monastero si in ordine al frutto al terreno si come in ordine al denaro morto, che tengono in casa non rendendoli frutto alcuno supplicano humilmente l'EE.VV. a fargli gratia di concedergli licenza di poter far detta permuta. Che il tutto etc.[197]

It could happen that in order to reinforce their claims, the petitioners would also dwell on the patrimonial state of the monastery, emphasising the extreme poverty in which the religious community found itself. In this way, they leveraged the principle of *necessitas* and that of *pietas*, that is: when the goods available to the religious institution were not sufficient or suitable for maintaining the monastic population, or the monastery was particularly indebted, or was in such a critical condition as to require intervention, which always had to be the exception. Often the petitioners also emphasised that this was an opportunity that should not be wasted. The requests always foresaw an advantage that would benefit the entire religious community, and thus the Church. For example, in 1657 the guardian and the Conventual Friars Minor of the Convent of S. Floriano in Jesi sent a petition to the SCC to sell small plots of land, which had a low yield and, above all, were in danger of being destroyed by the waters of the neighbouring stream. The friars also pledged to use the proceeds of the sale to make improvements to the other lands in their possession; in particular, they promised that with the money raised they would create "filoni et arborate" (rows of vines supported by trees). This practice was particularly widespread in the Marche countryside from the 17th century onwards. The technique consisted of planting

196 This should refer to today's municipal district called *Montegranale* near Jesi.

197 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 27 (E), n. f. [Monastery of S. Chiara, Jesi, 1664]. We know that the SCC authorised the exchange on 24 April 1664, delegating the

rows of vines well spaced apart and supported by trees. Since the rows grew tall in this way, it was possible to plant cereal crops or fruit trees in between them. In this way, all the land available, even if otherwise unproductive, was put to good use, and higher yields were guaranteed. There were also specific workers called *alberatari* or *alboratari*, i. e. landless farmers who specialised in this task.[198]

In this regard, see the petition that the Conventual Franciscan friars of the Convent of S. Floriano in Jesi sent to the SCC in 1657:

> Eminentissimi e Reverendissimi Signori. Il Guardiano e frati Minori Conventuali del Convento di S. Fiorano d'Jesi humilmente espongono all'Eminenze Vostre come il sudetto Convento si ritrova havere doi pezzetti di terra in circa incontrada detta la granita[199] confinanti da una parte col Sig. Giovanni Tommaso Lauri, dall'altra Domenico di Rosato, da capo la strada pubblica, e da piedi il sudetto fosso della Granita, e per che da questi non ne ricevono cosa alcuna per esser terre(…), anzi un giorno li perderanno totalmente per l'abbondanza dell'acqua che detto fosso tiene, e di già se ne vedono i segni, questi trovano a venderli per la somma, e quantità di scudi quindici per tanto supplicano l'Eminenze Vostre per la licenza, che il danaro si porrà per resarcimento delle possessioni, ed in particolare per far filoni, et arborate di che il Convento tiene grandissimo bisogno.[200]

In other cases, the religious asked for business that would allow them to bring their land holdings closer to the monastery, thus making their administration less costly. A positive response from the SCC would have relieved the monastery from having to send a cleric to collect profits or interest whenever it accrued and thus diverting him from his duties.[201]

bishop of Jesi. See AAV, *Congr. Concilio*, *Libri Decret*. 24, f. 139r. However, we have no evidence that the exchange actually took place. In fact, as shown in an inventory of the assets, income and expenditure of the Monastery of S. Chiara *(Stato del Venerabile Monastero di S. Chiara di Jesi)* drawn up in 1719, 55 years after the attempted exchange, the monastery still owned property in the municipal district *Monte Granaro / Montegranale*. The other properties were located in the following municipal districts: *Piano*, *Torre*, *Nocelli*, *Fornaci*, *Breccia*, *Granita*, *Mosciano*, *Pastorino*, *Vignola*. See ASDJ, *Classe IV*, b. 87, vol. 93, n. f. [Stato del Venerabile Monastero di S. Chiara di Jesi, 1719]

198 See Verducci (2007) 326–332. Regarding the spread of this tecnique and ist socio-economic implications, see also Paci (2003).

199 The contrada *granita* took its name from the homonymous stream.

200 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 27 (E), n. f. [Convent of S. Floriano, Jesi, 1657].

201 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 19, n. f. [Carmelite friars, Jesi, 1633]: "[P]oiche havendo li loro beni più uniti, ne cavaranno assai più, che non cavano al presente, e non

The supplications sometimes also contained the *aestimatio rei*, i. e. the technical evaluation of the financial state of the monastery or convent. The purpose was to show the indebted or otherwise precarious state of the institution, so as to justify the demands. For example, between 1668–1669, the canons regular of the Monastery of S. Caterina in Fermo reported to the SCC that they were indebted to the amount of 4,119.70 scudi to Mariano and Tommaso Saladini from Ascoli; the total debt consisted of *censi passivi*, interest on *censi* and other expenses due to the Saladini for seizures, intimations, technical experts' invoices etc.[202]

The canons regular also reported that they were unable to pay in cash and had therefore agreed with their creditors to cede some lands to them.[203] They attached to the petition in the following order: a detailed list of the debts the monastery had with the Saladini family, with the accounts to be settled minus those already settled; the measurements of the lands that the canons intended to sell to the Saladinis to pay off their debt, with the indication of the equivalence of the different units of measurement; the estimate of the aforesaid possessions; and finally the summary *(ristretto)* of the income and expenditure of the Monastery of S. Caterina in the previous year. The canons regular aimed to prove that selling the land was still more profitable than continuing to be burdened with debts and interest on debts.[204]

These pleas may also prove useful in understanding what the awareness of the religious as well as the laity was of the procedure imposed by the *De rebus regularium non alienandis*. In 1631, the Conventual Franciscan friars from Fermo asked the SCC for a licence to rent out one of their properties they had in the city, and thus be able to earn a rent of 55 florins a year. The contract between landlords and tenants had already been concluded in 1589, and the premises had been used as the city's slaughterhouse. The interesting fact is that it was the tenant, the community of Fermo, that refused to pay

spenderanno in mandare fuori della città un religioso ogni volta che matura un censo, ad esigerlo, ond potrà servire alla Chiesa, e l'Oratori staranno con maggior quiete e pregaranno per l'Eminenze Vostre."

202 The entire *positio* is located in AAV, *Congr. Concilio*, *Positiones Sess.* 263, ff. 108r–113v; 116r–121v.

203 AAV, *Congr. Concilio, Positiones Sess.* 263, f. 108r–v.

204 The decree by which the SCC granted the licence can be found in AAV, *Congr. Concilio*, *Libri Decret*. 26, f. 242r.

the rent and demanded that the convent obtain a license for the lease, which evidently had not been requested in 1589, also because the *De rebus regularium non alienandis* was not in force. Below is the full text of the plea addressed to the SCC, which sums up the situation described in the foregoing:

> Li Frati minori Conventuali di Fermo sino all'anno 1589 per pubblico instrumento di Vincenzo Tempestivo diedero una casa alla comunita di detta citta di Fermo, dove esercitava e di presente s'esercita il macello, con patto che detta comunita fosse obbligata dare a detto convento fiorini cinquantacinque l'anno in perpetuo, il che è stato sin adesso osservato. Hora perche nell'instrumento si riserva il beneplacito apostolico, quale mai è stato ottenuto, detta comunita ricusa pagare detti cinquatacinque fiorini, se prima gli oratori non l'ottengono, quali pero supplicano humilmente l'eminenze loro, si compiaccino farli gratia del loro consenso. Che il tutto etc.[205]

This denotes a clear awareness of the procedures also on the part of the lay society, which interacted in various ways in the management of the Church's real estate and movable property, and which evidently knew how to exploit any formal legal shortcomings to its own advantage.[206]

A final element, of a technical nature, that distinguished the text of the petition, and that was not part of the subsequent interventions on the petition by the curial officials and the SCC, was the precise indication of the name of the monastery or convent at the centre of the case, as well as the religious order to which it belonged.[207] As can easily be seen from all the examples shown so far, all pleadings in fact began by specifying this information, which served the Curia to frame the petitioners, from a juridical as well as from a geographical point of view.

205 ASAF, *Processi si in evidentem*, Fermo 1 (1585–1693), n. f. [Conventual Franciscan friars, 1631].

206 The SCC's decree issued on 1 February 1631 is in AAV, *Congr. Concilio*, *Libri Decret.* 14, f. 379r.

207 Cf. Corradi (1735b), lib. IX, cap. XI, n. 6, p. 372: "Porro, Regulares omnino debent in eorum precibus exprimere, cuiusnam ipsi sint Ordinis, tam in his, quam in quibuscunque aliis precibus Papae, per eos offerendis. Verum, quia saepe contingit in ipsa Curia, eorum Ordinem ignorari, ne propterea diutius eorum expeditio retardetur, ita stylus admisit, ut dicatur S. Benedicti, seu alterius Ordinis, quatenus pro viris regularibus; pro monialibus autem, aut alii mulieribus, sub quacunque regula degentibus, dicatur S. Clara, seu alterius Ordinis."

3.3.4 The decision-making practices

In order to understand the *iter si in evidentem* in its Roman phase, it is necessary to focus in particular on the moment when the SCC took charge of the supplication, approved it, and then provided for the packaging and dispatch of the final licence *(expeditio)*. Canonists use the term *praxis et stylus curiae romanae* to indicate both the formal ways in which documents are drafted, and the procedures and formalisms relating to decision-making practices in use in Roman dicasteries and tribunals.[208]

The practice of sending written supplications to the pontiff started as early as the 12th and 13th centuries.[209] The sheer volume of requests from all over the world required an efficient bureaucratic apparatus and the foundation of *ad hoc* chancellery structures and practices. To get an idea of the quantity of supplications that occupied the Curia offices between 1342 and 1899, one only has to look at the impressive archival series *Registra Supplicationum* inventoried by Katterbach.[210] A number of research projects have systematically explored and evaluated this documentation in recent decades, producing valuable repertories dedicated to specific territories. The *Deutsche Historische Institut* in Rome has been working on the *Repertorium Germanicum* for years; this impressive work collects all persons, churches and localities belonging to the Holy Roman Empire which are mentioned in the curial registers of the chancellery and chamber throughout the late medieval period (1378–1517).[211] Based on similar methodological assumptions, but relying on the registers of the Apostolic Penitentiary, Ludwig Schmugge headed the project of the *Repertorium Poenitentiariae Germanicum*.

Concerning the early modern age, Cecilia Nubola and Cristina Belloni conducted important work on petitions concerning the diocese of Trent and sent to the Holy See in the 16th century. By consulting this work, one can see references to alienation-themed supplications.[212] These petitions were very similar in content to those that would later be processed by the SCC in the 17th century. They were taken over by other curial offices and followed different approval routes; just as different were the ways in which the final

208 See Arrieta (1996) 101.
209 See Piergentili (2015) 15.
210 See Katterbach (1932).
211 For an effective description of this project, see Brüdermann (2002).
212 See Faoro (2006) 54; Belloni (ed.) (2007) esp. 92–93.

documents were dispatched. In fact, the supplicant could generally choose the most appropriate route on the basis of subject matter and cost.

In the 16th century, the faculty to approve supplications was also extended to the Roman congregations.[213] The SCC certainly had its own style, or *modus procedendi*, which reflected the complexity of its competencies. This was translated into well-established internal customs that concerned, for instance, the way officials took charge of the file, the sub-structures and personalities in charge of evaluating cases and making final decisions, even the way cases were catalogued and recorded. With this in mind, for the purposes of this work it is necessary to ask: who took charge of the pleas with which friars and monks requested alienation licences? What internal decision-making level of the SCC was involved? How were the petitions processed? How were they catalogued?

The internal practice of the SCC is a complex area that is still little explored in all its facets, especially in the early period of the dicastery, as there were no codified rules of procedure. In the first decades, in fact, it was the prefects and secretaries, assisted by the internal and permanent staff (archivists, protocolists, *scriptores* etc.) who, working in the field, gradually created a procedure that was then perfected in a more standardised manner over time. A few studies provide us with useful information, although some of these need to be evaluated properly with due archival evidence, as they focus more on the practice of the last period of the SCC's activity, and therefore are not applicable *tout court* to previous centuries.[214]

Pleas that arrived at the SCC because they were specifically addressed to the dicastery were initially examined by the secretary and by the officials, who first assessed whether or not the matter was actually within the jurisdiction of the SCC. In the event of a negative response, the petition or case was duly referred to the competent office often with the wording "Ad iudices suos".[215] It could also happen that missives initially addressed generally to the pope, or to another congregation, office or court, were then redirected to the SCC. Once the SCC's jurisdiction over that specific case had been established, the secretary could still discard those requests that were even at first

213 See Frenz (2008) 75.

214 On the SCC's praxis, see Hinschius (1869) 461–463; Varsányi (1964) 125–139; Alibrandi (2022) 179–200. See also the doctoral dissertation of Bosch Carrera (2001).

215 Varsányi (1964) 128.

glance manifestly unfounded, by affixing the wording "Lectum" or "Ad Archivum".[216] When, on the other hand, the SCC considered the request to be well-founded, the procedure provided for two alternative paths.

The SCC was a collegial body, where measures were discussed and decided upon by the cardinal members; as can be guessed, however, not all cases were equal, and they received different treatment depending on their type and severity.

For minor matters, often of a gracious nature, the secretary and the officials decided directly and independently in the name of the SCC; they then drew up the rescript, applied the seal and the signatures of the secretary and the prefect, and sent it to the beneficiaries. According to Varsányi, these were "de stylo Congregationis" cases, i. e. standardised cases, which the SCC frequently tried, and which did not require special deliberations.[217]

Matters of a minor nature that presented difficulties as well as more complex affairs were referred to the *Congressus*, a body composed of the prefect, the secretary, the undersecretary and the auditor. This congress could first ask the local ordinary for further information *(litterae pro informatione)*, then examine the matter, and finally have two options: decide independently or refer the case to the plenary congregation. This internal deliberative body was created in the second half of the 19th century by Prefect Prospero Caterini, who led the SCC from September 1860 to October 1881.[218] It is difficult to say whether a similar body also existed in the 17th century, but it is plausible to assume that the tasks institutionalised in the *Congressus* were previously carried out by the secretariat of the dicastery.

The pleadings *si in evidentem*, being cases of gracious (or voluntary) jurisdiction, were identifiable as *negotia minora*, and were therefore tried at this

216 Ibid.

217 See ibid.: "Minora negotia, praesertim gratiosa, quae 'de stylo' Congregationis erant et nulla indigebant deliberatione, a Secretario, vel ab officialibus Secretarie, nomine tamen Congregationis redigebantur in debitam rescripti formam, quae sigillo Congregationis munita, a Secretario et Cardinali Praefecto subscripta authentica fiebant. Quando rescriptum non raro in ipso 'duplo' supplicis libelli adnotabatur, 'brevi manu' expeditum fuisse dixerunt." Cf. Pennacchi / Piazzesi (eds.) (1876) 660: "Dicuntur de stylo S. Congregationis Concilii quae normam assuetam habent unde proponantur et de plano resolvuntur qui nulla dispositio vel contentio locum habeat."

218 See Pennacchi / Piazzesi (eds.) (1876) 660. Cf. Del Re (1988) 173.

first level of decision-making.[219] Evidently, the volume of requests, as well as the consequent high volume – basically mass production – of the rescripts issued by the SCC, justified the adoption of a streamlined and simplified procedure. These were not in fact questions of interpretation *in abstracto*, or purely judicial. In fact, as we have already seen, pleas were often presented by prosecutors directly to the secretary of the SCC, and this seems to be a modus that tended to speed up the decision-making phase.

However, this did not exclude the possibility that some cases, such as licence applications for particularly burdensome transactions, or especially clarifications on *dubia*, followed more complex procedures.

As mentioned, the most articulate issues *(negotia maiora)* were prepared by the secretariat, which performed a 'filtering' function, and were destined for the general (or plenary) assembly that met twice a month, often on Saturdays.[220] These cases, which Parayre called "cause della Congregazione", were differentiated into cases *in folio* and cases *per summaria precum prepositae.*[221] This distinction was introduced in 1649 and remained in force until Innocent XII's amendments in 1695.[222] The current state of research, and the fact that the secretaries and prefects had a fair degree of discretion, mean that it is difficult to draw up a list and to determine exactly which type of cases followed which procedure, at least with regard to the 17th century. The *summaria precum*, as the term indicates, was in fact an abbreviated procedure; it provided for the secretary to prepare a brief summary *(summario)* of the case, also noting the jurisprudential precedents useful for the final decision, and then propose it in the plenary session. There, the cardinals simply gave an affirmative or negative opinion on the individual questions or postponed the decision.[223] This type of procedure, which was also often used in the *Congregatio particularis*,[224] was an ordinary way of dealing with *petitiones gratiosas* of a non-judicial nature.[225]

219 See Parayre (1897) 160; Varsányi (1964) 128.
220 See Varsányi (1964) 130.
221 See Parayre (1897) 175.
222 See Del Re (1988) 166.
223 See Parayre (1897) 179–180.
224 The *Congregationes particulares* came into being as assemblies of three or five cardinals appointed by the General Congregation to deal with specific cases. Before 1573 they were called "parva" or "privata" to distinguish them from the General (or public) Congregation. Later, following the redefinition of competencies, they took on a more structured

The *in folio* procedure, on the other hand, was a typical solemn judgment. Used for rather complex cases, such as interpretations of norms in the abstract or court cases and therefore with the relative involvement of lawyers, this kind of judgment required the secretary to draw up an accurate written report of the case, together with any opinions of the consultants, and to propose it to the cardinals.[226] Some administrative matters, such as *dispensationes* or *indulta*, could also be processed in this manner by the SCC, but only when they were serious or complex cases that could not be resolved summarily.[227]

This glimpse into the many complex internal procedures shows how difficult it is to draw a clear picture of how alienation requests were actually dealt with by the SCC in the 17th century.

However, considering what has been said about the *negotia minora*, and that from a point of view of palaeography and diplomatics, supplications and memorials do not present any particular interventions that could suggest the adoption of complex decision-making procedures, it can be said that most cases were already settled by the secretary of the SCC, and in some rare cases by *summaria precum*.

3.3.4.1 The business style

Decision-making practices can be deciphered by analysing the documents from the perspective of diplomatics. It is therefore necessary to look at the

form. Below is the list in order of creation: the *Congregatio particularis super Residentia Episcoporum* (1636), the *Congregatio particularis super Statu ecclesiarum*, also known as *Visitationis liminum* or *Concilietto* (1740), and the *Congregatio particularis super Revisione Synodorum provincialium* (1849).

225 Varsányi (1964) 129. Cf. Parayre (1897) 55: "Dans les Causes gracieuses, on devra présenter au Secrétariat les mémoires, relations et écritures au moins dans la journée du lundi qui précéde la Congrégation, afin de pouvoir en faire le Sommaire ; et le procureur ou agent devra porter le mémoire signé, pour qu'il puisse en rendre compte, dans le cas où l'instance serait calomnieuse, obreptice, subreprice ou défectueuse d'une autre manière. Et toutes les écritures susdites, n'étant pas présentées dans ladite jourée du lundi, on n'en formera pas le Sommaire pour la prochaine Congrégation. – Du Secrétariat du Concile 17 septembre 1695."

226 See Varsányi (1964) 133.

227 See Varsányi (1964) 136–139. Cases *in folio* according to the observance of greater or lesser solemnities were then divided into "*in folio servato iuris ordinem*", and "*in folio ex officio*" (also known as *oeconomice*).

'traces' that the SCC actually left on the pleadings it received. This discourse also touches on how the supplications and decrees were archived in the respective archival series (*Positiones* and *Libri Decretorum*), on which full light has not yet been shed, not least because of the various reorganisations and changes that characterised the SCC archive over the centuries. Each petition, when presented to the SCC's staff, already had on the reverse side the specific reference to the name of the beneficiary convent, inserted by the same people who had physically drafted it. The officials then, and this can be guessed from the different handwriting, intervened directly on the document, frequently on the *verso*, indicating the provenance and content. With regard to the provenance, the officials had to place the religious entity in a geographic-jurisdictional context, and for this purpose used the partition offered by the diocesan network.

Although it is difficult to identify an unambiguous practice, it seems that in the *Positiones*, as well as in the *Libri Decretorum*, the geographical indication in most cases referred to the diocese in which the monastery was physically located, which frequently, but not always, corresponded to the place where the possessions that were the object of the transaction were also situated. Since the SCC often delegated the execution of its alienation licences to the diocesan bishops, by studying the particular decrees in the *Libri Decretorum* one can evaluate the link as far as territory is concerned, between the location of the religious house, the location of the goods, and the jurisdiction area of the diocesan ordinary. However, certain distinctions must be considered. If a monastery, for example, applied for a licence for business involving land located in territories physically belonging to other, perhaps neighbouring dioceses, this link between applicant and territory would be lacking.

This is the case, for example, of the Coronese hermitage, already mentioned several times in this work. The decree of the SCC which delegated the execution of the licence to the Coronese superior general was marked "Camerinensis" in the *Libri Decretorum*, and not "Aesina" where the hermitage was geographically located; this was because the property in question was situated in the territory of Camerino.[228] In another case, again concerning the same religious community, one can observe that although the par-

228 AAV, *Congr. Concilio*, *Libri Decret.*, 18, f. 152v.

ticular decree was catalogued in the *Libri Decretorum* as "Aesina", the licence provided for a delegation to the bishop of Camerino.[229]

Then there are other special cases. From 1624 to 1681, the Cistercian *nullius* Abbey of S. Maria in Castagnola for example, located between the dioceses of Jesi and Senigallia, appealed to the SCC 18 times. In 13 cases the monastery was identified with the diocese of Jesi.[230] Four times it was instead associated with the diocese of Senigallia,[231] and once even with both.[232]

The other action that SCC officials habitually carried out was to indicate on the petitions in an abbreviated manner what the subject matter was. Findings in the *Positiones Sess.* and in the *Positiones (Carte sciolte)* series have revealed that these supplications were often tagged in a non-unique or uniform manner. Generally, the most frequent wordings were: *De rebus regularium non alienandis* and c. 11 Sess. XXV *de ref.*[233] Some supplications are even labelled with both these headings.[234] How can this be explained?

229 AAV, *Congr. Concilio*, *Libri Decret.*, 14, f. 545v.

230 The cases identified as belonging to the diocese of Jesi are as follows: AAV, *Congr. Concilio*, *Libri Decret.* 16, f. 189r, f. 248v; AAV, *Congr. Concilio*, *Libri Decret.* 17, f. 372v; AAV, *Congr. Concilio*, *Libri Decret.* 18, f. 46r, f. 128v, f. 175r; f. 486v, f. 687r; AAV, *Congr. Concilio*, *Libri Decret.* 19, f. 178r; AAV, *Congr. Concilio*, *Libri Decret*. 21, f. 19r; AAV, *Congr. Concilio*, *Libri Decret.* 23, f. 282v; f. 466r; AAV, *Congr. Concilio*, *Libri Decret.* 30, f. 227r.

231 Cases identified as belonging to the diocese of Senigallia are as follows: AAV, *Congr. Concilio*, *Libri Decret.* 16, f. 592v; AAV, *Congr. Concilio*, *Libri Decret.* 17, f. 387r; AAV, *Congr. Concilio*, *Libri Decret.* 19, f. 149r; AAV, *Congr. Concilio*, *Libri Decret.* 27, f. 155r.

232 Case marked "Aesina seu Senogallien": AAV, *Congr. Concilio*, *Libri Decret.* 19, f. 32r.

233 To make this check in the *Positiones Sess.* series, which we recall is inventoried by canons and sessions of the Council of Trent, it is not sufficient to rely on what is written on the backs of the boxes. In the *Positiones Sess.* series there is in fact not a single box that bears the abbreviation "Derebreg" on its spine. All backs of boxes (from n. 261 to n. 271) are marked "Sess. 25 c.11 *de ref.*". Inside, however, they each contain hundreds of *positiones* that individually do not have the same uniform cataloguing, when they have it at all. The series *Positiones (Carte sciolte)* or *Buste marroni*, due to peculiarities concerning its ordering and inventorying, does not yet allow for an easy thematic analysis on a large scale, also owing to the lack of finding aids. This series is in fact inventoried differently from the previous one, and at least partially follows an alphabetical order, by name of the dioceses. In the *Positiones (Carte sciolte)* series I found many cases of alienation requests from religious houses located in the diocese of Jesi and that of Fermo.

234 See as an example some cases related to the Jesuit college in Fermo. Cf. AAV, *Congr. Concilio*, *Positiones. Sess.* 263, ff. 57r–v; 66r–v. The corresponding SCC's decree is in AAV, *Congr. Concilio*, *Libri Decret*. 26, f. 2v. See another case, also concerning the Jesuit college,

The use of these two expressions can be traced back to the close proximity in content between the Tridentine canon and the *De rebus regularium non alienandis*. Limited to the world of the regular clergy, in fact, there is no doubt that the cases regulated by c. 11 Sess. XXV *de ref*. were themselves incorporated within the *De rebus regularium non alienandis*. Therefore, it is not surprising that the supplications are not uniformly tagged. In this connection, it should be noted that in both the *Positiones Sess.* and *Positiones (Carte sciolte)* series the denotation "*De rebus regularium non alienandis*" was used exclusively for cases of the regular clergy, whereas "c. 11 Sess. XXV *de ref*." was used indistinctly for both regular and secular clergy.[235]

Some supplications have annotations specifying the type of transactions for which the licence was sought, such as: "Alienatione"[236] or "Permutatio si in evidentem".[237]

It is only logical that the way in which the *Positiones* were classified thematically also reverberated in the drafting of the *Libri Decretorum*. This can already be seen in vol. 12, the day after the general decree was issued.[238] In the meetings following September 1624, the SCC issued various licences for the first time that were formally and content-wise superimposable on

in AAV, *Congr. Concilio*, *Positiones Sess.* 263, ff. 58r–v; 65r–v. The corresponding SCC's decree is in AAV, *Congr. Concilio*, *Libri Decret*. 26, f. 3v. It should be noted that in the *Libri Decretorum* both cases now mentioned are marked with the formula *De rebus regularium non alienandis*.

235 In some cases, especially relating to folder *Positiones Sess.* 225, the individual *positiones* contained therein are marked "c. 11 Sess. XXV *de reg*." Checking the content of the various supplications, however, it is quite clear that they are inherent in the subject of alienations or otherwise related to c. 11 Sess. XXV *de ref*. Probably, but this is only a hypothesis, it should not be considered a reference to the true canon c. 11 *de regularibus*, which regulates very different areas, but rather a way of cataloguing employed by the experts, who implied that the canon was c. 11 *de reformatione* but referring to the regular clergy, erroneously marked it as "de reg." creating this misunderstanding. See, for example, the case of the Convent of S. Domenico in Fermo. Cf. AAV, *Congr. Concilio*, *Positiones Sess.* 225, ff. 251r–v; 254r–v.

236 AAV, *Congr. Concilio*, *Positiones Sess.* 269, ff. 91r–94v.

237 AAV, *Congr. Concilio*, *Positiones Sess.* 268, f. 1360r.

238 The manner in which volume 12 has been written does not faithfully respect the chronological order in which the individual decrees have been issued by the SCC. It is therefore necessary to search case by case, and attempt to reconstruct the exact date of the SCC's meetings. The issuing of the general decree on 7 September 1624 was followed by meetings on 9, 12, 20 and 23 November and 14 December 1624. Particular decrees of varying content, issued on the above-mentioned dates, are placed in random order within the volume. See AAV, *Congr. Concilio*, *Libri Decret*. 12, from f. 201r onwards.

those that were later labelled, in a more or less standardised manner, "*De rebus regularium non alienandis*"; at that point, however, they were categorised as "c. 11 Sess. XXV *de ref.*"[239] Some decrees were even catalogued with both denotation.[240]

The wording "*De rebus regularium non alienandis*" begins to appear in the *Libri Decretorum* with some regularity from volume 13, which contains a collection of licences issued from 1626 to 1628.

This shows that, as was the case with the *Positiones*, the two terms were also sometimes used interchangeably in the *Libri Decretorum*, without prejudice to the distinction between regular and secular clergy already mentioned.

Another significant action applied to petitions by SCC staff was to record the decision made quickly and concisely. It is rare to find definitive negative *(Negative)* responses from the SCC in the context of alienations, such as responses of inadmissibility of the request (*lectum* or *Non expedire*). Instead, more complex issues were more likely to be postponed *(dilata)*, or clarification was required locally *(pro informatione)*.[241] The SCC usually, with some exceptions, accepted requests concerning alienations.

Here are the most frequently used positive annotations: "pro concessione",[242] "expediatur decretum",[243] "Arbitrio eminentissimi Episcopi",[244] "Archiepiscopo per provideat",[245] "episcopo in forma commissoria",[246] "episcopo in forma commissoria si in evidentem",[247] and "si in evidentem".[248] In some cases, the SCC used formulas that also made the subject matter of the licence explicit, such as dispensations for the leasing of real estate within the third generation: "Pro arbitrio episcopi si in evidentem ad tertiam generationem masculinam".[249] Each annotation corresponded to a particular

239 As an example, see a case related to the diocese of Osimo in AAV, *Congr. Concilio*, *Libri Decret*. 12, f. 207r–v.
240 AAV, *Congr. Concilio*, *Libri Decret*. 12, f. 230r.
241 On the SCC's response mode, see Hinschius (1869) 462–463; Bangen (1854) 173–176.
242 AAV, *Congr. Concilio*, *Positiones Sess.* 268, ff. 352r–353v, 363r–v.
243 AAV, *Congr. Concilio*, *Positiones Sess.* 263, ff. 57r–v; 66r–v.
244 Ibid., ff. 360r–362v; 367r–v.
245 Ibid., f. 219v.
246 AAV, *Congr. Concilio*, *Positiones Sess.* 266, ff. 415r–416v; 419r–421v.
247 AAV, *Congr. Concilio*, *Positiones Sess.* 269, ff. 1160r–1161v; 1171r–1172v.
248 AAV, *Congr. Concilio*, *Positiones Sess.* 267, ff. 654r–655v; 660r–v.
249 AAV, *Congr. Concilio*, *Positiones Sess.* 268, f. 516v.

decree, which the officials appropriately registered in the *Libri Decretorum*. As we shall see, these short formulas concealed particularly articulate rulings.[250]

In addition to these definitive answers, the SCC could also grant extensions. In fact, some petitions, although thematically related to the alienation sphere, did not contain actual requests for licences, but rather applications for extensions. For example, the Jesuit college in Fermo had received a licence from the SCC to borrow a certain amount of money *(a censo)*, with the obligation to return it. Unable to meet the deadline, the Jesuits in December 1670 asked for a further three years to settle their debt. The SCC partially granted this request, replying "ad annum".[251]

3.3.4.2 Clarification requests: litterae pro informatione

Supplications that arrived in Rome, whether or not intermediated by the procurators general of the orders or superiors general, did not always receive immediate approval from the SCC. In fact, the SCC had to ascertain whether there were sufficient canonical causes for an alienation dispensation, and then could request further clarification if necessary, before making a final decision. These are known as *litterae pro informatione*. It was precisely the 'biased' nature of the requests that required the SCC, as well as the other Roman dicasteries, to critically question what was reported to them. Depending on the case, this investigation could be addressed either to the individual petitioning convents, or to other authoritative local figures such as diocesan ordinaries.[252] The latter could both assure the SCC of the veracity of the individual monasteries' declarations and provide additional information for the proper conduct of the transaction. Copies of these missives should logically be found in the volumes of the *Libri Litterarum*, which were compiled precisely for this purpose by the officials of the SCC. It happens very often, however, that these volumes do not contain all the letters sent in a given session by the SCC. Moreover, when the *Libri Litterarum* mention them, these copies – or sometimes just summarising notes – are in a particularly strict form, especially if they fall within the field of dispensations. For

250 The meaning behind these abbreviations will be discussed in the section on rescripts.
251 AAV, *Congr. Concilio*, *Positiones Sess.* 263, ff. 249r–250v.
252 See Varsányi (1964) 136.

example, it often happens that the *Libri Litterarum* contain only a mere indication of the addressee, and the subject of the letter. The following text confirms the veracity of the statements made in the letter: "Scriptum Eminentissimo Ordinario ut circa narratorum veritatem referat."[253] Therefore, the only way to trace the text of these letters is to check their presence in local archives, and especially in the diocesan archival series for incoming correspondence of the bishop, which – if one is lucky – are ordered chronologically by Roman congregation of origin. The Coronese hermits (from the Grotte Hermitage) wrote to the SCC in 1699 to ask for a licence for a business of some significance, valued at about 1400 scudi: they wanted to sell one of their possessions near Jesi, in the contrada *Gorgolongo*, an area also commonly known as *la Brecciata*, and with the money thus earned buy two plots of land that were closer to their hermitage and therefore easier to manage.[254] Since there was still money left over, they also asked to buy the cattle that were already on the two possessions to be purchased.[255] On 14 November 1699, Cardinal Giuseppe Sacripante, prefect of the SCC[256] at

253 AAV, *Congr. Concilio*, *Libri Litter.* 14, f. 42v. On the entire archival series, as well as the chronological division of each individual volume, see the already cited Index by Caiazza, in AAV, Sala Indici, n. 1173, 12–14.

254 The text of the supplication sent to the SCC, which cannot be found in the AAV, is copied in the letter *pro informatione* sent later by the SCC to the bishop of Jesi. See ASDJ, *Classe XXI*, b. 353, n. 405, n. f. [Coronese hermits, 1699]. Since references to the location of the land are absent from the supplication, I have taken them from a note on the bishop's letter of reply to the SCC, a copy of which is kept in ASCC, *Eremo camaldolese delle Grotte di Cupramontana, Atti relativi a legati pii*, n. IV, f. 122r. The volume, which is in fairly good preservation condition, opens with an index of "Legati pii" (pious bequests), i. e. provisions for religious or charitable purposes, which can be made by will or donation to ecclesiastical institutions.

255 Below is the full text of the supplication. ASDJ, *Classe XXI*, b. 353, n. 405, n. f. [Coronese hermits, 1699]: "Eminentissimi e Reverendissimi Signori. Il Priore et eremiti Camaldolesi di Monte Corona dell'eremo delle Grotte del Massaccio Diocesi di Jesi humilissimi Oratori dell'EE.VV. riverentemente espongono, como possedendo una possessione di capacità di some cinque, et una coppa in circa gli si porge occasione di venderla per prezzo di scudi mille quattrocento: e vale per rinvestire in luogo più vicino al loro eremo, e con maggior vantaggio gli vengono offerte due possessioni di capacità di some ventitre in circa per prezzo di scudi mille trecento ottanta: e perche vi sopravvanzano scudi venti per gli oratori supplicano l'EE.VV. non solo per l'opportuna licenza per far questa vendita, ma anche di poter impiegar detti scudi venti nella compra del Bestiame esistente nelle due possessioni da comprare."

256 Cardinal Giuseppe Sacripante was prefect of the SCC from 2 January 1696 to 4 December 1700. See Del Re (1964) 282.

the time, and Secretary Ferdinando Nuzzi[257] wrote to the bishop of Jesi, Alessandro Fedeli, asking for clarification.[258] This missive had attached the previous supplication which the Coronese hermits had sent to the SCC, so that the bishop could understand the matter. The SCC addressed the ordinary of Jesi requesting that he inform the congregation itself about the value and annual yield of the assets that the monks intended to dispose of:

> Reverendissime Domine uti frater. Antequam Eminentissimi Patres Sacrae Congregationis Concilii quicquam decernant circa adiunctas preces Prioris, et Eremitarum Camaldulensium Amplissimam Suam audiendam esse censuerunt. Ipsa igitur super expositis Sacram Congregationem distincte reddat instructam signanter super valore in proprietate et annuo fructu bonorum alienandorum ac reinvestimenti animique sui sententiam exprimens preces ipsas remittat.[259]

The SCC's demands were few but very clear and concerned the exact value of the property to be sold, the fruits, and any reinvestment. Fedeli replied to the congregation the following 8 December, reassuring them that he had had a technical evaluation carried out by experts, and that both the sale and purchase would be beneficial to the hermits. Furthermore, the bishop mentioned in favour of the hermits that the goods to be bought were located near the hermitage.[260] A little over a month later, on 16 January 1700, the SCC granted the necessary licence by decree.[261]

257 Ferdinando Nuzzi was secretary of the SCC from 1696 to 1700. See Palazzini (1964b) 378.

258 ASDJ, *Classe XXI*, b. 353, n. 405, n. f. [Coronese hermits, 1699].

259 Ibid. There is no trace of this missive to the bishop of Jesi in vol. 12 of the *Libri Litterarum*, which theoretically should collect the letters issued by the SCC in its meeting of 14 November 1699. Since it is quite improbable that the SCC had sent so few missives at that time, as the *Libri Litterarum* show, it is reasonable to assume that some were not recorded.

260 Bishop Fedeli's draft reply letter to the SCC is in ASDJ, *Classe XXI*, b. 353, n. 405, n. f. [Coronese hermits, 1699]: "Die octava decembris 1699. Exhibitis mihi nuper a PP. Camaldulensibus Montis Corone in Heremo Criptarum Oppidi Massacii huius Diocesis litteris EE.VV. 14 novembris pro informatione super venditione cuiusdam praedii cum reinvestimento pretii in duobus aliis praediis. Examinare feci testes pro tradendo eorundem valore, et annuo fructu, ex quorum dictis constat, quantitatem praedii vendendi esse salmarum quinque […]. Unde his attentis evidenter liquere dignoscitis de contractus huiusmodi utilitate ad favorem PP. dicti Eremi tamquam in venditione proprii praedii, quam in emptione aliorum duorum, iuncto commodo vicinitatis." A copy of this document, but not in draft form, can be found in ASCC, *Eremo camaldolese delle Grotte di Cupramontana, Atti relativi a legati pii*, n. IV, f. 122r.

261 AAV, *Congr. Concilio*, *Libri Decret*. 50, f. 5r–v.

A further example of a *littera pro informatione* comes from a case concerning the Jesuit college in Monte Santo, diocese of Fermo. The rector had sent the SCC a supplication in which he explained that the college had bought a house with the aim of demolishing it and using its building materials. However, they had only demolished half of it. Now finding themselves in need, they asked the SCC for permission to sell half of the remaining house (worth 90 scudi), in order to use the money to build the church and the Jesuit college.[262] On 23 June 1657, the SCC wrote to the local ordinary, Cardinal Carlo Gualtieri, Archbishop of Fermo, asking for clarification of the rector's claims.[263] Gualteri replied the following 27 July:

> Presa informationi sopra l'aggiunto memoriale che rimando all'EE.VV. ritrovo esser vero che il Collegio de PP. Giesuiti di Monte Santo habbi acomprato una casa per demolirla e servirsi della materia e si sia già servito di quella d'una parte già demolita che gli sia d'utile il vender l'altra restata in piedi, si per bisogno di impiegar il prezzo di scudi circa novanta per la medesima fabrica rimasta imperfetta; si perche altrimente rovinando come da piu parti minaccia verrebbe il Collegio a discapitare ed all'EE.VV. bacio humilissimamente le mani Fermo 27 luglio 1657.[264]

The bishop, as one can deduce from the letter, confirmed the truthfulness of the Jesuits' words, also fearing that failure to sell and consequent non-demolition could threaten the college building itself. The SCC granted the licence on 15 September 1657.[265]

A similar case concerns the Company of the Santissimo Sacramento in Monte Carotto, diocese of Jesi. Companies such as pious places and hospitals, although not belonging to the regular clergy, also asked the SCC for a licence for their businesses. The priors and brothers of the Company pointed out to the SCC that they owned a rather deteriorated piece of land, with vines and trees. On that plot of land there was also a clay hut, with the floor in poor condition. The petitioners reported that they had found likely buyers willing to take the land *ad tertiam generationem*, build a habitable house on it, and pay an annual rent of 10 scudi.[266] The prefect of the SCC, Cardinal

262 I have not been able to trace the original supplication sent to the SCC in the AAV. However, there is a copy of it preserved in ARSI, Instit. 158–I, f. 85v.

263 AAV, *Congr. Concilio*, *Libri Litter.* 14, f. 2v.

264 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 28 (F), n. f. [Jesuits, Monte Santo (Fermo), 1657].

265 AAV, *Congr. Concilio*, *Libri Decret.* 21, f. 74v.

266 ASDJ, *Classe XXI*, b. 353, n. 405, n. f. [Company of the Santissimo Sacramento, Monte Carotto, 1696].

Sacripante, sent a *littera pro informatione* to the bishop of Jesi on 15 December 1696 asking for clarification.[267] Bishop Alessandro Fedeli replied on 16 January 1697, giving a favourable opinion and arguing the benefits that the church would gain from such an operation. He also suggested lending credence to the prayers of the members of the Company as long as the contract required the buyers to make improvements: build a new house and plant new trees in the right quantity for the land.

It could also be the case that the clarification of buying and selling came from the religious houses themselves. The prior and the Cistercian monks of Castagnola wrote to the SCC on 5 May 1657 to ask for a licence to sell a house owned by the abbey, located in Monte Marciano (diocese of Senigallia). They also asked to be able to sell an active *censo* of 200 scudi. The SCC had initially denied the licence, expressly requesting "Reperto investimento redeant", i. e. inviting petitioners to resubmit only once they had found the capital on which to reinvest the money from the sale.[268] The Cistercians submitted a new petition, pleaded by the Cistercian procurator general, Abbot Benedetto Pennazzolo. In the new request the monks specified the requested reinvestment details:

> Hoggi l'Oratori hanno dove rinvestire il prezzo della detta casa, et la sorte principale del detto censo in una possessione di sette rubbi [269] e mezzo di terra contigua, et attaccata nel territorio di Morro di Jesi quale consiste in un prato di capacità di mezzo rubbio, vigna et arborata qualche rubbio, et il resto arativa per seminare. Supplicano dunque l'Eminenzee V.V. per la licenza di vendere detta casa et per l'alienatione di detto cenzo, e poter fare l'rinvestimento nella detta possessione.[270]

267 Ibid.: "Reverendissime Domine uti Frater. Antequam Eminentissimi Patres Sacrae Congregationis Concilii quicquam decernant circa adiunctas preces Priorum, et fratrum Sanctissimi Sacramenti Societatis, Ampl. suam audiendam esse censuerunt. Ipsa igitur super expositis Sacram Congregationem praefatam distincte reddat instructam, animique sui sententiam exprimens preces ipsas remittat." This missive was not transcribed in vol. 22 of the *Libri Litterarum*.

268 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 27 (E), n. f. [Cistercian monks, Jesi, 1657]. The *positio*, which is not numbered, consists of a file signed by the procurator general. Inside there is also a memorial from the monks of Chiaravalle. The entire dossier makes it possible to retrace the chronological sequence of events, and thus also of the supplications previously sent.

269 One *rubbio* of land was a measure of area, which identified land area required to sow one *rubbio* of wheat. [1 *rubbio di terra* = 17,000 m^2]. At the same time, 1 *rubbio*, understood as a measure of capacity, was oughly equivalent to 210 kg of wheat. See Urieli (1986) 293.

270 AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 27 (E), n. f. [Cistercian monks, Jesi, 1657].

This information led to the granting of the licence by the SCC on 23 June 1657.[271]

The plot of land that was the subject of this supplication, located in the district of Monte Marciano, a feudal community directly dependent on the Apostolic Chamber, was a chamber property.[272] Between 1634 and 1646, several properties, including the one in question, had been sold to the Monastery of S. Vito and Modesto in Rome, seat of the Roman Cistercian Congregation, and to the Abbey of Castagnola. In particular, in 1646 Patrizio Laurenzi, Prior of Castagnola, had purchased the lands located in the contrada known as *Buratta* or *Scarca Mantello*, from a certain Giovanni Francesco Rossi and his son Clemente.[273] Purchases of this kind, given the chambers nature of the property, required a licence from the local chambers minister, which was duly granted. The sale of emphyteutic goods of this type also imposed on the buyers the annual payment of a quarter of the profit to the chamber minister, in addition to the payment of the *laudemio*, i. e. the renewal tax, typical of long-term concessions (every 29 years). It happened, however, that in 1656, the General Treasurer of the Reverend Apostolic Chamber, Giacomo Fransone,[274] had ordered Commissioner Francesco Antonio from Monte Gallo to requisition these possessions because he considered the licence given by the local chamber minister to be illegitimate and the monks to be usurpers. This triggered a dispute between the Cistercians and the Apostolic Chamber, in July 1657, to regain possession of these lands.[275]

This brief account makes it clear that the SCC's licence was part of the broader jurisdictional tangle of the Papal States, which, as we have seen, provided for the granting of further licences by other bodies depending on the nature of the property. This example is particularly significant in understanding how important it was for the SCC to know the nature of the estate or any obstacles that might compromise its peaceful management.

271 AAV, *Congr. Concilio*, *Libri Decret*. 21, f. 19r. The SCC's rescript can also be found in ACCSBI, S. Maria in Castagnola – Chiaravalle d'Ancona, b. 1, n. f. [1657].

272 See Jamme / Poncet (2007) 833.

273 About Patrizio Laurenti as prior of Castagnola, see Amatori (1994) 34.

274 On Giacomo Fransone as general treasurer of the Apostolic Chamber, see Giannini (2005) 881.

275 The report on the whole affair and the dispute between the abbey and the Reverend Apostolic Chamber is in ACCSBI, S. Maria in Castagnola – Chiaravalle d'Ancona, b. 1, n. f. [1657].

In conclusion, it must be emphasised that the *litterae pro informatione* were instruments for consulting local institutions and an integral part of the SCC's decision-making procedure. Although licences were delegated to the bishops, the presence of this correspondence is proof that scrutiny by the SCC was not purely formal, as it might otherwise seem.

3.3.4.3 The technique of rescripts si in evidentem: *delegated dispensations*

This section deals with how the SCC drafted, issued, and dispatched licences.

In the late Middle Ages, according to Thomas Frenz, supplications *si in evidentem* were approved with the clause per sola segnatura.[276] This method, which became widespread at the beginning of the 15th century, did not involve drafting and dispatching further apostolic letters, as the supplication itself became the definitive document that was sent back to the sender.[277] Petitioners, or their representatives, used to expressly request the adoption of this special procedure, which was faster and less costly.

Belloni and Nubola, however, have identified other modes of approval and dispatch in their research on 16th-century supplications of alienation. Those approvals were dispatched *per breve supplicatione introclusa*[278] or *per breve extensum*;[279] some cases were debated *per Audientia litterarum contradictarum.*[280]

These authors refer to a period shortly before the entry into force of the *De rebus regularium non alienandis*, but it is necessary to take this into account, too, because it is very likely that the alienations of the secular clergy's property continued to be processed in the manner just described. In this regard, further research on the Apostolic Dataria, also from a comparative perspective with the activity of the SCC, could open up new scenarios on the work of both bodies with regard to the same matters.

From the 16th century onwards, the faculty of approving petitions was also extended to Roman congregations.[281] In the area of gracious jurisdic-

276 See Frenz (2013b).
277 See Rabikauskas/De Lasala (eds.) (2003) 247–248.
278 See Nubola/Belloni (eds.) (2006) 512.
279 See Nubola/Belloni (eds.) (2006) 783.
280 See Nubola/Belloni (eds.) (2006) 819. See also Belloni (2006) 119–124.
281 See Frenz (2008) 75.

tion, these congregations would promulgate decrees, which they sent out by means of rescripts.

As already mentioned, SCC officials used to write the decree in full on one of the two copies of petitions that had been initially submitted by the procurators general. The dicastery then returned this document (rescript) to the beneficiary religious community. The other copy, on which the response of the SCC was quickly noted down, remained at the disposal of the SCC itself. The text of the decree, in complete form, was finally also transcribed in the *Libri Decretorum*, so that the SCC could also keep a true copy of the act issued. Thus, the researcher can use both the decrees in the *Libri Decretorum* and the rescripts available in the local archives for possible comparisons.

The issuing of a decree, which reached the petitioners in the form of a rescript, was part of what Corradi called the *praxis dispositive*[282] of the SCC.[283]

The rescript was a legal institution of ancient conception, which spilled over from Roman law into the Church system.[284] The term, from the Latin *rescribĕre*, reflects the form in which they were issued, i. e. the approval written at the bottom of the petition. It expressed the *potestas scribendi* in the hands of the pope to respond to individual requests. From being an instrument exclusively at the disposal of the pontiff, due to its practicality it gradually became widespread by delegation to the various organs and dicasteries of the Curia. It was a wide-ranging tool that curial practice used for dispositions and acts of various kinds, as it was particularly flexible and adaptable to circumstances.

The SCC's rescripts adhered to precise stylistic and formal criteria that reflected the *Reskripttechnik*[285] of the dicastery. Despite the apparent standardisation, these acts were legally complex.

282 See Corradi (1735b), lib. IX, cap. V, p. 344.

283 See Corradi (1735b), lib. IX, cap. II, n.1, p. 328: "[P]ro Regularibus, pro quibus non expediuntur literae, sed tantum per Sacram Congregationem Concilii conceditur simplex rescriptum; vel simplex licentia; quae extenditur in calce supplicis libelli, seu memorialis inibi porrecti, ut infra dicetur."

284 See Canosa (2003) 6–7. Among the most significant reflections on the rescript institution from a legal-historical perspective, see Giacchi (1937); Salinas (2023).

285 I have borrowed the term used by Peter Herde in relation to the procedure of the *Audientia litterarum contradictarum*. See Herde (1973).

The decrees on the subject of alienation were in fact not all the same, and they did not all produce the same juridical effects. The ones analysed in this work are specifically those *si in evidentem*, i. e. those acts that concerned transactions of the regular clergy, and that had the particular characteristic of delegating jurisdictional authority exclusively to local ordinaries. The decrees were clearly recognisable and thus verifiable precisely because of their particular fixed wording, and were distinguishable from one another, only seemingly similar measures. In fact, in principle, SCC licences pertaining to the *De rebus regularium non alienandis* always delegated their execution to third parties, even if it might occur, albeit rarely, that this delegation was not manifestly expressed in the text of the decree.[286] In addition to the diocesan ordinary, the SCC could delegate the execution of licences to the superiors general of the orders,[287] or to the cardinal protectors.[288] In these cases, however, the delegation did not lead to the opening of a local procedure *si in evidentem* in the diocese, but rather the issues were resolved within the institutional organisation of the respective religious order, as shown in the chart below:

286 See, for example, a decree addressed to the Dominicans of the diocese of Sulmona: AAV, *Congr. Concilio*, *Libri Decret.* 19, f. 499v: "Sacra [Congregatio Cardinalium Concilii Tridentini] concessit facultatem vendendi Domum, et in aliis bonis stabilibus investiatur."

287 AAV, *Congr. Concilio*, *Libri Decret*. 21, f. 160v. This is a case concerning the Conventual Franciscan Convent of S. Floriano in Jesi. Below is the decree issued by the SCC on 15 December 1657: "Sacra [Congregatio Cardinalium Concilii Tridentini] Veris existentibus narratis petitam facultatem vendendi prenarratam et parvam terrae quantitatem pro arbitrio et conscientia P. Generalis Ordinis benigne Oratoribus concessit. Ita tamen ut integrum pretium in praediorum bonificationem impendatur."

288 Decree addressed to the nuns of the Cassinese Congregation in the diocese of Cava De' Tirreni. [AAV, *Congr. Concilio*, *Libri Decret.* 21, f. 551r]: "Sacra [Congregatio Cardinalium Concilii Tridentini] auctoritate [sibi tributa] Attenta relatione Eminentissimi Protectori Ordinis supplicem hunc libellum eidem benigne remisit, qui veris existentibus expositis et quatenus in evidentem Monasterii utilitate sit cessura, petitam facultatem prenarratis modis constent, duas ex tribus partibus lucretur amissa tertia, que inservientibus accrescat."

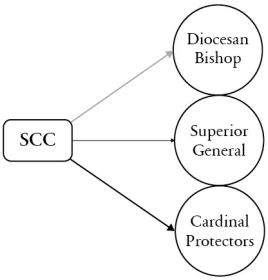


Chart 10: The institutional positions that could usually be commissioned by the SCC.

For example, in 1659, the Jesuit college in Fermo was the owner of a small house *(casuccia)* and, being in need of funds, had written to the SCC asking for permission to pawn one room of this house at the price of one hundred scudi.[289] This money was to be used by the Jesuits to complete the construction of a church vault. The college also specified that the contract, if concluded, would provide for the return of the room to the Jesuits, if they requested it, at the same price as previously agreed upon. On 8 February 1659 the SCC, considering the low value of the property ("modicitate rei") instructed the Jesuit Superior General Goswinus Nickel to grant such a licence once he had assessed the appropriateness of the transaction.[290]

289 The *Licentiae et Decreta SS. Congregationum* series, kept at ARSI, contains a volume in which there is a transcription of the supplication sent by the College of Fermo to the SCC, the subsequent SCC decree, and the consequent disposition of the Jesuit superior general to the rector of the college. See ARSI, Inst. 158 – I, f. 107r. For the original supplication sent to the SCC, see AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 28 (F), n. f. [Jesuits, Fermo, 1659].

290 AAV, *Congr. Concilio*, *Libri Decret.* 21, f. 551r: "Sacra [Congregatio Cardinalium Concilii Tridentini] auctoritate [sibi tributa] attenta modicitate rei, benigne commisit P. Generali Societatis, ut veris existentibus expositis, et quatenus in evidentem praefati Collegii utilitatem sibi cessura, petitam facultatem dandi pignori prenarratam parvam Domunculam pro summa scutorum centum et cum Conditionibus supra expressis, pro suo arbitrio, et conscientia gratis oratori impartiatur; Ita tamen ut detta pecunia in perficienda prenarrata fabrica integre, et cum effectu impendatur." A copy of the decree is also in ARSI, Inst. 158 – I, f. 107r.

About a month later, on 12 March 1659, Nickel wrote directly to Giovanni Battista Tartalius,[291] rector of the college in Fermo, authorising him to proceed.[292]

Delegation to the superior general was also used in the Coronese family. The Coronese hermitage in Cupramontana owned a house near the castle of Rotorscio; this building was about to fall into ruin and the religious did not have enough money to restore it.[293] In addition, it was very difficult to find someone to rent such a house to, since – as the supplication says – Rotorscio was sparsely inhabited. However, the fortuitous opportunity arose to let this house for life ("livellare") to a certain Pietro Romaldi, and consequently the hermits asked for a licence. The SCC delegated the resolution of the case to the Coronese superior general on 7 July 1646.[294] Within a short time, on 24 July 1646, Superior General Urbano de Divitiis,[295] from his residence at the Hermitage of Monte Corona, issued the final positive.[296]

291 P. Giovanni Battista Tartalius, Rector from 1659 to 1661. For the series of rectors of the College of Fermo, see the manuscript *Historia del Collegio con l'elenco dei rettori e dei professori*, preserved at ARSI, *Rom*. 250.

292 ARSI, Inst. 158 – I, f. 107r. A case very similar to the one just described, and also concerning the Jesuits of Fermo, is found in ARSI, Inst. 158 – I, f. 89v. Goswinus Nickel, following the SCC decree of 15 December 1657, wrote on 26 December 1657 to the Rector of the College of Fermo Fr. Franciscus Mancinus, in office from 1656 to 1658. The SCC decree can be found in AAV, *Congr. Concilio*, *Libri Decret*. 21, f. 153r. The original supplication is in AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 28 (F), n. f. [Jesuits, Fermo, 1657].

293 ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], f. 197r–v.

294 ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], f. 197r: "[R]emisit petitionem hanc ad Generalem dd. Eremitarum, qui veris existentibus narratis, et constito de utilitate Eremi praedicti pro suo arbitrio indulgeat oratoribus ut dictam Domum ad vitam praefati Sacerdotis Petri locare valeant." The SCC's decree can be found in AAV, *Congr. Concilio*, *Libri Decret*. 18, f. 152v.

295 Urbano de Divitiis from Naples was elected for ten non-consecutive terms as Coronese Superior Generale *(Maggiore)*. See Lugano (1908) 512.

296 ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], f. 197v: "Die 24 Iulii 1646 facultate mihi a Sacra Congregatione Eminentissimorum Cardinalium Concilii Tridentini Interpretum suprascritto Decreto impartita (…) mihi de evidenti utilitate Eremi nostri Criptarum Massaccii […], licentia gratis indulgemus ut dictam Domum ad vitam praefati Sacerdotis Petri locare valeant." As recorded in a volume entitled *Catasto dei beni stabili di questo eremo delle grotte* – which lists the real estate owned by the Hermitage in 1695 – that I found at

From the cases now presented, it appears that delegation to the superiors of the order generally depended on the nature or the frequently low amount of income the transaction yielded, as well as contingent factors such as specific customs of the religious orders.

On the other hand, the decrees delegating the decisions to diocesan ordinaries bear a close formal resemblance to those issued by the Congregation of Bishops and Regulars, which, as already mentioned, shared competence in this field with the SCC.[297] Although the wording was different, the *Breve si in evidentem* also had clear thematic affinities.[298] It referred both to the assets of the secular clergy and to those of the regular clergy.

Although it remains to be investigated, it seems that in some cases, e. g. concerning the goods of a cathedral chapter, it was the SCC itself that decreed that alienation licences be granted by a *breve*.[299]

A decree *si in evidentem* issued by the SCC delegating execution to the local diocesan authority, albeit with differences depending on the subject matter, usually looked like this:

ASCC, the contract *(instrumento)* by which the house was actually sold was drawn up on 22 January 1647 by Isidoro Ferranti, notary of Cupramontana. See the report in ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Catasto dei beni stabili dell'Eremo*, n. XIX, f. 73v: "Adi 22 di Gennaro 1647: Li Padri Eremiti delle Grotte del Massaccio vendettero al Signore D. Pietro Romaldi dalla Serra di S. Quirico habitante a Retorscio la casa Hereditaria del Signore Conte Odoardo Scala posta dentro il Castello del Retorscio per il prezzo di Fiorini sessanta moneta durante però la vita solamente di detto Signore D. Pietro, de quali si hebbero fiorini quindici incontanti, fiorini quindici promise pagarli alla raccolta prossima 1647, et fiorini trenta che si paghi dalli suoi Heredi dopo la sua morte, e promise accomidare detta casa a sue spese, et il tutto fù fatto con la licenza della Sacra Congregazione come nel detto Instrumento il tutto chiaramente si puol vedere rogato Isidoro Ferranti dal Massaccio." As regards this volume, which is in a precarious state of preservation due to evident traces of dampness, it should be noted that the numbering of the sheets is uneven and discontinuous. There is an index of the Hermitage's possessions at the beginning of the volume.

297 As an example, see a decree of the Congregation of Bishops and Regulars issued in 1671 in favour of the Confraternita della Morte in Maiolati, diocese of Jesi. ASDJ, *Classe XI*, b. 181, n. 355, fasc. 8, n. f. [Confraternita della Morte in Maiolati, 1671].

298 See as an example an apostolic brief of Alexander VII, with which in 1656 he authorised the Coronesi of the Grotte Hermitage to sell a house with a vegetable garden, which they had previously received as a donation and used as a dwelling in Jesi. See Annex D.

299 AAV, *Congr. Concilio*, *Libri Decret.* 31, f. 329r: "Sess. 25 c. 11 – permutationis. Septimius Ricci. Sacra [Congregatio Cardinalium Concilii Tridentini] attenta relatione Ordinarii censuit Si Sanctissimo D. n. placuerit posse per litteras Apostolicas in forma Brevis eidem Ordi-

> Sacra Congregatio cardinalium Concilii Tridentini Interpretum, auctoritate sibi tributa, commisit Archiepiscopo firmano atque eius ecclesiae Archidiacono, ut coniunctim procedentes, vocatis, qui fuerint vocandi, ac servata forma adiunctarum litterarum felicis recordationis Pauli II Incipien. Cum in omnibus, postquam […] si fiat, in evidentem conventus utilitatem cessuram esse gratis petitam licentiam oratoribus impertiantur.[300]

With the expression "auctoritate sibi tributa", the decree implied not so much the various papal bulls that had transferred powers to the SCC, but specifically the authority granted by the *De rebus regularium non alienandis*.

This formula could be followed by expressions such as "Attenta relatione" plus the title of superior general, cardinal protector, or bishop.[301] In doing so, the SCC made it clear that it had previously consulted third parties for clarification. In the absence of other sources, such as a specific *positio*, this is the only clue as to whether there had already been a clarifying intervention before the decree was issued.

The core of the ruling is introduced by "commisit"; in the practice of the Roman Curia, the verb *committere* has taken on a rather broad meaning such that it includes both the verb *delegare* and *mandare*.[302]

In his studies on the Tribunal of the Signatura Iustitiae, Richard Puza specified that this verb stood for an *Übertragung von Jurisdiktionsgewalt*, i. e. a transfer of jurisdiction to a third party.[303] This is what is commonly called *commissio in partibus*; historiography has ascertained that papal measures containing this formula were widespread as early as the 12th century, known in German as *Delegationsreskript* or *Delegationsmandat*.[304]

In the practice of the Roman Curia in the 16th century, requests for *commissio in partibus* were expressly used by petitioners in supplications to ask the pontiff to delegate a third judge to resolve, usually on the spot, a

nario Committi ut constito sibi de expositis, accedente Consensu Capituli petitam facultatem pro suo arbitrio et conscientia gratis impertiat." The corresponding *positio* is found in AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 5 (E), n. f. [Septimio Ricci, Jesi, 1681].

300 AAV, *Congr. Concilio*, *Libri Decret.* 13, f. 140r.

301 AAV, *Congr. Concilio*, *Libri Decret*. 21, f. 428r. The same decree in the form of a rescript can be found in the dossier of the local procedure held at the diocesan tribunal of Fermo. See ASAF, *Processi si in evidentem*, Fermo 3 1550–1560, n. f. [Jesuits, 1658]. The corresponding *positio* is in AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 28 (F), n. f. [Jesuits, Fermo, 1658].

302 See Pavloff (1963) 14–15.

303 See Puza (1978) 97. Cf. Hinschius (1869) 461.

304 See Wetzstein (2004) 86–88. Cf. Herde (2004) 26.

dispute that had already had a first instance of judgement. It was therefore essentially an appeal and a typical mode of judicial procedure.[305]

However, the *commissio in partibus* was also used in dispensations, for instance in matrimonial matters.[306] In the supplications on the subject of alienation addressed to the SCC there are no explicit requests for a *commissio in partibus*; nevertheless, the decree *si in evidentem*, which can be considered an apostolic letter containing *gratiam*,[307] delegated precisely a *commissio in partibus*.[308]

These officials, although not empowered to resolve a dispute, were also judges delegate to ascertain the facts, in order to safeguard the interests of the Church in the execution of the rescript.

It must also be considered that a decree *si in evidentem*, besides implying a delegation of jurisdictional mandate, was primarily a dispensation. The ways in which dispensations were granted in the Roman Curia's dicasteries were mainly of two types: in gracious form *(in forma graziosa)* or in commissory form *(in forma commissoria)*.[309] Dispensation in gracious form was granted directly by the author of the dispensation, and there was no intervention by the executor, i. e. the office did not entrust third parties with the execution, but proceeded autonomously. The dispensation in commissory form could instead be of two types: with a mandatory executor or with a voluntary executor. In the first case, the dicastery entrusted the execution of apostolic letters or rescripts to the local ordinaries; these officials were also known as *meri-exequutores*, as they came into play when the affair had already been discussed, "negotium iam plene discussum", and all that remained for them was to apply what the Holy See had decided.[310] De Rosa did not consider these persons to be real judges, as they did not have *cognitio* of the case, i. e. they did not dwell on the fact itself, but only executed a decision already made.[311]

305 See Belloni (2006) 128.
306 See Belloni (2006) 131.
307 In his treatise *De exequutoribus literarum Apostolicarum tam Gratiae quam Iustitiae*, de Rosa included the chapter *De exequutoribus Gratiae Si in evidentem* in the first part dedicated to the apostolic letters of gracious nature. See De Rosa (1676), pars I, cap. XII, pp. 311–313.
308 See Faoro (2006) 54.
309 See Van Hove (1936) 112.
310 See BC (1886), vol. III, 479.
311 See De Rosa (1676), pars I, cap. V, n. 1, pp. 133–134.

The voluntary executor, more frequently known as *mixtus exequutor*, on the other hand, had the task of going into the details of the transaction and performing a series of actions that were appropriate for a real judge.[312] This function seems to reflect the characteristics of the bishop (judge or commissioner) to whom power was delegated by virtue of a decree *si in evidentem*.

The clauses contained in the decrees *si in evidentem* of the SCC served to make explicit what Monacelli called "gratia condizionale"[313] and De Luca "assenso condizionale in forma commissoria",[314] i. e. an assent to the alienation that was conditional on a whole series of acts that the local ordinaries would have to implement. All the fixed clauses served precisely to make the *forma commissoria* explicit, i. e. to specify how the judges delegate were to behave in order to execute the rescript.[315] The commissory mode in the case of alienation licences represents a specific typology: *commissio in forma si in evidentem utilitatem*.[316] It took the form of a particular case of *commissio in partibus*, typical of the alienation of ecclesiastical temporal goods.

To return to the wording of the decrees: the verb *commisit* could sometimes be replaced by *remisit* in cases where the SCC commissioned the execution of the transaction to the same diocesan bishop from whom it had previously received clarification on the case.[317]

The judge commissioners (as judges delegate were also referred to) granted the licence to the supplicants by first assessing a series of elements that were essential for the correct alienation and above all for the safeguarding of the general interests of the Church. If the cases were particularly burdensome, the decrees also contained the formula "Vos coniunctim procedentes", which elevated other persons to the role of judges. We will discuss these specifically in the next chapter when we look at the diocesan phase.

312 Ibid., p. 134.

313 Monacelli (1844), pars II, tit. XIV, formula IV, n. 1, p. 168: "Beneplacitum Apostolicum super alienatione bonorum Ecclesiarum, […] expediatur per Dataria, sive a Congregationibus Concilii, et Episcoporum, et Regularium, habet regulariter in ventre clausulas, quae reddunt gratiam conditionalem, et quae non nisi causa cognita verificandae sunt."

314 De Luca (1673), lib. VII, cap. II, n. 1, p. 12.

315 See De Rosa (1676), pars I, cap. XXII, n. 88, p. 31: "Sicut Beneficia Apostolica pro alienationibus rerum Ecclesiasticarum semper conceduntur in forma Commissaria." On this mode of dispatch, see Ostinelli (2007) 8–11.

316 See Ricci (1619) 98–105.

317 Cf. AAV, *Congr. Concilio*, *Libri Decret*. 21, f. 74v.

Sometimes the SCC added the phrase "constito sibi de veritate narratorum".[318] This expression, which can be translated as "established the truth of the reported facts", concealed a central element of what was the role of the delegatees. With this clause, the SCC did not only delegate the execution of the case, but also the actual investigation of the facts that had previously been narrated to the congregation. When the SCC issued a decree, it did so on the basis of the limited elements it had at its disposal; thus, it did not carry out that purely abstract exercise, common to other offices, in which it was assumed that the data provided was true, using for example the typical formula *(si est ita)*, the so-called *veritas precum*.[319] On the contrary, the SCC ordered the judges primarily to shed light on what had been reported to the Roman Curia, i. e. the reasons behind the licence applications.

The decree then often presented the following expression: "Vocatis qui fuerint evocandi." The purpose of this clause was to oblige the judges to summon the parties and all those whom it was necessary to call before proceeding and concluding the contract. Failure to fulfil this obligation could also harm the interest of third parties.[320] This means that the apostolic consent, despite being the most important of the solemnities, was not sufficient to immediately execute the transaction if the judges had not observed all the necessary procedural steps.[321]

The practice of calling to trial all those who were to be called responded to the obligations imposed by the bull *Cum in omnibus*, promulgated by Paul II on 11 May 1465, which stipulated: "De his quae observare debent iudices a Sede Apostolica delegati in causis alienationum bonorum eccle-

318 AAV, *Congr. Concilio*, *Libri Decret*. 13, f. 353v.

319 See Herde (2004) 35–36.

320 See De Rosa (1676), pars I, cap. IV, n. 20–21, pp. 43–44: "Similiter in Litteris in evidentem iurisdictio delegata continetur, quod patet ex illis clausulis, vocatis vocandis, si vobis legitime constiterit, de quibus supra; si pariter in aliis Litteris directis Exequutoribus, in quibus omnibus aliquid agere debet Exequutor cum iurisdictionis exercitio, Et quod fortius stringit est, nam in huiusmodi Litteris quamcumque Gratiam continentibus, quae Exequutoribus diriguntur, iurisdictionis exercitium continetur, nec ipse Papa facit Gratia, sed ipsi Exequutori mandat ut veris existentibus narratis ipse Apostolica Authoritate Gratiam faciat, nam cum Litterae sunt Beneficiales in forma dignum, de quibus loquimur, dicitur in eis Apostolica Authoritate conferas; sic Exequutor confert Apostolica authoritate delegata non Papa; quare tunc, ut dicimus alibi, Exequutor debet facere provisionem, seu collatione uti delegatus Sedis Apostolicae."

321 See De Luca (1673), lib. VII, cap. I, n. 4, p. 9.

siasticorum."[322] This bull imposed punishments on those judges who forwarded the decree of alienation without complying with the procedures, and thus ran the risk of harming the interests of the Church.[323]

By inserting the clause "ac servata forma adiunctarum litterarum felicis recordationis Pauli II Incipien. Cum in omnibus" in the text of the individual licences, the SCC expressly reiterated when and whether to observe the provisions of the 1465 norm.[324] The bull *Cum in omnibus* had mandated this inclusion in all delegated alienations.[325] This also served as a warning for the judges delegate about the penalties they would face if they did not comply with the procedures.

An important clarification must be made in this regard. In some specific cases, the clause "vocatis vocandi" and the reference to *Cum in omnibus* were absent, as in the following two examples. In 1655, the abbess Maria Felice Azzolini and the *sindici*[326] of the Monastery of S. Chiara in Fermo wrote to the SCC to ask for a licence to sell a small house, located in the contrada *Castello*, for only 35 scudi so they would be able to buy grain and must for the monastery's board.[327] On 18 September 1658, the SCC instructed the

322 Full text in BR (1860), t. V, 183–184. It should be noted that the *Cum in omnibus* was promulgated two years before the *Ambitiosae*. Although the *De rebus regularium non alienandis* does not contain explicit references to the *Cum in omnibus* in the text, it makes it its own in practice.

323 See Corradi (1735b), lib. IX, cap. V, n. 12, p. 344.

324 Corradi (1735b), lib. IX, cap. V, n. 33, pp. 348–349: "Quod vero ad alienationem bonorum Regularium datur licentia per Sacram Congregationem Concilii per simplex illius rescriptum in calce supplicis libelli appositi; quo ordinario et Dignitatem obtinenti committitur, ut servata forma Constitutionis Pauli II. procedant, aliquando vero ipsi Ordinario tantum. Quinimmo non semel vidimus hanc alienandi licentiam impartiri, absque alia commissione, ut infra."

325 See BR (1860), t. V, 184: "Volumus autem quod legati et commissarii praedicti moneantur, et in quibuscumque litteris et commissionibus huiusmodi hoc statutum nostrum inseratur." In this regard, Corradi argued that in any case, not including the reference to the *Cum in omnibus* in the apostolic approvals did not lead to the annulment of the alienations later made by the delegate judges. See Corradi (1735b), lib. IX, cap. V, n. 12, pp. 344–345.

326 The *sindici* in women's monasteries were elected by the bishop from among the gentlemen of the city and had to provide their services in various fields. They were responsible, among other things, for the care of the monastery property and all related economic aspects.

327 The rescript containing the nuns' petition and the related SCC decree can be found in ASAF, *Processi si in evidentem*, Fermo 3 (1550–1660), n. f. [Monastery of S. Chiara, Fermo, 1658].

archbishop of Fermo to grant the nuns the right to sell the small house, so that with the money raised, they could buy wheat and wine for their sustenance:

> Sacra Congregatio Eminentissimorum Cardinalium Concilii Tridentini Interpretum remisit eminentissimo Cardinali Archiepiscopo firmano, qui attenta oratricum necessitate, et quod nullo alio modo providere possunt, pro suo arbitrio concedat eisdem facultatem ut dictam domunculam vendere valeant, ita tamen ut pretium exhinde retrahen. in emptionem frumenti et vini pro victu monialium cum effectu convertatur.[328]

It is a decree that has a more concise form than those seen so far, and it lacks some of the fixed clauses examined above. In any case, the general structure makes this decree immediately identifiable as being within the scope of the *De rebus regularium non alienandis*.

Another similar case concerns the Conventual Franciscan friars of Fermo, who in 1658 made a request for *accipiendi ad censum* one hundred scudi in order to buy grain for the sustenance of the convent. The SCC replied on 23 February 1658, instructing the archbishop of Fermo to grant the licence, but obliging the friars to pay off the debt within a year:

> Sacra [Congregatio Cardinalium Concilii Tridentini] auctoritate [sibi tributa] benigne remisit Eminentissimo Archiepiscopo firmano, qui veris existentibus narratis, et quatenus alia commodiori ratione praefate urgenti necessitati consuli non possit, petitam facultatem accipiendi ad censum scuta centum pro suo arbitrio et prudentia gratis Oratoribus impertiatur; Ita tamen ut illa integre in prenarratum effectum expendantur, et predectus census infra annum extinguatur, alioquia is, ad quem pro tempore spectabit, penas in Decretum de rebus Regularium appositas eo ipso incurrat.[329]

The non-inclusion of the reference to compliance with the *Cum in omnibus* should not be attributed to mere coincidence. Evidently, the SCC considered that for certain matters that were not particularly relevant from a patrimonial point of view, it was not necessary for the bishop to call to court other parties who might be involved or affected by the granting of the licence.[330]

328 ASAF, *Processi si in evidentem*, Fermo 3 (1550–1660), n. f. [Monastery of S. Chiara, Fermo, 1658]. The SCC's decree is also in AAV, *Congr. Concilio*, *Libri Decret*. 19, f. 520v.

329 AAV, *Congr. Concilio*, *Libri Decret.* 21, f. 190v. The decree, in the form of a rescript, is in ASAF, *Processi si in evidentem*, Fermo 3 (1550–1660), n. f. [Conventual Franciscans, Fermo, 1658].

330 See Corradi (1735b), lib. IX, cap. III, n. 30, p. 323: "[S]i ita qualitas, et gravitas materiae suadeant, committitur, ut procedant servata forma liter. Pauli II."

As we shall see in the next chapter, however, the absence of the clause "vocatis vocandi" generated a slightly different procedure in the diocesan tribunals. In fact, in those cases the judges delegate did not issue the edicts *(litterae edictales)*, which we will turn to in a later section of this book.

In addition to the fixed clauses already listed, decrees could also contain others. Between the presentation of the petition to the SCC, the issuing of the decree, and then its actual execution, a certain period of time elapsed during which the value of the goods might change, depending on various factors. Through the insertion of the formula "in evidentem conventus utilitatem cessuram esse", the SCC took care that the advantage for the Church as initially intended would not be reduced: this clause obliged the judges to verify the utility of the transaction at the same time as the execution of the decree, and not before.[331]

In the event that the friars requested the sale of a property to obtain money for a specific purpose, the SCC included the clause "dummodo venditio, pretii conversio unico contextu fiant". This served to remind the commissioner that the sale of the goods and the subsequent conversion of the money into the purchase of other goods had to be done at the same time. The SCC feared a decrease in value and was concerned that the money from the sale would not sit idly for a long time.

The last element that often emerges in these decrees is a reference to the lack of any cost involved. The licence issued by the SCC was free of charge, as established by the *De rebus regularium non alienandis*, and this had to be the same for the work of the judges delegate, who through the wording "gratis petitam licentiam oratoribus impertiant" were forbidden to impose charges. The local procedure *si in evidentem* that arose at the diocesan tribunal, however, was not free at all. The two procedures should be kept distinct. The final judgement that was issued by the local judge was theoretically free of charge, but all the acts that made up the procedure– as we shall see – had chancery costs attached.

Those listed so far are the most common clauses to be found. From a technical point of view, the decree is clearly a delegated dispensation, a single legal instrument equipped with *ius dispensandi* and *ius delegandi*. By using these recurring expressions, the licenses provided the addressees with a

331 See Corradi (1735b), lib. IX, cap. V, n. 49, p. 351.

clearly delineated legal area within which they were permitted to move. A decree legitimised the local ordinary, while at the same time imposing on him a clear and standardised *modus procedendi*.

Chapter 4:
The Diocesan Stage

The term 'diocesan stage' is intended to describe the concluding phase of the *iter si in evidentem*. Once the rescript – on the contents of which we have already gone into detail at length – was packaged and dispatched, it returned to the religious communities that had requested a licence. In most cases, the SCC delegated the execution of the decrees to the local ordinaries, who in turn instituted proceedings in the episcopal tribunals.

Italian historiography has produced some very valuable studies that focused on the great post-Tridentine episcopates, dwelling in particular on the pastoral action of the reception and translation of the Tridentine in local areas.[1] As early as 1982, in an article entitled *Tra centro e periferia: le istituzioni diocesane post-tridentine*, the historian Paolo Prodi underlined the fact that there were still many aspects of diocesan institutions to be investigated. In particular, Prodi pointed out the need to further explore the functioning of the episcopal judicial power, the relations between bishops and regular clergy, the administration of ecclesiastical property, and in general the peripheral diocesan structures.[2] More than 20 years later, Claudio Donati still insisted on the need to extend research on some of these points.[3]

Italian historians have in fact been investigating local ecclesiastical justice in the early modern age for a long time, but have mainly limited themselves to the inquisitorial sphere. This seems to be a local echo of the historiographical sensibility that privileged some Roman congregations over others.[4]

Early modern Italian diocesan tribunals still remain great historiographical absentees.[5] The reasons for this deficit may also be due, at least partially,

1 For a thorough review of studies on Italian episcopates, see Battelli (1992); Donati (2004).

2 See Prodi (1982) 216–223.

3 See Donati (2004) 385–386.

4 For an overview of the historiography on the Roman inquisition, see Romeo (2014). Specifically on the Inquisition in the early modern Marche, see Lavenia (2012, 2018).

5 Concerning Italian late medieval diocesan courts, see Bizzocchi (1987); Pia (2014); Tanzini (2020).

to concrete archival issues, which undermine the possibility of research with a systematic approach. Among these, we could mention the difficulty of physically accessing the archives, the lack of finding aids, or the difficulty to access some particular archival series, especially judicial ones. Of course, each local context is unique, and it would be incorrect to generalise, but certain shortcomings are common to many realities.

Certainly, progress has been made in recent years thanks to scholars of social and religious history who have focused on some of the numerous issues for which the bishop's courts were competent; one thinks, for example, of the confessional and matrimonial field.[6] Despite this, there is still a long way to go and many knots remain to be untangled regarding the ordinary courts and, more generally, the figure of the bishop as a judge; in fact, the areas of competence of the diocesan tribunals, the relationship at the local level with the other lay and ecclesiastical magistracies and the possible differences in the various states of the peninsula, the relationship with the Roman Curia, the jurisdictional conflicts etc. still need to be defined. From a legal-historical point of view, the legal practices in both the civil and criminal fields in use at the tribunals and the role of Curia officials should also be investigated further, including making the necessary comparisons between different contexts of the pre-unification states.

In 2012, Marco Cavarzere had a first, significant breakthrough with his book *La giustizia del vescovo*, which framed the episcopal justice system within the overall scheme of Roman centralism and peripheral polycentrism; the historian provided a broad overview of cases, subjects, appellate systems and practice in the field of litigation, with the Ligurian dioceses in the background.[7]

The work of Thomas Deutscher, which thoroughly analyses the ecclesiastical legal documentation of the Novara diocesan tribunal, is also a step forward in the study of ecclesiastical courts in northern Italy.[8] A historiographical gap has begun to be bridged, also with respect to the historiography in both a European and a non-European context.[9] In this regard, the

6 On early modern confessional tribunals, see Brambilla (2006). Concerning marriage in the episcopal justice system, see Quaglioni / Seidel Menchi (eds.) (2006).

7 Cavarzere (2012). In the same years, Gaetano Greco had analysed the early modern Tuscan ecclesiastical courts. See Greco (2012) esp. 983–999.

8 See Deutscher (2013).

9 See, for example, on English ecclesiastical courts Outhwaite (2006).

study by Jorge Traslosheros about ecclesiastical tribunals in the Mexican context remains a point of reference, also from a methodological point of view, for approaching local ecclesiastical courts.[10]

With regard to diocesan courts in the Papal States, a 2017 study conference entitled *Giustizia ecclesiastica e società nelle Marche di età moderna* took stock of the situation.[11] On this occasion, the historian Guido Dall'Olio presented the first encouraging results of his research on the bishop's court of Sant'Angelo in Vado.[12] Historians Diego Pedrini and Lucia Dubbini also introduced the first findings of a lengthy work that focuses on the criminal section of the bishop's court in Jesi. This work resulted in a monograph published in 2020.[13]

As can be seen, criminal justice certainly has had a lot of appeal. The bishop's tribunal and the diocesan curia in general, however, were institutions where a much broader spectrum of competences was exercised.

This chapter will delve into the local voluntary jurisdiction procedures.

Specifically, it will focus on the *processus si in evidentem* from a legal-historical perspective, analysing the court procedures and the actors involved, with particular attention to the legal institution of apostolic delegation and the relationship between bishops and religious orders.

4.1 The diocesan *processus si in evidentem*: voluntary episcopal jurisdiction

The most complex issue, as well as the first to be addressed in this section, is how to place the *processus si in evidentem* within the context of diocesan governance from a historical-legal point of view. The praxis must be analysed considering the subject matter of the procedure, the institution of apostolic delegation, and the ordinary and delegated episcopal competencies especially in relation to the regular clergy.

As mentioned, in the dichotomy of contentious and voluntary jurisdiction, the cases *si in evidentem* belong, at least generally, to the second type.

10 See Traslosheros (2002). Other effective studies on diocesan courts are those by Gouveia (2018) concerning the diocese of Coimbra and by Farrica (2019) on the diocese of Evora.

11 On the bishop's courts in the Marche region in the early modern age, see the articles in Lavenia / Pedrini (eds.) (2018).

12 Dall'Olio (2018).

13 Pedrini / Dubbini (2020).

The exercise of voluntary jurisdiction at local ecclesiastical institutions in the modern age has been neglected by historiography even more than contentious one. In this context, the work of Francisco Luis Rico Callado, who analysed voluntary procedures in early modern Castilian diocesan courts, remains an essential reference point.[14] Among the legal treatises of the time, Ducasse's work *La pratique de la juridiction ecclesiastique*, *volontaire, gratieuse et contentieuse*, published in 1706, provides useful insights through examples of the practices adopted.[15]

Ecclesiastical jurisdiction in the voluntary sphere included many activities: ordination, consecration, absolution, dispensation, blessing, collation of benefices and more.[16] In his famous *Formularium Legale Practicum Fori Ecclesiastici*, in the section on the bishops' power of dispensation, Monacelli counted various types of licences: licences to be absent from residence, to study, to collect alms, to exhume corpses, to accept mass burdens, to build oratories and monasteries, and much more.[17] Female religious communities were particularly subject to the *ius dispensandi* of the bishop.[18]

As Callado has pointed out, the adjectives 'voluntary' and 'gracious', although in common parlance often used synonymously, did not mean exactly the same thing, or rather did not group together the same actions.[19] The difference was quite subtle but important, especially with regard to the procedures that ensued. Gracious matters were those which depended solely on the will of a superior, who would act either in response to a request or upon his own intitiative. Think for instance of licences to preach or take confession. A distinguishing feature was that a bishop's decisions could not be appealed. The properly voluntary matters were those that did not depend exclusively on the will of the superior. In these cases, which could cover the most varied

14 See Rico Callado (2014a). Some elements of ecclesiastical voluntary jurisdiction can be gleaned from specific studies on German diocesan courts in the late Middle Ages, see Hashagen (1916); May (1956).

15 Ducasse (1706).

16 See BC (1888), vol. IV, 637. Cf. Ducasse (1706), pars I, cap. 1, p. 9 : "La juridiction des Evêques est ordinairement divisée en Volontaire et en Contentieuse. La premiere s'exerce sans aucune contestation des parties, soit dans le for intérieur, comme dans le Sacrement de Penitence, soit dans le for extérieur, comme dans la collation des Bénefices, les dispenses, les approbations des Confesseurs, etc."

17 See Monacelli (1844), pars I, tit. VI, pp. 186–239.

18 See Monacelli (1844), pars I, tit. IX, pp. 315–351.

19 See Rico Callado (2014a) 55.

matters, bishops would only act upon request by a subject for a licence or dispensation. These were more complex affairs, such as the vast and intricate field of benefices, which required not only greater legal care, but also more structured procedures in order to avoid infringing the rights of third parties.[20]

Some of these matters might require the prior involvement of the Roman Curia, such as the marriage dispensation decrees "vigore Brevis Apostolici"[21] or dispensations from the canonical age for ordination.[22] This purely voluntary sphere was where the licences for the alienation of temporal goods owned by the Church could be placed.

The same linguistic-conceptual gaps found in defining the competence with which the SCC granted licences are also encountered in classifying this particular type of *potestas regimini*, or power of governance, of the bishop. Formally, these procedures were classified as 'judicial', but their non-contentious nature made them a category of their own. Rico Callado calls them "administrativo" or "procedimiento gubernativo-voluntario" to distinguish them from proper judicial ones.[23] Chironi speaks of "affari straordinari".[24] The cases *si in evidentem* also had some specific features that made them more complex than other voluntary procedures. They always took place *iudicialiter*, i. e. involving a judge, either at the diocesan tribunal or at the vicariat; moreover, the bishop acted not in the exercise of ordinary, but delegated jurisdiction. Finally, the judge, following the prescriptions of the decree *si in evidentem*, was not a mere executor of an apostolic letter, but entered into the merits of the matter. For these reasons, based on Callado's classification, one could consider cases *si in evidentem* as 'qualified' voluntary procedures.[25]

From a procedural point of view, they were not structured with the classic three parties (plaintiff, defendant, judge) typical of litigation cases, which were based on the principle "Iudicum est actus trium personarum".[26]

20 See Rico Callado (2014a) 56.
21 Monacelli (1844), pars I, tit. VIII, formula IV, p. 250.
22 See Chironi (2005) 235.
23 See Rico Callado (2014a) 64.
24 Chironi (2005) 98.
25 Cf. Rico Callado (2014a) 59–60.
26 See Nörr (1993).

The court session was attended by a procurator from the religious community as the applicant-beneficiary and by the judge. Lay people, or religious who had previously agreed with the monastery to enter into the contract once the licence had been obtained, did not constitute a party. Did anyone fill the role which in contemporary terms we might call 'prosecutor'? In cases of voluntary jurisdiction proceedings, there was a plaintiff, i. e. the applicant for the licence, a judge, and apparently no opponent. It should be noted, however, that at least formally the role of 'prosecutor' was embodied by the *procurator fiscalis* who looked after the interests of the Church and could theoretically oppose the alienation. This way, even in voluntary cases, which by definition took place *inter volentes* without the need for a prosecutor, there was a theoretical semblance of tripartition. Furthermore, in practice, it often happened that the judge issued edicts, notices or public notifications to summone any opponents to court, i. e. those who wished to oppose the granting of a licence because it harmed their interests. As Mannori has reported, this happened, for example, in cases of licences to drain public streams for private purposes, in the context of Medicean Tuscany.[27] These acts, as one will see in the following pages, also characterised the cases that are the subject of this work.

The local procedures *si in evidentem* were held at the episcopal court before a judge *(coram Judice pro tribunali sedente)*.[28] The minutes of the hearings commonly begin with the expression "comparuit publice in iudicio".[29] As authoritative historians have already pointed out, at the time, the word "tribunal" (often also called *forum episcopalis* or *forum iudicialis*) meant the episcopal curia as a whole, contrary to what we would be inclined to think today.[30] Consequently, it should come as no surprise that the same structure, and the same officials, dealt with litigation matters as well as voluntary and administrative affairs.[31] This also reflected, *mutatis mutandis*, what was happening at the central level in the Roman Curia dicasteries.[32]

27 See Mannori (1990) 447–448.
28 See BC (1888), vol. IV, 582: "Judicium sumptum pro causae discussione quae coram Judice pro Tribunali sedente sit, definitur."
29 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 11, n. f.
30 See Donati (1999) 220.
31 See Rico Callado (2022) 365.
32 See De Luca (1697), discursus I, n. 14, p. 265.

Geographically speaking, the bishops' tribunals were widely spread throughout the peninsula, even more so than the various inquisitorial districts under the Holy Office.

Their jurisdiction in the external forum was divided into two categories: according to the person involved *(ratione personae)* and according to the subject matter *(ratione materiae)*. With regard to the secular clergy, the court had exclusive competence in both civil and criminal matters. In this category, the civil sphere mainly included the administration of church property, benefices etc. On the other hand, because of the subject matter, i. e. for all that pertained to the spiritual or sacramental, the court exercised its power indiscriminately over laity and clergy. In this category, the civil sphere included, for instance, matters related to marriages or wills, and in the criminal sphere, moral and sexual offences. Some of these cases could be *de mixti fori*, meaning that the secular authority could also prosecute them.[33]

The bishop as local ordinary took care of first instance cases as the Council of Trent had prescribed (c. 20 Sess. XXIV *de ref.*);[34] these cases could be appealed to other courts, such as the tribunals of the nunciatures, those of the metropolitans, or the Roman courts and congregations.[35] It could also happen that the Roman Curia itself, which had previously been asked to intervene in a given case, delegated the matter to the bishops *(iudex in partibus)* of the dioceses bordering those in which the first instance had taken place. This entanglement, typical of all the justice of the *ancien régime*, which was not structured in a coherent and homogeneous system of appeals, is not the focus of this work.

In fact, in the context of the *iter si in evidentem* the relationship created between the SCC and the diocesan ordinary was not that of an appeal, since the decree of the SCC was not a judgement of first instance, but a delegated dispensation.[36] Therefore, this is not a case of dichotomy between judge *a quo* and judge *a quem*, which instead often characterised the relations between centre and periphery, as the research carried out by Cavarzere with regard to the Ligurian area demonstrated.[37]

33 See Brambilla (2003) 82. Cf. Gaudemet (1998) esp. 585–598; Cavarzere (2012) 10.

34 COD 772–773.

35 See Cavarzere (2012) 90–96.

36 On the appeal in post-Tridentine canon law, see Becker (2013).

37 On the concept of superior and inferior judge in canon law see BC (1888), vol. IV, 573: "Judex alius dicitur a quo et alius ad quem. Judex a quo est judex inferior, a quo per

Entrusting diocesan enquiries to local ordinaries was a widespread practice in the SCC's decision-making system, as Anne Jacobson Schutte's research on forced monachization has also shown.[38] For example, in cases concerning the question of whether a monk or nun who had been forced into religious life by their relatives could request *restitutio in integrum*, i. e. to be released back into laity, the SCC assigned the local bishop the task of collecting testimonies. These cases, however, differed from the diocesan stage of the *iter si in evidentem*, for the simple fact that in enquiries concerning forced monachization the local ordinary had to transmit the results to the SCC, which had the last word. In alienation procedures, it was the bishop who issued the final judgement.

4.2 The entanglement of alienation practices at diocesan level

The complexity of the *Praxis alienationis rerum ecclesiae*[39] in the diocesan context requires some clarification to avoid misunderstandings, in the knowledge that a history of the management of Church property at the local level, and especially a history of diocesan institutions dedicated to alienation procedures, still remains to be done.

The distinctions are based on the quality and quantity of the good, and on the type of jurisdiction exercised by the bishop.[40]

With regard to quality *(ratione qualitate)*, we distinguish the alienations of assets of the cathedral church and episcopal *mensa* from the alienations of goods of other churches or ecclesiastical places in the diocesan context, which were governed by rectors or administrators; one thinks for example of pious places, confraternities, convents and monasteries etc.

appellationem fit transitus ad superiorem; judex ad quem est judex superior, ad quem concernunt judicem a quo et ad quem."

38 See Jacobson Schutte (2011) esp. 89–96.

39 Ricci (1674), t. I, p. 1.

40 See De Luca (1675), cap. XXVI, n. 4–5, pp. 452–453: "Che però la materia di questa rubrica ferisce più tosto l'altra specie delle alienazioni delle robbe, overo delle ragioni dell'altre Chiese o luoghi ecclesiastici, le quali si facciano per gli altri rettori et amministratori, siche il Vescovo faccia solamente la parte di superiore autorizante; Et in questo caso si camina con l'accennata distinzione tra le alienazioni piccole, le quali da Giuristi si dicono cadere sotto il capitolo *Terrulas*, esente dalla sudetta Estravagante di Paolo secondo,

In the case of assets of the first type, the bishop was the direct and immediate administrator of those goods and thus de facto also the alienator. When the goods were of minor importance, the bishop exercised his ordinary jurisdiction by issuing licences, thus acting like a judge, albeit one with a direct connection with the property being transacted. When the goods of the *mensa* or cathedral chapter exceeded a certain sum, the precise value of which is difficult to ascertain as it varies according to context and period, apostolic approval was required. De Luca tells us that in this case, the Roman Curia entrusted the execution of the alienation to an ordinary bishop of a neighbouring diocese, and not to the alienating bishop, in order to guarantee the correctness of the procedure.

In the case of property of female monasteries and convents, and sometimes also of male ones, the bishop acted as a remote administrator. In alienation procedures for minor goods, the bishop exercised the role that De Luca describes as "Superiore autorizzante".[41] For larger alienations, i. e. those requiring apostolic approval, the bishop acted as a judge delegate.

It can be deduced from this picture that the bishop, as far as his ordinary jurisdiction was concerned, basically dealt with goods of modest value, whether they belonged to the *mensa*, the cathedral, or religious orders. These alienations of an ordinary kind were often marked in the sources simply as "licentia alienandi", "licentia permutandi" etc.[42]

As a demonstration of this bishop's attitude, some studies have shown how the curial structure itself was modelled and used for these purposes. In the context of the diocese of Bologna, governed by Cardinal Gabriele Pale-

la quale comincia *Ambitiosa*; E le altre alienazioni maggiori, le quali cadono sotto la sudetta Stravagante; Attesto che l'autorità del Vescovo si stende solamente alla prima specie, nella quale fa da superiore, e da autorizante col concorso della giusta causa, e dell'altre solennità, e requisiti; Ma nell'altra specie fa più tosto le parti d'esecutore e di giudice delegato del Papa, il quale veramente autoriza l'atto."

41 For women's religious communities, see the cases found in ASAF, *Processi si in evidentem*, Fermo 3 (1550–1660), n. f. [Monastery of S. Giuliano, 1659]; ASAF, *Processi si in evidentem*, Fermo 3 (1550–1660), n. f. [Monastery of S. Chiara, 1651]. For men's communities, see ASAF, *Processi si in evidentem*, Montegranaro 28 II (1653–1702), n. f. [Convent of S. Agostino, 1659]; ASAF, *Processi si in evidentem*, S. Vittoria in Matenano 60 I (1558–1660), n. f. [Conventual Franciscan friars of the Convent of S. Francesco, 1637]; ASAF, *Processi si in evidentem*, S. Vittoria in Matenano 60 I (1558–1660), n. f. [Conventual Franciscan friars of the Convent of S. Francesco, 1652].

42 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 4; fasc. 5.

otti from 1566 to 1582, Paolo Prodi even reports the existence of a special tribunal elected to deal with the revision of 30-year-old emphyteutic *(ad longum tempus)* leases and alienations, located in Bologna and composed of the vicar and two judges, one appointed by the cathedral chapter and one by the clergy.[43]

The attention paid to alienation dynamics by the bishops also shows in their synodical output. In the acts of the synods celebrated in the 17th century in the dioceses of Jesi and Fermo, for example, entire chapters entitled "de rebus ecclesiae non alienandis" were dedicated to safeguarding the Church's assets.[44]

When the ecclesiastical property exceeded a certain value, the bishop exercised a jurisdiction delegated by the Holy See. There could not be a clear-cut definition of what was actually a small or large asset; the criterion of proportionality was conditioned by the local context. In fact, De Luca argued that a small thing had different value depending on whether it belonged to a rich or a poor, small church: "Cosi un piccolo podere, si stimerà tale in una Chiesa grande, e ricca, et in un'altra povera, e particolarmente di un luogo piccolo, sarà stimato grande."[45] A comparison of some diocesan sources and the treatises of the period shows that, at least in the context of Jesi and Fermo, assets of around 30–40 scudi were considered to be of little value, and therefore alienable through ordinary procedures.[46] However, this is a figure to be taken with due caution as it must also be related to the various systems of coinage and measurement in force in the Papal States in the 17th century, and to the procedural discretion that characterised the judicial system of the *ancien régime*.[47]

43 See Prodi (1960) 329. The archival reference number mentioned by Paolo Prodi can be found today in the the archives of the Archdiocese of Bologna, *Miscellanee vecchie*, n. 769, ff. 80–83. Prodi speaks of the same issue in Prodi (1982) 222; Prodi (2013) 274–275.

44 Concerning Jesi, see Ordinationes et Decreta in Synodo Aesina (1665), tit. XXXIII, pp. 136–139. Regarding Fermo, see the proceedings of the diocesan synod celebrated in June 1660: Synodi Firmanæ. Provincialis (1662), cap. XXX, pp. 108–110.

45 De Luca (1673), lib. VII, cap. IV, n. 3, p. 28.

46 See in this respect a case of ordinary alienation in ASDJ, *Classe XI*, b. 181, n. 355, fasc. 7, n. f. [Confraternita della Morte, Maiolati (Jesi), 1669].

47 Corradi spoke of 25 scudi *aurei*, also giving the necessary equivalences. Corradi (1735b), lib. IX, cap. IV, n. 45, p. 339: "Advertendum est tamen, quod de anno 1601. 22 Martii fuit decisum in Sacra Congregatione Episcoporum, d. c. terrulas intellegi debere de valore

The present chapter deals only with those 'extraordinary' cases that involved only regular clergy and required a licence from the SCC. Obviously, where necessary, the description of the procedure will also be supplemented with archival findings relating to 'ordinary' cases. To summarise the various characteristics of the bishop's jurisdiction when executing a decree of the SCC, one can say that *ratione materiae* concerned the alienation of goods of the regular clergy beyond a certain amount, *ratione modi* was voluntary, *ratione tituli* was delegated, and *ratione fori* concerned the external forum.

4.3 Document format and archival series

The manner in which the diocesan curia produced, named and subsequently archived a *processus si in evidentem* can help the researcher to contextualise the juridical nature of such acts. In particular, the diplomatic analysis of the sources proves useful in tracing and clarifying the institutional bond that linked the documents with the body that produced them.

Episcopal diplomatics, a branch of ecclesiastical diplomatics which is interested, among other things, in the records produced by episcopal tribunals and by diocesan curias, has focused more on the medieval period than the modern one, at least in the Italian context.[48] Here again, Rico Callado, who has carried out in-depth diplomatic studies on both diocesan judicial documents and episcopal governmental acts in the Spanish area, comes to our rescue with some highly revelant work.[49] It goes without saying that the comparison with diplomatic studies of the documentation produced by secular judicial institutions in the early modern Italian context remains indispensable.

In the terminology of diplomatics, a single *processus si in evidentem*, according to results from my archival research, consists of a file containing several sheets, often bound together by a string. The *fascicolazione*, or collation into deeds, was a mode of document production and formalisation that became established in episcopal chancelleries from the second half of the

viginti quinque scutorum auri. Et secundum modernum cursum in Romana Curia constituunt scuta triginta septem circiter monetae Romane, huius vero Regni Neapolis, ducatos quadraginta circiter."

48 See Duca/Pandžić (eds.) (1967) 321. On late medieval episcopal diplomatics, see, among others, Cencetti (1945); Haidacher/Köfler (eds.) (1995); Pagnin (1995).

49 See Rico Callado (2014b, 2017). See also Milagros Cárcel Ortí (2004).

15th century onwards, and which strongly characterised the modern diocesan archive; it was typical of contentious jurisdiction but later spilled over into voluntary jurisdiction as well.[50] Through this practice, the staff in charge was responsible for the formal drafting of all stages of the proceedings and the inclusion of any documents produced by the parties. As in the cases for collecting benefices, in routine bureaucratic language, officials called the files *si in evidentem* "processetti" or "processi".[51]

From a purely formal point of view, these cases have similarities with other episcopal voluntary procedures, for example the acts with which priests asked to be ordained to holy orders *ad titulum patrimonii suii*. This was an exceptional procedure – which differed from the standard one involving a benefit attached to the ecclesiastical office – that allowed the bishop, through a dispensation, to ordain those who already possessed sufficient wealth or a pension; sometimes the cover of this type of file is marked by the wording "Egressio Religionis" in the archive.[52]

Moreover, as provided for by the Council of Trent (c. 2 Sess. XXI *de ref.*[53]), these priests' goods could not be alienated, extinguished or transferred without a licence from the bishop. Consequently, when a secular cleric who had been ordained *ad titulum patrimonii suii* asked for a licence to dispose of these goods, a diocesan procedure was opened that was often called "Alienatio partis patrimonii".[54]

The procedures for the reduction of mass charges *(reductio missarum)*, which also fell within the gracious-voluntary sphere and, as has been shown, were also delegated to the bishops by the SCC, were also organised in files.[55]

As far as alienation cases are concerned, the files usually bear the words *si in evidentem* on the front cover. Sometimes there are also the names of the actors or institutions involved, with indications of the religious order to

50 See Chironi (2005) 191.

51 See Chironi (2005) 197. "Processetti" is also the name frequently used by diocesan curia officials to refer to specific premarital procedures. Those were investigations that aimed to ascertain the marital status of the future spouses, especially when they were not natives of the city. In fact, this source has also been widely analysed to explore mobility in the early modern period. On this subject, see, among others, Chauvard (2020).

52 In the Diocesan Archives of Jesi, see ASDJ, *Classe XI*, b. 267, n. 396, n. f. [*Egressio religionis*, 1649]. See also Chironi (2005) 235.

53 COD 728–729.

54 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 16 [Felice Teuli, 1648].

55 Some examples in ASDJ, *Classe XI*, b. 267, n. 395.

which they belonged. In addition to the ever-present chronological date, one can also sometimes find the chancery fee with the signature of the episcopal chancellor or notary who had drawn up the deeds.[56]

The various acts that make up the file are not always collected *(infilzati)* following the chronological order in which they were issued; this means that the scholar must reconstruct the entire path taken by the file from the oldest to the most recent act in order to have an exact understanding of all the procedural steps. In order to overcome certain palaeographic and diplomatic challenges, one can make comparisons with court documents of litigation proceedings, especially civil ones, held in the same episcopal courts.[57]

Alienation case files, as is logical, are kept in monastic archives, but mostly in diocesan ones, which were required to collect and preserve the documentation produced in diocesan courts and peripheral offices.[58] These papers, especially if they are numerous and therefore voluminous, are organised in separate archival series, as is the case, for example, in the Archiepiscopal Archive of Fermo.[59] Elsewhere, the documents are kept within series dedicated generically to beneficiary matters, such as in the Diocesan Archive of Jesi.[60] Systematic, wide-ranging investigations should be carried out in all Italian diocesan archives to verify the presence of such series, also from a purely quantitative point of view. A quick survey shows that many, such as those of Foligno,[61]

56 As an example, see image 1 in the appendix.

57 The entire series of civil trials of the Episcopal Court of Jesi is preserved today in ASAn, *Tribunale della Curia vescovile di Jesi*, Atti civili.

58 See in this regard what the Synod of Fermo prescribed in Synodi Firmanæ. Provincialis (1662), cap. XXXXV, p. 147. In general on the organisation of diocesan archives after Trent, see, among others, Nicolai (2019).

59 Regarding alienation cases, the Archiepiscopal Archive of Fermo has a series consisting of 179 boxes, organised according to toponomastic and secondarily chronological criteria. The series is subdivided into no less than 62 localities and covers a time span from the second half of the 16th century to the second half of the 19th century. Unfortunately, it does not have any finding aids, and the individual case papers are not even numbered. On this series, see some brief notes in Verducci (1986) 20–22; Tassi (1987) 33, 42–43. A reconnaissance of the entire series and the drawing up of an analytical inventory would be desirable.

60 In the Diocesan Archive of Jesi, the cases *si in evidentem* are mainly contained in ASDJ, *Classe XI*, b. 181. They can also be found within archival series or boxes dedicated to individual monasteries, such as in ASDJ, *Classe XIX*, b. 342, n. 446.

61 See Monachino et al. (eds.) (1998) 144.

Gubbio[62] or Imola,[63] contain series collecting legal cases of this type. Generally speaking, however, these archival sources are not grouped in purely judicial series. The fact that the bureaucratic proceedings flow into separate and distinct series shows how these voluntary procedures represented something different to the judicial ones for the curial administration, even though they had a judicial 'cover'.

Some deeds related to the *processus si in evidentem* can be found in other archives, for example in notarial ones, which are usually kept in state archives. These include, for example, contracts of sale or exchange that are connected to the procedures for the alienation of Church property in various ways. On some rare occasions, notarial records also preserve the original rescripts of the SCC, as they are collected in the *Libri Instrumentorum* of the notary-chancellors working in the diocesan curia.[64]

4.4 The professionals

As mentioned, local ecclesiastical institutions, and diocesan governance structures in particular, remain an area still much neglected by Italian historiography. This deficit also affects the knowledge about the professionals who worked in the curia, who were obviously also protagonists in the cases *si in evidentem*.[65]

The following pages focus on the main actors who participated in the alienation procedures, such as judges, vicars general, notary-chancellors, procurators, fiscal procurators and vicars forane.

62 See Monachino et al. (eds.) (1998) 163.

63 See Monachino et al. (eds.) (1998) 167.

64 The notary-chancellor of the diocesan curia of Jesi, Tommaso Matoffi, included the original SCC's rescript addressed to the Monastery of S. Chiara in Jesi in his *Liber instrumentorum*. See ASAn, *Archivio notarile di Jesi*, *Tommaso Matoffi*, n. 1523, ff. 143r–148v. The *positio* concerning this case can be found in AVV, *Congr. Concilio*, *Positiones (Carte sciolte)* 27 (E), n. f. [Monastery of S. Chiara, Jesi, 1660]. The corresponding SCC's decree can be found in AAV, *Congr. Concilio*, *Libri Decret.* 22, f. 56v. For a general overview of the state of notarial archives in the Marche region, see Domenichini (2019).

65 Among the main authors who have dealt with diocesan offices, in addition to the already mentioned work by Claudio Donati, see above all the studies by Turchini (1986); Zardin (1995). On the personnel employed in the courts, useful studies in a comparative perspective are Lefebvre-Teillard (1973); Dellaferrera (1997); Gouveia (2021).

The acts of the Synod of Fermo of 1662 reiterated that the officials operating the curial machine, in carrying out their duties, were to have only God before their eyes, and fulfil their office with discipline:

> In iis exercendis Deus solum, iustitiaeque leges prae oculis habeantur; et tam generalis Vicarius, quam foranei, Curiales, Notarii, Officialiesque omnes, partes suas iuxta sui muneris, vel ministerii debitum adamussim studeant adimplere.[66]

Of course, the intention here is not to give an in-depth overview of the functions of these officials, which would require a separate discussion, but to limit the analysis to the role they played in the context of the legal cases that concern the present work. In general, and not only in relation to the Marche, it should be noted that further prosopographical works on these positions could be useful from a broader perspective. In fact, by studying the exact duration of their offices, their careers, any changes of their function, the many peculiarities on a territorial basis, and their ties to the institution in which they worked, to name but a few, one could gain a much more exhaustive view not only of their role, but also of the functioning of the curia itself.

4.4.1 The bishops as judges delegate

The central figure in the local procedure *si in evidentem* was the bishop as the judge delegate designated by the Holy See.[67] Before going into detail, it is appropriate to define the peculiarities of apostolic delegation, i. e. of that legal institution that transferred power to ordinary bishops, paying particular attention to the context of voluntary jurisdiction. In general, a judge delegate differed from an ordinary judge in that he had no jurisdiction by virtue of his office as such: "[N]on habet jurisdictionem vi proprii officii, sed eam exercet ex beneficio et commissione alterius cuius vice fungitur."[68] This classic definition is certainly true, but the reality was more complex.

Early twentieth-century treatises, noting the numerous cases of apostolic delegates provided for in canon law, formulated a kind of illustrative scheme.[69] There were various types of persons who could be granted apos-

66 Synodi Firmanæ. Provincialis (1662), cap. XXXXV, p. 145.

67 On the role and position of the judge delegate in the Italian diocesan context, see Marco Cavarzere's reflections in Cavarzere (2012) 90–100.

68 BC (1888), vol. IV, 573.

69 See Wernz (1906) 290–291.

tolic delegation: bishops according to the Tridentine formula *ut sedis apostolicae delegati*, vicars and apostolic administrators, judges delegate (*iudices synodales*[70] and *conservatores*[71]), and finally the executors, who were usually delegated by rescript, especially in the field of gracious justice.[72] This is a theoretical exercise and not directly applicable to what was going on in the 17th century; however, the above observations may prove very useful in discerning the nature and prerogatives of the judges of alienations.

In light of this subdivision, it is rather difficult to come up with a rigid categorisation of the positions of the diocesan ordinaries made judge delegate by the SCC, since they seem to have accumulated competences and prerogatives belonging not only to one but to several groupings now listed. They were certainly executors of apostolic letters or rescripts, but at the same time they also held the function of real judges by virtue of the *Cum in omnibus*; furthermore, they were diocesan ordinaries vested with a competence that went beyond their ordinary jurisdiction. So these are complex figures that cannot be pigeonholed too easily.

Apostolic delegation can also be classified on the basis of other criteria. Indeed, canonistics distinguishes between *delegatio a iure* (also referred to as *a lege* or *a canone*) and *delegatio ab homine*.[73] The *delegatio a iure* aplies where a rule prescribes the transmission of jurisdiction. On the other hand, one speaks of *delegatio ab homine* when the delegation is effected by a subject with the power of jurisdiction.[74] Even this clear-cut division is not applicable *tout court* to the delegation that is the subject of this work. At first glance, in fact, one might think that the decrees *si in evidentem* were a case of *delegatio ab homine*, since the SCC was the delegating subject that not only legitimised the intervention of the local ordinary but also limited its power from a

70 The diocesan synod, by virtue of c. 10 Sess. XXV *de ref*., provided for the appointment of synodal judges who were to flank the ordinary judges and could also be assigned specific tasks by the Holy See. These judges are not to be confused, however, with the synodical examiners, always elected in the context of the diocesan assembly by virtue of c. 18 Sess. XXIV *de ref*., who were in charge of the examinations for the competition for the office of parish priest.

71 These officials were commissioned by the Apostolic See to protect the assets of an ecclesiastical body threatened by third parties. See in this regard Rösser (1937) 128; Rehberg (2007) 50–51.

72 See Wernz (1906) 464–476.

73 See Herde (2004) 25. Cf. Wernz (1906) 296; Rösser (1937) 128.

74 See Conrad (1930) 57–59.

temporal and spatial point of view. However, things are a little more complicated than that.

If one looks at the normative references in the field of apostolic delegation in matters concerning alienations, apart from the aforementioned bull *Cum in omnibus*, it should be pointed out that the *De rebus regularium non alienandis* said nothing about jugdes delegate. The Council of Trent, on the other hand, had repeatedly spoken out at least on the institution of delegation; in particular, canon 5 of Session XXII *de ref.*[75] established that all dispensations that were delegated outside the Roman Curia had to be addressed to the ordinaries of those who had requested them.[76] Through this rule, the Church structurally linked the institution of delegation with that of dispensation. In fact, the Council Fathers trusted that the bishops would be able to execute dispensations, relying on their ordinary jurisdiction insofar as they had stable and organised institutions in their territory. The bishops could approach the concrete case easily, assess the issues closely and clearly identify the parties involved. This, as we shall see, ensured streamlined, rapid procedures that benefited both the petitioners and the administration of ecclesiastical justice.

The canon in question also specified that for dispensations granted in gracious form, i. e. without executors, the bishops, as delegated by the Apostolic See, had to inquire *extraiudicialiter* as to the veracity of the facts narrated by those who had requested the dispensation.[77] Instead, the bishop in charge of alienation matters always acted *in via iudicialiter*, i. e. in the forms and praxis in force at the diocesan courts of the time. This happened because the decrees *si in evidentem* were *litterae gratiosae* granted not in a gracious form, but in a commissory form specifically called *si in evidentem*. Consequently, the bishops delegated by the SCC were *mixti executores*, and thus properly judges.

Papal delegation had its roots in Roman law and was widely used in medieval times.[78] Ordinaries were granted papal delegations to settle certain local disputes, as Pietro Silanos' studies on the Bishops of Parma between the 12th and 13th centuries have shown.[79] The Council of Trent, through the

75 COD 739.

76 See Fantappiè (1999) 33.

77 COD 739.

78 On delegated papal jurisdiction in medieval times, see the bibliography collected in Paravicini Bagliani (ed.) (2010) esp. 372–374. See also Duggan (2016).

79 See Silanos (2012).

famous expression *ut sedis apostolicae delegati*, had regulated the various cases in which bishops should or could act as delegates of the Holy See, especially on matters concerning the regular clergy.[80]

To be precise, this expression appears in the text of the conciliar decrees in slightly different iterations, namely as *tamquam Apostolicae Sedis Delegati*, as *etiam tamquam Apostolicae Sedis Delegati* or just as *etiam auctoritate apostolica*. Investigating the underlying reasons for these different linguistic expressions, canonists have ascertained that the first phrasing meant that the bishop was granted a power which he had not previously wielded, while in the second and third versions, the formula indicated that the bishop himself added to the ordinary power he already possessed that deriving from delegation.[81] The historiographical debate that analysed the historical-political reasons underlying the Council Fathers' frequent use of this expression within the reform canons is necessarily linked to the theme of the strengthening of episcopal powers in the Tridentine context. The Council of Trent had to respond to the requests of the Catholic episcopate, which demanded greater autonomy, especially with regard to what Jedin called the *impedimenta*; the first obstacle consisted in the substantial intrusions of the cathedral chapters and archdeacons, the second was the interference of local princes and lords, and the third concerned the religious orders themselves, who, enjoying broad exemptions, created de facto enclaves within the diocesan territory.[82]

Regarding the complex question of the exemption of the regular clergy, it must be remembered that after several unsuccessful attempts, the Council of Trent had tried to regulate the issue organically.[83]

However, Sess. XXV *de reg*. had only partially accommodated the demands of the episcopates by limiting exemptions, immunities and privileges of the regulars and resorting to the legal wording mentioned above. Historians agree that the Tridentinum had produced a compromise solution that

80 See Barbosa (1724a), allegatio XCII, pp. 365–368; Rösser (1937), 113–127; Jedin (1966) 414–428 Fantappiè (1999) 32–33.

81 See Hinschius (1869) 177.

82 See Jedin (1966) 416. On Tridentine debates on the episcopal powers, see Alberigo (1965); Sygut (1998).

83 For an overview of the previous history of the regular reform, see Jedin (1966) 360–397.

still left many knots to be undone as the papacy proved to be reluctant to narrow or weaken the regulars' exemptions.[84] Reducing the autonomy of the regulars in favour of the bishops risked an excessive political strengthening of the episcopal faction at the expense of the centralising needs of the Roman Curia. As Jedin pointed out, the *ut delegatus Sedis Apostolicis*, which may seem to be a strengthening of the area of episcopal jurisdiction, turned out – at least at first sight – to be a canonical expedient aimed at avoiding the abolition of the regulars' exemptions and at healing the contrasts between the opposing tendencies within the conciliar debate.[85]

Indeed, this instrument gave the bishops more freedom of action, but it was still conditioned by the principle of discretion and revocability. It was in fact the papacy, through the congregations, which from time to time chose at their discretion when and to whom to delegate; the tasks conferred on the bishops also had a limited duration, on top of being revocable. Gigliola Fragnito also argued that even after the Council of Trent, the papacy continued to reduce episcopal power over religious orders, as various interventions by the SCC would also confirm.[86]

An ordinary could act as a delegate of the Holy See, for example, when a negligent abbot failed to read and explain the Holy Scriptures.[87] The bishop could also exercise a power of correction against those religious who failed in their obligations to their subjects;[88] he could also visit regular institutions and verify that they respected divine worship and, where necessary, suppress misconduct.[89] Ordinaries as delegates could visit churches in *nullius* territory;[90] metropolitans could even impose their authority over those monasteries that refused to fit into the congregational system.[91] Men's religious communities, because they were obliged to join orders and congregations, maintained a certain degree of exemption and autonomy from episcopal jurisdiction even in Post-Tridentine times. In fact, the papacy preferred the

84 See Fragnito (1992) 124. Cf. Fantappiè (1993) 25; Zarri (1999) 353; Giovannucci (2016) 369.
85 See Jedin (1966) 427.
86 See Fragnito (1992) 125. Cf. Zarri (1999) 353.
87 See COD 668.
88 See COD 683.
89 See COD 731.
90 See COD 764.
91 See COD 779.

religious to be structured in centralised forms of government precisely because that way, it could limit the pressures of episcopalism.[92]

As for the nuns, their monasteries were often structurally linked to the diocesan institutional set-up.[93] If they were subject directly to the Apostolic See, and therefore exempt, the council allowed the bishops to govern them as delegates (c. 9 Sess. XXV *de reg.*[94]).[95] The link between female monasteries and diocesan ordinaries became even closer after the Council Trent with the promulgation of the bull *Inscrutabili Dei*, promulgated by Gregory XV on 5 February 1622, which in fact empowered the bishop, as delegate of the Apostolic See, to supervise the enclosure of female monasteries and the administration of the goods of female monasteries run by regulars.[96] It should be remembered that the Council Fathers themselves had imposed enclosure on women's communities (c. 5 Sess. XXV *de reg.*),[97] which was later reinforced by Pius V's *Circa pastoralis* (1566).[98]

The *Inscrutabili*, however, stipulated that bishops, when delegated by the Holy See, also had the power to interfere in all administrative matters of regular clergy members, even exempt ones, located in their diocesan territory.[99] De Luca claimed that this bull was also valid for *nullius* abbeys.[100]

This bull further extended the faculties of the bishops with regard to the administration of the goods of the religious; note also the temporal prox-

92 See Rusconi (1992) 209. On the relationship between bishop and male religious orders in the immediate post-Tridentine period, see also the study by Dell'Oro (2015) in the context of the diocese of Milan.

93 On post-Tridentine female monasticism, see, among others, Zarri et al. (1997).

94 COD 779.

95 Cf. Jedin (1966) 396.

96 See Zarri (1986) 410. See the bull in BR (1867), t. XII, 657.

97 COD 777–778.

98 See Po-chia Hsia (2009) 50.

99 BR (1867), t. XII, 657: "[S]tatuimus et declaramus, ut deinceps tam regulares quam seculares quomodolibet exempti in his quae eiusmodi curam seu administrationem concernunt, omnimodae iurisdictioni, visitationi et correctioni dioecesani episcopi, tamquam Sedis Apostolicae delegati, plene in omnibus subiiciantur."

100 See De Luca (1675), cap. XX, pp. 336–337: "[P]er la bolla di Gregorio decimoquarto [probably a misprint, meaning Gregory XV instead], il Vescovo come delegato Apostolico, non solamente è giudice competente e superiore degli esenti, li quali vivano dentro la sua diocese, ma anche di quelli li quali vivano in un territorio separato, con la qualità di *nullius* sotto il proprio Prelato, il qual'abbia la giurisdizione vescovale, anche delegata in ragione di vero ordinario del luogo, mentre questa materia è specialmente delegata alli Vescovi, e non vi s'ingeriscono i Prelati inferiori."

imity of its issuance (1622) to the *De rebus regularium non alienandis* (1624), which can be read as a political move by the Church of Rome.

This brief excursus on the powers of bishops as delegates, especially in reference to religious orders, should have clarified why in most cases, the rescripts *si in evidentem* delegated the diocesan ordinaries.

But what was the role of a bishop delegate in matters of alienations in practice?

The 17th century legal treatises on the *praxis commissariorum Apostolicorum* commonly referred to these men as "judges" or "commissioners".[101]

The SCC's decrees, as was the practice in Roman congregations, did not expressly refer to the bishop's proper name, but rather addressed the holder of the office in that particular diocese.[102] They could exclusively delegate the bishop, as was often the case with third-generation concessions.[103] When cases were more complex, there were two delegates, following a reasoning that two could judge better than one.[104] Normally the person flanking the bishop was the highest dignitary in the diocese after the ordinary: the prior (or archdeacon) of the cathedral.[105] These men were defined by the Council of Trent as the 'eyes' of the bishop, such was their closeness to the pastor of the diocese.[106] During the proceedings, one could not delegate the other because the SCC expressly required them to act together, as a collegial body, especially when issuing the final judgement. Even the death of one meant the end of the title of delegate for both.[107]

As for the possibility of sub-delegation, this was prohibited as far as it concerned the evaluation of the case and the subsequent final decision, but not for intermediate procedures.

In performing their duties, judges, as prescribed by the *Cum in omnibus*, were not to be influenced by anything or anyone, but to act according to justice and conscience. Caution and dilegence were the prerogatives expressly required when examining facts, witnesses and evidence. They were

101 See Ricci (1674), t. I, resolutio c, n. 4, p. 42.
102 Cf. Conrad (1930) 57–59.
103 Cf. ASDJ, *Classe XI*, b. 181, n. 355, fasc. 11, n. f. [Cistercians, 1646].
104 See Corradi (1735b), lib. IX, cap. V, n. 33, p. 347.
105 See De Rosa (1676), pars I, cap. XII, n.1, p. 311.
106 See COD 766.
107 See Corradi (1735b), lib. IX, cap. V, n. 33, p. 348.

to act "solum Deum prae oculis habentes", thus being primarily concerned with the benefit of the Church and the preservation of its patrimony. In fact, judges who granted alienations to the detriment of the Church would suffer various penalties; those with a title inferior to bishop were excommunicated, while bishops could be suspended from their office for a year, with absolution reserved only for the pope.[108]

4.4.2 The vicars general

In the curial structure of the dioceses of the peninsula, the vicar general *(vicarius generalis)* was the actual judge of the court. He exercised ordinary or rather vicarious (or auxiliary) and not properly delegated jurisdiction.[109] Even the Latin word *ordinarius* could mean either the bishop or the vicar general.[110]

Unfortunately, it is not possible to provide a clear overview of the competencies of these figures, due to the sometimes significant differences that characterised the various Italian diocesan contexts. Nonetheless, an attempt shall be made here; for this, the formularies and legal treaties circulated at the time are of particular use, although attention must be paid to the institutional background in which their authors operated or from which they drew such information.[111]

In fact, these formularies and treaties could deal with a variety of issues in the spiritual, temporal and pontifical spheres.[112] This also implied the presence of more than one vicar even in the same curia, especially in particularly large dioceses.

108 BR (1860), t. V, 184: "Contravenientes poenas hic descriptas incurrunt. Si quis autem commissarius vel delegatus, consciientiae suae prodigus, in gravamen aut detrimentum Ecclesiae, per gratiam aut timorem vel sordes, alienationi consenserit, aut decretum vel actuoritatem interposuerit, inferior quidem episcopo sententiam excommunicationis incurrat, episcopus vero aut superior ab executione officii per annum noverit se suspensum, ad extimationem detrimenti Ecclesiae illati nihilominus condemnandus, sciturus quod si, suspensione durante, damnabiliter ingesserit se in divinis, irregularitatis laqueo se involvet, a quo nonnisi per Summum Pontificem poterit liberari."

109 See Fantappiè (2011) 172.

110 See De Rosa (1676), pars I, cap. III, n. 21, p. 36.

111 See Sbrozzi (1630); Pellegrini (1666); Monacelli (1844), pars I, tit. I, formula I, n. 1–53, 1–10. Among the main studies on diocesan vicars-general, see Fournier (1940); Scheulen (1991). For the Spanish-American context, cf. Frías (2021).

112 Cf. Donati (1999) 221–223.

A distinction can also be made between vicars dealing with voluntary jurisdiction and those with jurisdiction over contentious matters.[113] The size of the diocese and the resulting complexity of the governmental apparatus certainly played a role in this respect. Given the state of research on the vicars general of the dioceses of the Marche, including those of Jesi and Fermo, it is not possible to exclude or confirm that this diversification of competences also affected those contexts.

With regard to the dispensation praxis concerning ecclesiastical property, in Jesi and Fermo the vicar general was in charge of both ordinary and delegated proceedings. In the former case, he could also issue the final ruling.[114] This also happened in cases expressly delegated to him by the SCC, such as in December 1628, when the vicar general of Fermo was charged with resolving the sale of a *censo* involving the Dominicans.[115] Pellegrini also confirmed the possibility for vicars to be executors of Apostolic Letters.[116]

Generally, however, a vicar was responsible for the intermediate stages of cases delegated by the SCC exclusively to the bishop. At these junctures, at least theoretically, he could not pronounce a final judgment but only had vicarious tasks to fulfil, such as coordinating the course of the procedure, e. g. ordering investigations in the peripheral offices of the diocese.

For example, in 1637, the vicar general of Fermo, Talento Talenti, wrote to the vicar forane of S. Vittoria in Matenano for the latter to instruct the local notary forane to carry out a patrimonial assessment on the accounts of the Franciscan Convent of S. Francesco in that locality, since proceedings were in progress at the Fermo tribunal:

> [O]rdenerà a cotesto suo Notario foraneo, che tutta volta che avrà recercato per parte di cotesti frati conventuali li cavi in forma autentica l'intrata e l'uscita del loro Convento di due o tre anni continui, et anco copia di tutti i debiti che loro hanno esposto nel memoriale dato alla S. Congregazione del Concilio acciò se ne possa servire nella causa dell'si in evidente, che faranno quà facendosi pagare le sue solite consuete mercede.[117]

113 Cf. Ducasse (1706), pars I, cap. 1, p. 9; Wernz (1906) 617–618; Rico Callado (2014a) 48–51.

114 Cf. ASDJ, *Classe XI*, b. 181, n. 355, fasc. 4, n. f. [Don Bernardino Uccellini, 1660].

115 Cf. AAV, *Congr. Concilio*, *Libri Decret.* 13, f. 572v.

116 See Pellegrini (1666), pars I, sectio II, subsectio I, n. 15, p. 16: "Delegatus Papae esse potest, et executor Gratiarum Apostolicarum, quia est in Dignitate constitutus."

117 ASAF, *Processi si in evidentem*, S. Vittoria in Matenano 60 I (1558–1660), n. f. [Conventual Franciscans, 1637].

4.4.3 The vicars forane

In some contexts where the territorial extension of the diocese required a more structured administrative organisation, as for example in the diocese of Jesi and especially in the diocese of Fermo, the cases *si in evidentem* also involved the forane vicariate system. Vicariates were districts of different sizes according to contexts and needs into which a bishop divided his diocese for more effective administration of it.[118] Each district had a vicar forane, i. e. a cleric with a certain range of powers delegated to him by the bishop's authority.[119] The vicars forane, intermediaries between the bishop and the periphery of the diocese, were endowed with small local offices and were often flanked by officials, such as the notary forane, who had the same functions as the curia notaries.

In the acts from the Synod of Jesi published in 1665, Cardinal Alderano Cybo not only explained the reasons for establishing vicars forane but drew up a 20-point list of their main tasks.[120] Among other things, these vicars were the first people to check that assets of hospitals, confraternities or pious places were alienated incorrectly;[121] the vicars forane were also concerned with the conduct of the regular clergy in the dioceses.[122] They were also the

118 Cf. Ordinationes et Decreta in Synodo Aesina (1665), tit. XXVI, n. 1, p. 143: "Ut Gregem nostrum per Diocesim facilius quasi praesentes intueri, et curare possimus, Vicarii Foranei in hac nostra Dioecesi sunt constituti."

119 On this position see, among others, Mantese (1961); Billanovich (1993); Fantappiè (1999) 38–39; Zardin (2015).

120 Ordinationes et Decreta in Synodo Aesina (1665), "Instruttione per gli Vicarii foranei", p. 251: "Non potendo Noi assistere personalmente a tutti i luoghi della nostra Diocesi, per supplire al molto che siamo tenuti per benefitio dell'Anime alla nostra cura commesse, conviene, che ci serviamo perciò del mezzo, et aiuto d'altri ministri Ecclesiastici. Onde a questo effetto habbiamo deputato li Vicari foranei per tutta la nostra Diocesi, confidati, che col zelo, e prudenza loro siano per aiutarci a sostenere il peso della Cura Episcopale. Et affine che possano tanto più facilmente ciò conseguire, gli diamo le facoltà, et ordini, che seguono."

121 See Ordinationes et Decreta in Synodo Aesina (1665), "Instruttione per gli Vicarii foranei", p. 257.

122 Ibid., n. 18, pp. 258–259: "Procurino in oltre li Vicarii foranei di saper seguitamente ne tempi avvenire con ogni diligenza, sei Regolari, e particolarmente quelli, che confessano di qualsivoglia Ordine, vivono scandalosamente, ne diano avviso a Noi; come ancora, se li Curati delle lor Vicarie pernottino fuori della residenza senza licenza. […] Se attendono a negotiationi illecite".

local outposts in terms of controlling the practice of reducing mass fees, which, as mentioned, required the prior licence of the SCC.[123]

It was the bishop who delimited their competencies, and consequently there had to be a fiduciary relationship between the two positions; the ordinary could overrule the vicar at his discretion.

As far as judicial affairs were concerned, at least in the Italian context, the vicar forane was a judge delegate, to whom the bishop only transferred part of his powers.[124] This concession was in fact for procedural and organisational reasons, but not for decision-making purposes, unless expressly provided for. The judicial function of the vicar forane, like that of the bishop, was embedded in the pastoral one.[125]

Concerning the contentious context of criminal trials, vicars forane often dealt with the *processo informativo*.[126]

In the area of voluntary-delegated jurisdiction, and in particular in processes *si in evidentem*, the bishops or vicars general delegated certain tasks to the vicars forane, such as the examination of witnesses or the gathering of technical expertise, which for reasons of logic and convenience were carried out on site and not at the bishop's seat. Diocesan administrations also did not want to force individual friars or monks to come and deposit at the episcopal see, which was often far from the places where they resided. Consequently, the judges delegated the vicars forane, who were located throughout the diocese. The vicars forane, limited to cases *si in evidentem*, were

123 Ibid., n. 13, p. 256.

124 Pellegrini (1666), pars I, subsectio I, n. 3, p. 10: "Foranei Vicarii sunt illi, qui constituuntur ab Episcopis in aliquo Oppido suae Diocesis, vel in certa parte illius, ut ibi exerceant iurisdictionem limitate, vel ad omnes causas illius loci, usque ad processus compilationem inclusive, vel usque ad certam summam. […] Qui dicuntur etiam delegati ad certum genus causarum, cum illis comitantur certae causae aliquando in genere distinctae." – On judges delegate and sub-delegate relative to the early modern Mexican context, see the important reflections in Traslosheros (2022).

125 See in this regard the description of the vicar forane in the acts of the Synod of Fermo of 1662. [Synodi Firmanæ. Provincialis (1662), cap. XXXXI, p. 137]: "Nostra veluti vice in sui Vicariatus districtu fununtur Vicarii foranei, nostrae solicitudinis partitum sustinenet onus; eorum igitur sint partes, et praecipua cura, ut universim ea a Clero, populoque serventur, quae ecclesiasticos, christianosque decent mores; ea removeantur, atque exulent, quae scandalo sint, vel esse possint, iuxta sui muneris debitum, et praescriptas leges, vel facultates."

126 See Cavarzere (2012) 21–23.

nevertheless precluded from issuing judgments, as the instrument of partial sub-delegation left intact the main prerogatives of the bishop, who exclusively received the task from the SCC.[127]

The records also confirm this subaltern role of vicars forane; in 1655, the Conventual Franciscans in Montegranaro decided to exchange one of their plots of land with that of a certain Giuseppe Evangelista, located in the same territory. Having obtained the SCC's licence (4 December 1655), proceedings began at the bishop's tribunal in Fermo.[128] On 14 February 1656, Vicar General Stefano Agostini sent a letter to Trolio Equitani, the vicar forane of Montegranaro, ordering him to examine the witnesses that would be inducted from the Montegranaro convent. Equitani's task was then to carry out the examination and transmit the papers to Fermo. The vicar forane wrote on 18 February 1656 to Stefano Agostini, enclosing the depositions of the witnesses, countersigned by the notary forane Giovanni Battista Cruciani from Montegranaro. In doing so, Equitani noted that the depositions proved the evident usefulness of the transaction, thus also giving an initial, albeit provisional, opinion on its merits.[129]

Transmitting the dossier to the diocesan curia, as was prescribed by the diocesan synods, was a well-established practice; the documentation was then processed and finally archived.[130]

127 See Tommaso De Rosa's considerations on the possibility of sub-delegation in De Rosa (1676), pars I, cap. IX, c. 37, p. 295: "Dicendum est, quod cum Exequutor est mixtus, quia non tam nudum ministerium committitur ei quam etiam iurisdictio, licet ipsum nudum ministerium non sit delegabile, […] attamen iurisdictionem cum ipso ministerio principali annexam que non sit principaliter demandata, optime poterit alii committere. In omnibus enim Litteris Apostolicis, in quibus exequutores dantur committitur aliquid faciendum nempe dispensandi verbi gratia et est tunc delegabilis potestas inquirendi an expressa sunt vera: quare in praxi receptum est, ut examen testium fit delegabile in dispensationibus, et aliis Litteris Apostolicis."

128 ASAF, *Processi si in evidentem*, Montegranaro 28 II (1653–1702), n. f. [Conventual Franciscans, 1656].

129 Ibid.

130 See Synodi Firmanæ. Provincialis (1662), cap. XXXXI, p. 138: "Acta vero quaecunque in causis sibi permissis, vel comissis, ut expeditae fuerint, Cancellario Archiepiscopali, prout iacent originalia, fideliter consignari a Notariis foraneis omnino curent, ut in Archivio Archiepiscopali servari possint."

4.4.4 The fiscal procurator

There is still much uncertainty about the role of the fiscal procurator (in Latin *procurator fiscalis*) – which contemporary procedural canon law calls *promotor iustitiae* – and, unfortunately, especially on the genesis of his office.[131]

It is hard to precisely and unambiguously date the introduction of this position in European ecclesiastical courts. Various studies on the subject have in fact shown that there is a certain difference, depending on geographical contexts, in their functions and their names.[132] As Georg May has noted, there is evidence of a fiscal procurator at the Roman Curia, as a general representative of the pope and his interests at all courts, as early as the 13th century.[133]

What we do know is that on the one hand, the fiscal procurators were representatives of the financial and patrimonial interests of the Church and, on the other hand, they fulfilled a role that in contemporary legal systems, *mutatis mutandis*, we could compare to that of public prosecutors.

As concerns criminal trials in local ecclesiastical courts, it appears that they became firmly established around the 16th century, although there is no lack of older cases.[134]

In his study on inquisitorial manuals, Andrea Errera found that unlike the medieval Inquisition – based specifically on the inquisitorial rite, which had taken over from the accusatory rite at the turn from the 12th to the 13th century, as it was considered more effective and pervasive in dealing with heresy – the modern Inquisition provided for the figure of a public accuser, the *fiscalis*. It was precisely the presence of a trial participant who did not have an investigative or judging function, but only an accusatory one, that caused the trial of the modern Inquisition to revert to a de facto accusatory rite based on the classic tripartition of roles.[135] The introduction of this professional position responded to the need for permanence of local inquisitorial courts, marking a clear difference to the typical itinerant medieval model.

131 Cf. Naz (1965) 329.
132 See May (1996) esp. 83–84.
133 See May (1996) 84.
134 See Glynn (1936) 29–39; May (1996) 83–84.
135 See Errera (2009) 189.

As the pragmatic normative knowledge shows, fiscal procurators were also present at Italian diocesan *curiae*.[136] They were to all intents and purposes officials of the curia, appointed by the bishop *(ad beneplacitum nostrum)*, and enjoyed *privilegium fori*.[137] In the Italian context – or perhaps it would be better to limit this to the Papal States – they dealt not only with litigation (civil and criminal) but also with voluntary jurisdiction procedures.

In this sense, one can see similarities with the Castilian *fiscal* described by Rico Callado.[138] However, there is a clear difference from the *Fiskalprokurator* of the German dioceses of the late 15th century, who, according to May, dealt exclusively with disputes.[139]

In diocesan voluntary procedures, the fiscal procurator obviously did not play the role of accuser, but that of representative of the bishop's financial and patrimonial interests. In this regard it should be borne in mind that at the time, the term *fiscus*[140] indicated everything that had to do with patrimony, and in this case with the goods of the diocese.

With regard to alienation procedures, although further investigation would be necessary, it seems to emerge that the fiscal procurator was only present in those cases involving strictly diocesan goods, i. e. those belonging, for example, to the episcopal *mensa*.

At the diocesan tribunal of Jesi, for example, the fiscal procurator Ludovico Bolognini attended a proceeding for the sale of property belonging to the Confraternita del Gonfalone of Montecarotto in 1658;[141] a sale of land belonging to the parish of S. Pietro in Jesi in 1660;[142] a case concerning the Confraternita della Morte of Maiolati in 1669;[143] and finally, in 1671, a case

136 Monacelli (1844), pars I, tit. I, formula VIII, n. 2, p. 26: "Promotor Fiscalis nostra hac tempestate in qua ex consuetudine omnium Tribunalium proceditur ad publicam vindictam per inquisitionem fere in omnibus criminibus […], excepto adulterio non publico, cuius accusatio competit tantum quibusdam person is, […] stat loco accusatori."

137 See Monacelli (1844), pars I, tit. I, formula VIII, n. 4, p. 27.

138 Cf. Rico Callado (2014a) 76–77. For comparison with the figure of the fiscal procurator in the Hispanic American context in Gouveia (2021) esp. 13–17.

139 See May (1996) 95.

140 BC (1890), vol. VI, n. 7, p. 223: "Fiscus dicitur bursa publica in qua pecunia publica reponitur."

141 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 1, n. f.

142 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 4, n. f.

143 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 7, n. f.

related to the goods of the Chaplaincy of S. Giovanni Battista at Jesi Cathedral.[144]

In the court records, the procurators appear mainly in the minutes of the hearings; they also seem to have had some function as guarantors for the proper conduct of the proceedings.

According to the limited cases of Jesi and Fermo, which certainly cannot be representative of the whole papal territory, it appears that the fiscal procurators did not take part in the procedures for the alienation of goods belonging to the regular clergy.

4.4.5 Notaries and chancellors

Notaries and court chancellors frequently appear in the case files examined in this work.

As early as the middle centuries of the Middle Ages, bishops and vicars general, who still lacked comprehensive administrative and chancery structures, made use of 'lay' city notaries who authenticated the required deeds.[145] The *episcopalis curiae notarius* mainly dealt with affairs having to do with the administration of ecclesiastical property, and bishop's justice.

Studies on the diocesan notariat in the Milanese area have shown how already at the end of the 15th century this category of notaries began to specialise to the point of constituting a circumscribed group of professionals, who were a reference not only for the bishop, but also for all other diocesan ecclesiastical bodies.[146]

With time, some of them also began to perform the function of chancellor *(cancellarius episcopalis)*, becoming de facto permanent officials in the curia; in addition to having the same professional training, these two positions were also similar in their career paths.[147]

144 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 8, n. f.

145 See Chittolini (1994) 225. On the formation process of the episcopal notariat in Italy, see, among others, Rossi (2002); Chittolini et al. (eds.) (2004); Olivieri (2009).

146 See Belloni / Lunari (2004) XLV–XLVI.

147 Cf. Chittolini (1994) 229; Chironi (2005) 242. In particular on the figure of the diocesan chancellor, see Trevisan (2001).

It is furthermore evident that these professionals also exerted a constant influence on the style and praxis where they worked, with regard to the drafting of documents and the formation of archival series.[148]

As one will see in the following pages, in the cases *si in evidentem* the notary-chancellor was engaged in notarial deeds of a different nature; he put his *ars notariae* to use in the drafting of *Editti*, as well as in attesting to the truthfulness of the facts that were presented in his presence, such as minutes of appearances, proxy *ad causas*, witness statements etc.

Due to the small size of some dioceses, and the consequently limited number of people with technical and practical knowledge, it might occur that over time, a single person could hold several positions in the various alienation proceedings. For example, in 1627 and 1634 the Jesi notary Angelo Antonio Boffi served as chancellor, registering the acts of two cases involving the Carmelites.[149] In 1646 and 1649 Boffi, this time as procurator *(causidico)*, pleaded two cases for the Cistercian Abbey of S. Maria in Castagnola.[150] Similarly, in 1627 the Jesi notary Clemente Bianchi signed a sentence as a witness *(ad actum)* at the city's diocesan tribunal;[151] subsequently he was the notary who authenticated the deeds of two cases held in the same court in 1637 and 1639.[152] In this regard, it should be noted that unfortunately the lack of specific finding aids and publications on the personnel of the diocesan curia of Jesi and Fermo makes it difficult to accurately distinguish notaries, chancellors and city notaries who also notarised at the diocesan curia. It is therefore sometimes necessary to rely on the handwritten signatures on individual documents, with all the limitations that this type of verification entails.

Within the case files *si in evidentem*, one can find attached original documents or copies thereof, also drawn up by 'external' notaries. These are acts

148 On late medieval diocesan-notarial documentation from the perspective of diplomatics, see by way of example Bartoli Langeli / Rigon (eds.) (2003).

149 Cf. ASDJ, *Classe XI*, b. 181, n. 355, fasc. 14, n. f. [Carmelite friars, 1627]; ASDJ, *Classe XI*, b. 181, n. 355, fasc. 19, n. f. [Carmelite friars, 1634].

150 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 11, n. f. [Cistercian monks, 1646]; ASDJ, *Classe XIX*, b. 342, n. 446, n. f. [Cistercian monks, 1649].

151 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 14, n. f. [Carmelite friars, 1627]. The witnesses *ad actum*, today also called *strumentali*, were those who had to be present when the deeds were being written.

152 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 21, n. f. [Benedictine nuns, S. Anna in Jesi, 1637]; ASDJ, *Classe XI*, b. 181, n. 355, fasc. 22, n. f. [Cistercian monks, 1639].

that were introduced into the proceedings as evidence by the individual religious community. In 1646, for example, the Cistercians of Castagnola, wanting to give some of their land in emphyteusis under a third-generation concession, asked the SCC for the necessary licence, which resulted in a lawsuit at the court of Jesi. At that juncture, the monks asked Ottavio Balloni, a notary in Chiaravalle, to certify which and how many contracts had previously been concluded regarding that land. The property was in fact located in the territory of Chiaravalle, and therefore the deed was drawn up by a local notary who did not belong to the Jesi court.[153]

4.5 The court procedure

As mentioned earlier, in the cases si in evidentem "semper iudicialiter est procedendum".[154] In fact, in the early modern diocesan courts, as can be seen analysing the documentation also from the perspective of diplomatics, the typical 'guise' of some particular voluntary procedures, which today one might call administrative, bore close resemblance to litigious ones.

The presence of the clause vocatis vocandis in the SCC's decrees required the executors to summon any opponents to the proceedings, in order to make sure that third-party interests were not harmed.[155] Precisely this expression, which entailed the observance of additional solemnities compared to normal licences or dispensations, placed these proceedings in a special position compared to purely gracious ones, which at least formally were celebrated "sine strepitu iudiciali vel forense".[156]

Technically speaking, the judicial procedures in use at the bishops' courts were an offshoot of the Roman-canonical process.[157]

153 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 11, n. f. [Cistercian monks, 1646].

154 De Rosa (1676), pars I, cap. VII, n. 10, p. 248. Cf. Chironi (2005) 97.

155 De Rosa (1676), pars I, cap.VII, n. 1, p. 246: "Certum est quando in Litteris adest aliqua clausula, quae importat iudicialem cognitionem tenetur Exequutor Iudicialiter procedere, uti est clausula servatis servanda, vocatis de iure vocandis, tunc enim opus est, ut Exequutor assumat partes Iudicis, et iudicialiter procedat: hoc apud omnes est in confesso."

156 See Rico Callado (2014a) 56. In this respect, see the matrimonial nullity proceedings in Minnucci (2001).

157 On the Roman-canonical process, see Salvioli (1969) 151–164; Nörr (2012); Hartmann / Pennington (eds.) (2016).

Moreover, according to Corradi, the tendency of diocesan administration was to standardise their judicial practice to the Roman-pontifical model, which could be summarised with this Latin maxim: "Cum igitur ita teneat Romana Curia, quae mater, et magistra est aliarum Curiarum, et uti talis ab omnibus sequenda."[158] The tribunals of Jesi and Fermo, belonging to two dioceses within the same province of the Papal States, show a certain uniformity in the style of procedures adopted.

According to the archival investigations and comparisons carried out by Chironi for the diocese of Siena, the procedures for granting alienation licences were comparable to those used in civil trials.[159] They were rather streamlined and characterised by a precise number of acts; however, at present it is difficult to confirm that these were summary procedures, such as were applied in other matters and contexts.[160]

Looking at the alienation case files, one can clearly identify those principles typical of the Roman-canonical process that Nörr calls "*Rhythmus des Verfahrens*" (rhythm of the proceedings), "*Reihenfolgeprinzip*" (principle of chronology), "*Festlegung von Fristen*" (determining deadlines), and "*Schriftlichkeit des Verfahrens*" (principle of written proceedings).[161]

In fact, the process began upon presentation of a *libellus* by the monastery, just like any civil lawsuit.[162] The petition in this case was nothing more than the rescript of the SCC, which was delivered to the court chancellery. The procedures were also structured in hearings, with deadlines for the conduct of the entire proceedings as well as for the individual acts.[163]

Everything was put in writing and registered so that all acts complied with a *pubblicam formam*, following the principle that "quod non est in actis et non est in scriptis, non est de hoc mundo" – if it's not written down, it does not exist.

158 Corradi (1735b), lib. IX, cap. IV, n. 45, p. 339. Cf. Cavarzere (2012) 24.

159 See Chironi (2005) 99.

160 On summary procedure, see Salvioli (1969) 327–346. About the summary procedure used in trials for damaging property in rural areas ("danni dati") in the context of the early modern Papal States, see Dani (2006) esp. 1–43.

161 Nörr (2012) 37–59.

162 Cf. Pellegrini (1666), pars II, p. 119: "Iudicium Civile principium sumit a libelli, seu comparitione Actoris."

163 See De Rosa (1676), pars I, cap. XII, n. 5, pp. 311–312.

The court files contained certain chancery documents that served to certify the formal correctness of the entire proceedings *(acta causae)*, such as the minutes of the hearings or the proxies *ad causas*. In addition, one can also find correspondence between central and peripheral diocesan institutions. The rescript of the SCC, attached to the file, was the document that legitimised the opening of the entire procedure.

In those same files one finds the acts issued by the judge *(acta iudicii)*, such as the *litterae edictales* and *citatoriales* (or *monitiones per edictum*) and the final judgment. There are also the depositions of witnesses or of technicians and experts who served to ascertain the truth of what was stated by the supplicants-beneficiaries.[164]

4.5.1 The presentation of the rescript

The *praesentatio rescripti* in court was the moment that actually opened the procedure. Episcopal justice was activated at the request of the individual religious community, as soon as it received the rescript from the SCC.

Until then, the tribunal, in the person of the bishop or vicar general, was not, at least theoretically, aware of what the SCC had decided, unless the bishop had already taken an interest in the matter by interacting directly with the SCC. But even if he had become aware of it, this would not have been sufficient to initiate the proceedings. In fact, it was necessary for apostolic letters or rescripts to be presented to the executors in order for them to be effective: "[U]t Litterae Expeditae coram Executore, cui directae sunt, praesentetur, ante quarum praesentationem non poterit in actum deducere iurisdictionem, quam solum in habitu habet."[165] The judge had to be certain about the jurisdictional power and limits with which he was entrusted, which the very fixed formulas of the decree *si in evidentem* made explicit.

It should be noted that the bishop was presented with the SCC's rescript, which obviously contained the text of the supplication originally sent to the Roman congregation; in this way the local judge could rely, at least in the beginning, on the same information that had been provided to the Roman dicastery some time before.

164 Cf. Nörr (2012) 53–54.
165 De Rosa (1676), pars I, cap. IV, n. 4, p. 39.

The procedure usually took place at the bishop's palace and began with the presentation of the SCC's rescript by the procurator *(causidico)*, who represented the monastery that wanted to benefit from the licence in court. He was therefore a specialist acting on behalf of the monastic community. According to the cases found, if, for instance, the case concerned an application for a licence to lease land up to a third generation, the procurator represented not only the landlord but also the tenant farmer.[166] The same applied in the case of exchange requests where the other contracting party was a layman.[167] If, on the other hand, the exchange concerned two pieces of land belonging to two monasteries, the procurators of both would appear in court.[168]

The presence of the procurator, although frequent, is not to be considered indispensable. In some cases, the local religious superior of the community could directly appear in his place, as happened for example on 30 October 1627, when Tommaso Barbieri, Carmelite prior of the Convent at the Santuario delle Grazie in Jesi, appeared before the court in a case arising from a request to buy land by selling some active *censi*.[169]

The presence of the procurator was sometimes legitimised by a proxy *(procura) ad causam*, which was attached to the file. This document was a kind of pre-printed form, which then had to be duly filled in with the names of the plaintiffs involved in the procedure. It was usually drawn up and signed by the court chancellor in the presence of witnesses attending the proceedings.[170]

The proxy *ad causam* could also be accompanied by other deeds. These were copies of mandates, in which frequently the superior of a monastery

166 Below are the minutes of the opening hearing of a case concerning the Cistercian monks of Castagnola [ASDJ, *Classe XI*, b. 181, n. 355, fasc. 11, n. f. [Cistercians, 1646]: "Comparuit publice in iuditio Antonangelus Boffus procurator et eo nomine Revenderorum Monacorum Abbatiae Clare Vallis in Castagnola; nec non D. Josephi Greppi de Aesio et in territorio competenti exhibet, et cum effectu producit preces, cum rescripto Sacrae Congregationis Eminentissimorum Cardinalium Concilii Tridentini Interpretum sub dato 4 Augusti 1646 petit recipi et admitti, et litteras edictales in forma concedi."

167 ASDJ, *Classe XI*, b. 181, n. 355, n. 355, fasc. 22 [Cistercians, 1639].

168 ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi], ff. 180r–194v.

169 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 14, n. f. [Carmelites, 1627]. Barbieri was prior until 1630.

170 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 22, n. f. [Cistercian monks, 1639]. See image 2 in the appendix.

had instructed, many years earlier, a *causidicus* to deal with all cases that would affect the monastery before a specific court.

In 1639, during the procedure in which the Cistercian monks of Castagnola asked the bishop to exchange some of their land with land belonging to Pier Simone Nobili from Jesi, the procurator Tommaso Carrara intervened in court representing the monastery.[171]

Attached to the court file is also a copy of a document dated 12 August 1628 in which Ottavio Balloni, notary in Chiaravalle, stated that he had seen the deed of 22 July 1628 in which Bruno Ruini,[172] governor of Chiaravalle Abbey, had been entrusted with the affairs of the Abbey itself on behalf of Cardinal Commendatory Carlo de' Medici.[173] In the same act, Balloni also attested that Ruini had subsequently delegated Tommaso Carrara to plead all cases involving the Abbey of Chiaravalle before the court of Jesi.[174]

The presentation of the rescript was a particularly delicate moment. The treatises emphasised that the *litterae apostolicae* had to be presented in their original to the competent judges.[175] The task of assessing their authenticity therefore fell to the curial staff.[176]

It happened not infrequently that forged documents circulated in the dioceses; in some cases, these frauds concerned decrees that were attributed to the SCC. This risked serious consequences as they could lead courts and bishops to make wrong decisions *(contram legem)* by granting licences that had not been legitimised by Rome.

171 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 22, n. f. [Cistercian monks, 1639].

172 On Bruno Ruini da Monte Varchi, Governor of Castagnola, see Siena (1746) 295: "Bruno Ruini Seniore Padre di Cristina Ruini, Moglie di Sebastiano Benedetti figlio del Capitan Luzio Benedetti Nobile di Sinigaglia fu Governatore dell'insigne Abbadia di S. Maria di Chiaravalle in Castagnola per l'altezza Reverendissima del Signor Cardinal Carlo de Medici Abate Commendatario, come lo fu anche Francesco Ruini suo Padre, venendo ambidue guardati sempre da quell'Altezza Reverendissima con special stima, e benevolenza per le loro esimie prerogative, ed onorevoli pregi, de quali erano degnamente fregiati. Questa famiglia ebbe origine dalla Toscana, ma per la divisata occasione l'anno 1650 stabilì, e fermò il domicilio in Sinigaglia, ove trattossi sempre con decoro."

173 On Cardinal Carlo de' Medici see Gauchat (ed.) (1935) 13.

174 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 22, n. f. [Cistercian monks, 1639]. The notarial deed is also recorded in the *liber instrumentorum* of Notary Ottavio Balloni, kept at the Ancona State Archive. See ASAn, *Archivio notarile di Chiaravalle*, *Ottavio Balloni*, n. 41, ff. 93–94.

175 See De Rosa (1676), pars I, cap. IV, n. 6, p. 40.

176 Chironi attests that already in the 15th century the verification of the formal aspects of papal mandates was carried out by judges delegate. See Chironi (2005) 229.

What were the criteria for the authenticity of an SCC rescript? How did the SCC warn the diocesan administration of the risk of fraud?

On 21 July 1631, the SCC issued the *Decretum prohibitivum decisiones manuscriptas*.[177] It was a measure that echoed an earlier act of the same congregation, enacted on 29 April 1621, which in turn reaffirmed what the *Benedictus Deus* had originally stipulated regarding the prohibition of commenting on or glossing over the Tridentine canons.[178] The SCC stipulated that its declarations, whether in print or handwritten, were not valid if upon presentation in court, or anywhere else, they were unsealed and without the signatures of the cardinal prefect and the secretary of the congregation.[179] The lack of extrinsic elements such as seals and signatures rendered the documents invalid, false and unusable.[180]

177 Below is the full text of the SCC's decree: [AAV, *Congr. Concilio*, *Libri Decret*. 14, f. 473r–v] "Cum Sacra Congregatione saepius, et novissima sub die 29 aprilis 1621 inherendo Constitutioni felicis recordationis Pii IV, qui incipit Benedictus Deus devenerit indicii librorum prohibitorum addendas esse omnes, quascumque declarationes, interpretationes seu decisiones sub nomine eiusdem Congregationis Concilii absque illius auctoritate impressas, et imprimendas, cumque ad illius notitia pervenent quia plures ex declarationibus, interpretationibus, seu decisionibus iuxta intelligentia casuum, illorumque qualitates, et circumstantia a se diversis temporibus factis secundum ea, quae proponuntur fuisse alteratas, immutatas, diminutas, ac forsan alias mentito S. Congregationis nomine conflictas, nulloque authentico sigillo munitas. istasque per tribunalia tam in Urbe, quam per orbe circumferri, et imprimi, consideransque quantum detrimenti recipi possit, si aliquia fides illis adhiberetur speciali sanctissimi D. N. Urbani Divina providentia Papae viii iussu, mandat, et precipit huiusmodi declarationibus, tam impressis, et imprimendis, quam manu scriptis nulla fidem in judicio, vel extra a quoquam esse adhibenda, sed tantum illis, qui authentica forma solito sigilli et subscriptione Eminentissimi Cardinalis Praefecti, ac Secretarii pro tempore existentium eiusdem Congregationis munitae fuerint; In quorum fidem haec propria manu subscripsimus, ac sigilli nosti impressione communiri, ac typis mandari iussimus. Datum Romae die 2 Augusti 1631. Revisum fuit a Sanctissimo D. nostro die 21 Julii 1631 et edi' iussit. Idem Eminentissimus D. Card. Barberinus eadem die."

178 Cf. Parayre (1897) 47; Varsányi (1964) 86; Sinisi (2020) 35; Alibrandi (2022) 183–184.

179 The practice of providing rescripts with such subscriptions was strictly observed by the SCC even when a cardinal held the position of Prefect of the SCC *ad interim*. To confirm this, I have tracked down a decree issued on 18 September 1655 and signed by Cardinal Prefect Giulio Sacchetti *(ad interim)* and Secretary Francesco Paolucci de Calboli, for the nuns of the Monastery of S. Chiara in Fermo. See ASAF, *Processi si in evidentem*, Fermo 3 (1550–1660), n. f. [Monastery of S. Chiara, Fermo, 1658].

180 See images 3 and 4 in the appendix.

To understand how the diocesan central government informed its peripheral bodies about these provisions, one must investigate the correspondence between bishops (or vicars general) and vicars forane. In the early 17th century, particularly in large dioceses, the danger of cases of fraud was becoming more acute.

For example, the aforementioned decree can be found enclosed in a copy of an informative letter that the archbishop of Fermo, Giovanni Battista Rinuccini, wrote in 1631 to the vicar forane of Moliano (known today as Mogliano).[181] The bishop, intending to alert to the risk of false documents being presented in court, obliged the vicar to publish the SCC's order in the territory of his jurisdiction, and to enforce it. Below is the text of the letter:

> Lettera di Monsignore Arcivescovo per l'osservanza dell'infratto Decreto. Essendo venut' a notizia della Sacra Congregazione del Concilio che molti vanno alterando mutando e diminuendo le risolutioni dechiarationi, et Decisioni fatti dalla medesima Sacra Congregazione i casi avvenuti et occorsi posti sotto nome di essa fanno simili declarationi e se ne servono ne i Tribunali. Quelli Eminentissimi Signori Cardinali per rimediare ad ogni inconvenienti hanno fatto uno decreto dello aggiunto tenore nel quale prohibiscono che non si habbi per vera e legittima nessuna delle suddette risolutioni decisioni e declarationi se non è conforme al solito sotto scritta dal Sig. Cardinale Prefetto e Mons. Segretario di essa Sacra Congregazione con il sigillo. E primendo a quell' Eminenze l'essecuzione di esso lo farete publicare et ne procurarete l'osservanza con ogni diligenza et il Signore il dio vi feliciti. Amandola 10 settembre 1631. Come frello Giovanni Battista Arcivescovo di Fermo.[182]

Communications and letters of this kind clearly express the efficiency that shaped relations between the SCC, the bishop and the peripheral administration. The short time window between the date the SCC issued the decree (July 1631) and the date the bishop informed the vicar (September 1631) is proof of this.

4.5.2 The edicts

Once the judge had taken note of the rescript, he had to begin the actual proceedings. As mentioned above, in the absence of the formula *vocatis vocandi* and thus more generally, in the case of lack of a clear reference to *Cum in omnibus*, the judges could proceed directly to examine witnesses and

181 See ASAF, III-B-21, f. 28r.
182 Ibid.

experts. If the clause was present, however, they were obliged to promulgate an act that in the sources and treatises was referred to in different ways, but that in the economy of the case belonged to the sphere of communication to third parties.[183] Corradi spoke, for example, of "monitiones per edictum"[184] or De Rosa of "citationem per Edictum",[185] whereas in the archival records these acts were called "edictales litteras citatorias".[186]

The judge had the possibility of issuing two types of measures at this juncture. He could promulgate an edict "contra interesse praetendentes", i. e. addressed to all those who in the abstract might be interested in, or rather opposed to, the affair in question. Indeed, it could not be ruled out that the agreement between one monastery and the other could in some way harm third parties. If, on the other hand, the court, and thus the judge, was already aware of opponents, he could issue a measure "personalem contra certos", i. e. specifically aimed at individual persons.[187]

In some very special cases, the edict could serve to announce a sale by proclamation *(vendita a bando)*. Here is an example. Towards the end of 1660, the Conventual Franciscan friars from Montegranaro asked the Congregation of Bishops and Regulars for permission to sell a house they had inherited from their now deceased brother, a certain Francesco Antonio Roggieri. The house, located in the contrada *Penna*, was worth about 50 scudi and was in a poor state.[188]

183 Cf. Chironi (2005) 150; Rico Callado (2014a) 74. On edicts as instruments frequently used in voluntary jurisdiction proceedings by early modern institutions, see Mannori (1990) 447.

184 Corradi (1735b), lib. IX, cap. V, n. 13, p. 345: "Pro exequutione autem literarum supradictarum debent Commissarii expedire monitiones per edictum cum inserto tenore totius rescripti in genere, monendo omnes, et quoscumque volentes dicere de subreptione, et obretione, per affixionem ad valvas Cathedralis, parochialis, beneficialis Ecclesiae, et in loco rei sitae alienandae."

185 De Rosa (1676), pars I, cap. XII, n. 4, p. 311.

186 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 14, n. f. [Carmelite friars, 1627].

187 De Rosa (1676), Pars Prima, cap. XII, n. 4, p. 311: "Igitur in primis Exequutores post Litterarum in forma Brevis expeditarum praesentationem, in actis debent decernere citationem tam per edictum contra interesse praetendentes, quam etiam personalem contra certos, et promotorem Fiscalem, ac in eisdem citationibus, assignare aliquem terminum competentem ad dicendum, opponendum, et allegandum contra Breve praedictum, et quare debite exequutioni mandari non debeat." Cf. Rico Callado (2014a) 74.

188 See ASAF, *Processi si in evidentem*, Montegranaro 28 II (1653–1702), n. f. [Conventual Franciscans, 1661].

Cardinal Marzio Ginetti, prefect of the dicastery, and at that time also cardinal member of the SCC, delegated the granting of the licence to the bishop of Fermo on 3 December 1660 in a letter. Contextually, Ginetti demanded that public edicts be posted in advance and that the buyer who offered the most would be favoured in the sale:

> Questi Eminentissimi miei Signori sono benignamente condescesi a rimetter nell'arbitrio di Vostra Eminenza che constandole servatis servandis della verità dell'esposto possa concederne ai medesimi l'opportuna licenza; conde però precedendo l'affissione dei pubblici editti, si preferisca nella vendita il miglior oblatore, et il ritratto s'impieghi tutto fedelmente nella causa esposta né si converta in altro uso.[189]

Unlike the more common cases *si in evidentem*, in this instance the edict was not intended to bring any opponents to court, but on the contrary to summon the interested buyers, who were evidently not known to the religious community when it had sent the petition to the Roman dicastery.

But beyond these exceptions, the most frequent edicts were those addressed precisely to unknown recipients.

In the court files, edicts are found enclosed either in the original or in copy.[190] From a point of view of diplomatics, strictly speaking they formally recalled the 15th-century *litterae edictales*.[191]

In the *inscriptio*, the chancellery stated the name and title of the bishop, and if present, also of the other judge delegate, specifying that they were "Iudices commissari" appointed by the SCC.[192]

With the classic opening formula "universis et singulis" followed by "ad quos infrascriptum tangit negotium seu tangere poterit quomodolibet in futurum", the judge declared that the act was addressed to anyone who might be affected by the transaction that was to take place shortly thereafter.[193]

189 Ibid.

190 See by way of example image 5 in the appendix.

191 Cf. Chironi (2005) 149–154.

192 Here is De Rosa's description of the style of drafting edicts, evidently based on his experience as bishop of the diocese of S. Angelo dei Lombardi-Bisaccia. De Rosa (1676) 488: "Hoc Decretum debet subscribi ab ambobus Dominis Delegatis, deinde fit citatio per Edictum cum insertione Litterarum Apostolicarum, et decreti, hoc modo videlicet. Fit titulus citationis, in aliquibus Curiis, ponitur primo loco nomen Papae (Nempe Clemens Papa X) deinde nomen Delegatorum: in aliis vero Curiis ponitur solum nomen Delegatorum."

193 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 14, n. f. [Carmelite friars, 1627].

The *narratio* then summarised the affair by explaining who had appeared before the court, and quoted in full the copy of the text of the supplication in ancient Italian, which the monastery had originally sent to the SCC. This way, everyone could see the characteristics of the affair, the value of the goods, the actors involved and so on.

This was followed by the full transcript of the SCC's decree, complete with chronological dating and subscriptions. Subsequently, in the *dispositio* the judge-commissioner affirmed his intention to follow up on the provisions of the SCC:

> Nos vero volentes ut tenemur Sacrae Congregationi obedire mandatis praefatas preces et rescriptum omni qua decuit reverentia recepimus, et admissimus et ad illarum exequtionem paratos providere nos obtulimus iuxta illarum continentiam et tenorem (…): edictales litteras citatorias decrevimus in valvis ecclesiae praedicti […] ad citandum omnes et singulis interesse praetendentes.[194]

Introduced by the verb "intimamus", the judges invited those who wished to oppose the execution of the transaction to appear before the court and urged them to be swift: "Die iuridica immediate sequenti compareatis coram nobis in episcopali Palatio Aesino ad dicendum, mostrandum, et allegandum quicquid vultis et potestis contra praefatas."[195]

The edict closed with the date and the signatures of the judges and their seals.

In everyday practice, some men appointed by the judge to a function similar to that of a bailiff (called *bargelli* or *balivi*) posted the edict on the doorposts *(ad valvas)* of the cathedral of the episcopal see where the procedure took place, and also in the other churches involved (i. e. those churches or monasteries that stood in the territories in which the plot of land subject to the transaction was located).[196]

The edicts remained attached to the doors for a specific period, which could vary from three to ten days on average. At the end of that time, they were removed and returned to the curia. On the *verso* of these documents,

194 Ibid.

195 Ibid.

196 See De Rosa (1676) 489: "Hac citatione emanata debet affigi in dictis locis, et ibi debet permanere quousque elabatur temrinus assignatus; deinde cursor, qui eam affixerit debet facere relationem in originali, et reproduci in actis Domini Delegati."

episcopal notaries, chancellors or parish priests certified how long these acts had been posted.[197]

If someone had responded to the invitation, and appeared in court, formally opposing the execution of the rescript, the judge, assisted by the fiscal procurator, would have had to hear the defendant's reasons, and act accordingly.[198] This effectively turned the voluntary procedure into a civil litigation case.[199]

4.5.3 The examination of witnesses and technical assessments

The examination of the witnesses in the proceedings *si in evidentem* served for the judge to verify that the facts narrated by the parties were true and, above all, to ascertain whether there were elements or omissions that could preclude the issuance of the final decision in a positive sense *(subreptio)*.

As regards the more strictly formal and diplomatics aspects of the interrogations, it is possible to note similarities with other types of examinations that took place at the diocesan curia. In pre-marital investigations *(processetti)*, for example, which were investigations conducted to ascertain the marital status of future spouses, witnesses were questioned to obtain information useful for verifying the identity of those who were soon to be married. The methods of interrogation, although differing in terms of subject matter and legal procedures, had a certain formal consistency.[200]

197 See ASDJ, *Classe XI*, b. 181, n. 355, fasc. 14, n. f. [Carmelite friars, 1627]. Cf. Ricci Pepoli (1730), cap. LVIII, n. 6, p. 107.

198 See De Rosa (1676), pars I, cap. XII, n. 4, p. 311: "[D]ebetque expectari, ut labatur tempus in citationibus assignatum, deinde incusari debent debite contumaciae, et si comparverit legitimus contradictor cum eo procedendum est iuris ordine servato, sicuti semper iudicium agitandum, et finiendum audito Promotore Fisale Curiae, qui suas partes impugnativas explere debet."

199 Cf. Mannori (1990) 450; Rico Callado (2014a) 63.

200 In this regard, it is worth mentioning the impressive project funded by the National Research Agency (ANR) and led by Prof. Jean-François Chauvard. This project aims to investigate the mobility processes of the *ancien régime* through the systematic analysis of marriage cases preserved in the Historical Archives of the Patriarchate of Venice. For first results of the project, visit the database hosted by the Geovistory collaborative platform: https://www.geovistory.org/processetti.

Identifying witnesses and at the same time preparing the "interrogatoria"[201] (or *capitula*), i. e. the questions to which the witnesses would be subjected, was the responsibility of the religious community's procurator.[202] As specified in the treatise, and as is clear from the sources, the party that had obtained the rescript also had to formulate the "articulos".[203] Anne Jacobson Schutte has pointed out in her research that even during diocesan enquiries into cases of forced monachization between the end of the 17th century and the whole of the 18th century, the judge asked the petitioners' procurator to "furnish a list of witnesses who should be examined and to draft a battery of question to be put to them".[204] Regarding this there are also similarities with litigation proceedings in which the plaintiff drafted questions for the judge to put to witnesses.[205] Witnesses were summoned directly by the procurator of the monks, or even by a bailiff of the bishop's court, but always at the request of the religious community; there were therefore no spontaneous appearances. The minutes of the depositions often contain formulas such as "testis esaminatis ad istantiam"[206] or "testis inductis pro parte Convento".[207]

Usually, the *capitula* were in Latin and the answers in Italian, although it might sometimes happen that even the questions were in the language spoken by the people, "pro maiori testium Intelligentia".[208] The court file contains the minutes of the hearing with the list of questions and witness statements attached. The number of questions varied from case to case, ranging from a minimum of five to as many as twenty. There were usually two or three witnesses per case, who were examined individually.

In a case dating back to 1676 at the Tribunal of Fermo, the Conventual Franciscan friars from the Convent of Montegranaro, who wanted to have a

201 Cf. ASDJ, *Classe XI*, b. 181, n. 355, fasc. 8, n. f. [Chaplaincy of S. Giovanni Battista, 1671].
202 Cf. Chironi (2005) 97.
203 De Rosa (1676) 489: "Pars, quae obtinuit Breve, debet producere articulos, quibus intendit probare evidentem Ecclesiae utilitatem: per Dominos Delegatos debet fieri citatio ad testes, e citari debent partes, si adsunt, ad videnda iuramenta testium, et etiam Promotoris Fiscalis Curiae." On *praxis testium* in episcopal courts, see Ricci (1619) 464–476; Ricci (1674), t. I, pp. 181–185.
204 Jacobson Schutte (2011) 93.
205 Cf. Bassani (2019) 158.
206 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 14, n. f. [Carmelite friars, 1627].
207 ASAF, *Processi si in evidentem*, Montegranaro 28 II (1653–1702), n. f. [Conventual Franciscans, 1656].
208 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 11, n. f. [Cistercian monks, 1646].

piece of land they owned and that was known as *Vallone* reclaimed by a third party, one Giuseppe di Giovanni Francesco Rossi, also called Trottino, as a witness.[209]

The first question in the interrogation concerned whether or not Trottino knew the penalties for making false declarations. Canon law provided for severe punishments in this regard.[210] The witness replied that yes, he did, and that a false testimony would offend God: "Io sono a pieno informato della forma del giuramento che chi dipone il falso offende Iddio, l'Anima sua e può esser castigato dalla Giustizia."[211]

He was required to give his personal details in order to exclude any *defectus aetatis* or *defectus status*, i. e. inability due to age or any legal deficiencies, that would have vitiated and thus invalidated his depositions.[212] In reply, the witness gave his name, age, occupation as farmer and position as the community's public evaluator, and further personal details:

> Il mio nome, cognome, e patria et età lho detto di sopra che mi chiamo Giuseppe di Giovanni Francesco Rossi alias Trottino e son d'età d'anni 62 in circa de qui da Monte Granaro e la mia professione è d'attendere alla campagna si alla coltivatione de terreni come d'alboreti e vigne e son stimatore pubblico della comunità, e dove son chiamato vado a stimare in compagnia di Marcello Magliani altro stimatore pubblico della comunità tanto li terreni come li danni ne i luoghi, che sono stati fatti et in quanto, che io sia ricco o povero, io non son ricco ne povero ma vivo honoratamente con la mia famiglia con quel puoco, che ho, con le mie fatighe e delli miei figlioli.[213]

In order to exclude the possibility that a person was forcibly induced to make certain statements, perhaps because he was destitute or for personal interest, the questions were aimed at investigating the witness' wealth status and his relationship with the religious community.[214] In answering, Trottino confirmed and emphasised his impartiality and objectivity:

209 See ASAF, *Processi si in evidentem*, Montegranaro 28 II (1653–1702), n. f. [Conventual Franciscans, 1676].

210 Cf. Ricci (1619) 473.

211 ASAF, *Processi si in evidentem*, Montegranaro 28 II (1653–1702), n. f. [Conventual Franciscans, 1676].

212 Cf. Cunill (2017) esp. 1–5.

213 ASAF, *Processi si in evidentem*, Montegranaro 28 II (1653–1702), n. f. [Conventual Franciscans, 1676].

214 Ibid.: "[S'interroghi s]e è venuto spontaneamente o è stato citato et ad istanza di chi è arrivato avanti noi ad esaminarsi, e se per esso gli sia stata data cosa alcuna o promessa, e che intende in quest'essame diporre."

> Io son venuto qua da VS. per esser stato chiamato dal Padre fra Giovanni Battista Procuratore del Convento di S. Francesco come persona informata de terreni di qui della terra di Monte Granaro, e stimatore pubblico ad essere questo essame affinche habbi da diporre la verità, come intendo dire di quello che saperò e verrò addimandato per quale essame non m'è stato dato, ne promesso cosa alcuna, ne spero d'haverla.[215]

Usually, the questions concerning the subject matter of the lawsuit mainly focused on the truthfulness of the initial reports in the plea to the SCC. The expression "clear utility" often appeared in the depositions and was also emphasised graphically by underlining.[216]

The witnesses, precisely because the cases had to do with real rights to use over agricultural land, were often men who worked in the countryside. Some had knowledge of the cases because they had dealt with them personally *(de visu)*, or because they had heard information about them *(de auditu)*.[217]

Frequently, they were peasants who, for example, had worked a certain plot of land owned by a convent which was now to be sold, rented or exchanged; in other cases, they were owners of plots of land bordering on the properties of the religious.

They could therefore report on the size, boundaries and yield of these lands. These testimonies also implied technical evaluations, so their statements were more effective because they were reinforced by specific expertise. Sometimes the affidavits of public evaluators (*agrimensori* or *stimatori pubblici*) who had been commissioned either by the parties or by the judge are attached to the court files.[218] The estimates served to prove whether what had originally been reported to the SCC and the actual value of the property properly corresponded; consequently, references to any equivalences of the various units of measurement in force in the Papal States also had to be accurately reported.[219]

215 ASAF, *Processi si in evidentem*, Montegranaro 28 II (1653–1702), n. f. [Conventual Franciscans, 1676].

216 Cf. ASDJ, *Classe XI*, b. 181, n. 355, fasc. 11, n. f. [Cistercian monks, 1646].

217 Ibid.

218 Cf. ASDJ, *Classe XI*, b. 181, n. 355, fasc. 22, n. f. [Cistercian monks, 1639].

219 See Corradi (1735b), lib. IX, cap. IV, n. 37, p. 338: "Et eo modo, quo valor Papae exprimitur, debet coram judicibus Commissariis verificari: ac propterea agrimensores et appretiatores ad id deputati, considerata per eos qualitate rei sic alienandae, debent ipsis commissariis referre, cum iuramento quanti valeat proprietate, ut valeant considerare, na exinde evidens Ecclesiae utilitas."

In the legal case taken as an example here, the judge asked Trottino if he knew the value of the land, how much grain it yielded, and whether allowing a third party to reclaim it would guarantee a higher income for the convent. In his answer, the witness stated that planting trees such as vines, olive trees, made the soil more fertile and guaranteed a higher income for the convent in terms of fruit, bundles of wood, and must:

> Io come stimatore stimo, che vagli e sii di valore di cento scudi la soma, e tanto possi valere, et il frutto d'esso compensa l'anno buono con il cattivo da cinque rubbia in circa di grano, e detrattone la metà di parte colonica, ne resti al convento due rubbia e mezze l'anno, e bonificandosi ad alberata sarà assai di maggiore utile perché da detti lavori si stercorarà e si renderà più fertile, come anco ne riceverà il convento ogn'anno di parte dominicale del mosto a causa di detti bonificamenti venuta in essere da some quaranta e fascine sessanta tra frasche e viti per dividersi come il mosto al quinto delli frutti commestivi.[220]

As a final question, the judge wanted to know whether the witness personally knew those to whom the land would be granted. He was particularly interested in whether they would be able to carry out the tree planting and maintenance work and whether they were therefore persons who could be trusted. Trottino gave many reassurances in this regard, saying the men in question had ample experience in working the land and the vines and that he himself had seen them carry out such work:

> Io tengo, che siino persone idonee a fare detta bonificatione a filoni de viti et alberi, et a mentenerle per esser persone, che hanno atteso, et attendono alla campagna et all'esercitio di custodire vigne e alberi come ho essercitata, et essercito io, s'intendono bene dell'esercitio e quanto lo so per essere da Monte Granaro, e visti faticare e fare alti ministerii sopra alle cose della campagna, e per tanto li tengo, e stimo non solo in questo ma in ogni altro migliore modo. e di questo n'è pubblico e notorio a tutti di qui da Monte Granaro.[221]

In conclusion, the examination of witnesses represented the most important moment of the diocesan investigation. These depositions were the foundation on which the bishop or vicar general could make their assessments and come to a final decision. The establishment of facts, which the SCC was precluded from undertaking, took place at this level.

220 ASAF, *Processi si in evidentem*, Montegranaro 28 II (1653–1702), n. f. [Conventual Franciscans, 1676].

221 Ibid.

4.5.4 The rejection of the licence

It might occur that, in parallel to the initial phase of the proceedings, the SCC's rescript would be rejected, although this was rare. The refusal to enforce a decree of the Roman congregation by an ecclesiastical judge could arise from the fear of enforcing a licence that had been obtained from the SCC by deception. The judge might have reason to suspect that the facts narrated by the religious were untrue or lacked evident utility. On the basis of *Cum in omnibus*, this would entail serious consequences for those rectors or administrators of monasteries who had applied for a licence even though they were not entitled to it. They might even be faced with excommunication, which could only be absolved by the pope, in addition to the restitution of what had been unjustly alienated.[222]

One example of rejection relates to an affair involving the Discalced Augustinians from the Convent della Misericordia in Fermo.[223]

They had obtained a licence from the SCC, dated 16 July 1667,[224] asking to be able to borrow *(prendere a censo)* 200 scudi, at 5 % interest, in order to pay off another debt *(censo passivo)* also of 200 scudi, but at 7 %, which they had incurred with the Confraternity della Santissima Spina in Fermo.[225] The

222 See BR (1860), t. V, 183–184: "Complices quoque in eas incidunt. Is vero, qui dolo vel fraude aut scienter, in detrimentum Ecclesiarum, alienationem fieri procuraverit, aut per sordes, vel impressionem, alienationis decretum extorserit, similem sententiam excommunicationis incurret, a qua nonnisi per Romanum Pontificem possit absolvi, ad restitutionem nihilominus rerum alienatarum cum fructibus, quandocumque de praemissis constiterit, condemnandus."

223 In 1626, Urban VIII divided the Congregation of the Discalced Augustinians, which at the time was booming, into four provinces for the Italian territory: Roman, Neapolitan, Genoese, and Palermitan; later the communities increased and reached the number of nine provinces in 1731. See Barbagallo (1974) 408. – The first presence of the Discalced Augustinians in Fermo dates back to 1612, when they settled at the Church of the Santissimo Crocifisso, in the hamlet of *Saletto*, located just outside the city. Later, in 1621, they moved to the Convent of S. Maria della Misericordia in Fermo, located outside the Porta di S. Marco. See Panceri (1700) 61–63; Mazurkiewicz (2010). What remains of the original archive of the convent is now in the State Archive of Fermo *[Corporazioni religiose soppresse, Convento di S. Agostino]*. For a look beyond the observant congregation to the entire Augustinian convents in the diocese of Fermo, see Crocetti (1987).

224 AAV, *Congr. Concilio*, *Libri Decret*. 25, f. 397v.

225 On the Archconfraternity of the Santissima Spina in Fermo, see its statutes in Regole, ordini, e capitoli della venerabile Compagnia della Sacratissima Spina (1741).

SCC's decree referred the matter to the discretion of the archbishop of Fermo. However, the vicar general of the diocese, Giovanni Battista Salimbeni, had not applied the rescript, for several reasons. Firstly, he argued that the *censo* (at 7 % interest) had not been personally instituted or imposed by the Augustinian friars, but rather by their 'trusted men', and that the *censo* itself had not been primarily authorised by the SCC. Salimbeni also warned the SCC that the Augustinians had only one vegetable garden, which they had bought with the above-mentioned 200 scudi, on which they could eventually impose a *censo*, thus suggesting that the convent's debt situation was rather serious. The actions of Salimbeni should be circumscribed as within the powers in the hands of the vicar in addition to the provisions of the SCC's decree. It was the duty of the vicar general, as executor, to assess whether there were the minimum conditions for granting a licence to establish a *censo*. Rejecting a decree of the SCC certified that the task of the diocesan authorities was not notarial or merely executive, but an actual verification of the legal prerequisites. Augustinian friars explained to the SCC that with the money obtaine from the Confraternity della Santissima Spina they had bought a vegetable garden, and that therefore there had been a useful conversion of the money for the conven; they also pointed out to the SCC that they had always regularly paid the 14 scudi a year in interest to the confraternity, and that the *censo* to be extinguishe was to be considered valid even if it had not been established by the Augustinians personally. They also asked to overlook the fact that the SCC's licence was lacking.[226] The SCC

226 The whole affair can be historically traced by consulting the *positio* in AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 31 (F), n. f. [Discalced Augustinians, Fermo, 1668]. The *positio* contains two documents: the letter of Salimbeni and, inside, the memorial of the Discalced Augustinians, pleaded by F. Gennaro (or Genaro) of S. Croce, a native of S. Gennaro near Lucca. The intervention of Gennaro of S. Croce is not dated, but is to be placed between 16 January 1668, the date the Salimbeni memorial was sent, and 21 April 1668, the date the decree was issued by the SCC. Gennaro of S. Croce signed as procurator general. However, Panceri's *Lustri Storiali* reveals that in that period the procurator general was Eugenio di S. Patrizio, later replaced in the general chapter of May 1668 by Matteo di S. Eustachio. Gennaro of S. Croce had instead been vicar general – a title by which the Discalced at the time marked their superior general – a first time between (1656–1659) and then for a second time in 1668 starting in May, in conjunction with the general chapter of the Order. So, it is not clear why, around April 1668, Gennaro signed as procurator. See Panceri (1700) esp. 458–459; 484–485. For biographical clarification, it would be useful to consult the prosopographical work, *Raccolta di Nominativi di*

concluded the matter by issuing a further decree on 21 April 1668, and reappointed Salimbeni to grant the faculty to *accipiendi ad censum*, i. e. allowing the friars to borrow money.[227]

4.5.5 The judgment

As far as the final decision is concerned, one must always consider the fact that the act that closed the proceedings, although attributable to the governmental-administrative sphere, was made within the court. From a diplomatics point of view, therefore, these authoritative measures had a judicial form that approximated them to judgments.[228]

From a lexical point of view, these acts carried various denominations. Corradi spoke of "Decreti Commissariorum super alienatione in evidentem",[229] Monacelli similarly defined them as "Decreti permissionis alienationis vigore Beneplaciti Apostolici",[230] and De Rosa also spoke of a "decretum definitivum".[231] In the archival sources, on the other hand, one finds the term "sententia".[232] These 'closing acts' differed only partially from ordinary alienation licences, which had a 'concise' form.[233]

coloro che vestono il Santo Abito degli Agostiniani Scalzi, kept at the Convent of the Madonnetta in Genoa.

227 AAV, *Congr. Concilio*, *Libri Decret*. 25, f. 593v: "Sacra [Congregatio Cardinalium Concilii Tridentini] Attenta relatione Vicarii Generalis firmani eidem benigne commisit, ut veris existentibus narratis, et postquam compererit in evidentem Conventus utilitatem esse cessuram petitam facultatem accipiendi ad censum praedecta scuta bis centum pro suo arbitrio et conscientia oratoribus gratis impertiatur. Ita tamen ut detta pecunia in extinctionem praedicti (…) alieni similis summa, pro quo maiu interesse solvitus integre atque unico contextu convertatur, et census imponendus iidem Conditionibus, et restrictiius, quibus census, ut supra extinguendum subiaceat subiectus sit et esse intelligatur."

228 Cf. Chironi (2005) 99; Rico Callado (2014a) 77. On judgments in canon law contentious cases, see Martínez (2021).

229 Corradi (1735b), lib. IX, cap. XI, p. 372.

230 Monacelli (1844), pars II, tit. XIV, formula IV, p. 167.

231 De Rosa (1676) 490. Cf. Pellegrini (1666), pars II, sectio III, subsectio I, n. 3, p. 304: "Dicitur iudicialis diffinitivo, quia Iudex per sententiam determinat causam coram eo agitatam."

232 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 11, n. f. [Cistercian monks, 1646]. As an example of a bishop's judgment, see image 6 in the appendix.

233 See ASAF, *Processi si in evidentem*, Fermo 3 (1550–1660), n. f. [Monastery of S. Chiara, 1651].

The final decree presented the classic *invocatio* at the beginning: "In Dei nomine Amen. Unde visis. Christi nomine repetito",[234] followed by the names and titles of the competent judges.[235] Sometimes the latter could also be placed at the end of the deed. The text began directly with the ruling *(dispositio)* introduced by "Quia dicimus, pronuntiamus et diffinitive sententiamus."[236] The ruling also explained the essential elements, with due reference to the protagonists involved, and the subject matter of the transaction *(expositio)*.

The judges manifested their *ratio decidendi* with a concise exposition of the reasons underlying the favourable judgment *(expressio causae)*.[237]

What was never missing, just as it was always included in the edicts, was the reference to the SCC's rescript that legitimised the delegated bishop's powers, and consequently also the sentence he issued: "[A]d formam memorialis et rescripti Sacrae Congregationis Eminentissimorum Cardinalium Sacri Concilii Tridentini Interpretum nobis commissi in evidentem utilitatem."[238]

The judges specified that the ruling authorised the monastery to enter into the contract: "concedimus et impartimur conficiendi quodcumque instrumentum".[239]

At the end of the document there were the formulas of *corroboratio,* the date, and the authentication formulas drawn up by the notary-chancellor who had notarised the deed *(validatio)*.[240]

234 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 11, n. f. [Cistercian monks, 1646].

235 For a diplomatic comparison with decrees and licences issued in Spanish diocesan *curiae*, see Rico Callado (2021) 314–318.

236 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 22, n. f. [Cistercian monks, 1639].

237 On the principle of motivation of judgement, see Mancuso (1999). Concerning the differences between judgment-disposition and judgment-motivation, see Ascheri (1989) esp. 123–127.

238 ASDJ, *Classe XI*, b. 181, n. 355, fasc. 11, n. f. [Cistercian monks, 1646].

239 Ibid.

240 De Rosa gives a kind of model to be used for issuing such decrees, in De Rosa (1676) 490: "Facto Decreto, debent fieri provisiones, cum insertione Litterarum Apostolicarum, et Decreti, quae traduntur partibus ad finem ut stipulari possit Instrumentum, in quo sunt inferendae dictae provisiones, ut iacent in Litteris Apostolicis, et decreto definitiorio. Provisiones autem conficiuntur: sic praemittuntur nomina Delegatorum, deinde. *Universis et singulis, praesentes inspecturis, praesentibus, et futuris, fidem facimus, et testamus, quod nuper coram nobis praesentata fuerunt Litterae Apostolica in forma Brevis, tenoris sequentis, videlicet, a*

Once the judgment had been issued, it was immediately executable. Although this would have to be verified by further archival evidence, it cannot be excluded that it could be appealed or revoked.[241]

The bishop's decree did not in itself constitute the final *instrumentum* of the transaction. This in fact had to be finalised separately, and is therefore not to be found in the diocesan court file. The actual contracts can be traced either in the registers of the notaries who drew them up, or in copies in the collections of *instrumenta* that were kept at individual monasteries or convents.[242] The existence of these registers also makes it possible to reverse engineer and verify the entire court case, since the final contracts contain all the steps that had characterised it, including dates.

4.6 Final remarks

The acts just described were the main measures that constituted the diocesan phase of the *iter si in evidentem*.

The adaptability of the diocesan apparatus, both in terms of procedures and in terms of the actors involved, has emerged as the most significant feature. The diocesan structure, and especially the judicial one, showed remarkable flexibility. The speed with which the local procedures were normally conducted is an element that reveals an effective executory capacity. From the date of promulgation of the SCC's rescript to the issuance of the local judge's ruling, usually only a few months passed.

For example, the SCC issued a licence for the Carmelites of Jesi on 18 September 1627, and the diocesan procedure was concluded as early as 27 November that year.[243] Obviously, depending on the case, the time frame could be longer. A licence from the Congregation of Bishops and Regulars for the Conventual Franciscans of Montegranaro on 27 November 1676

foris, Venerabili, c. Intus vero, Clemens. Quibus Litteris coram Nobis servatis de omnibus iure servandis, et factis opportunis actibus in Curia, fuit per nos interpositum decretum deffinitivum, tenoris sequentis, videlicet, inferatur, quae omnia ad omnium notitiam deducimus, ut in futurum ignorantia causam allegare non valeant. Datum." For a comparison with the text of a *licentia alienandi* dating back to 1366 in the diocese of Siena, see Chironi (2005) 272–275.

241 Cf. Mannori (1990) 448–450.

242 See, for example, the various collections of *instrumenta* relating to the Abbey of Castagnola, in ACCSBI, S. Maria in Castagnola – Chiaravalle d'Ancona, b. 3, n. f.; b. 21, n. f.

243 See ASDJ, *Classe XI*, b. 181, n. 355, fasc. 14, n. f. [Carmelite friars, 1627].

generated a case at the bishop's court in Fermo that ended on 10 April 1677.[244] Reflecting a similar time frame, the nuns of S. Anna in Jesi received a positive sentence from the diocesan bishop in July 1637 on the basis of a licence from the SCC issued on 6 December 1636.[245]

This allowed the beneficiaries, who were often in need, to provide for their necessities in a relatively short time.

Finally, procedural costs should be mentioned. Court files often have an expense report either on the cover or attached ("notula expensarum"[246]). The expenditure items, which obviously varied according to the severity of the cases, usually included: one donation for the judge-bishop ("pro sportulis Eminentissimi D. Cardinalis"[247]), one for the number of acts issued by the court, one for the number of witnesses involved, one for the attorneys' fees, and one for the reading and public copying of the judgment.[248]

244 See ASAF, *Processi si in evidentem*, Montegranaro 28 II 1653–1702, n. f. [Conventual Franciscans, 1676].

245 See ASDJ, *Classe XI*, b. 181, n. 355, fasc. 21, n. f. [Monastery of S. Anna in Jesi, 1637].

246 ASDJ, *Classe XIX*, b. 342, n. 446, n. f. [Cistercians, S. Maria in Castagnola, 1649].

247 Ibid.

248 Cf. ASDJ, *Classe XI*, b. 181, n. 355, fasc. 22, fasc. 26. For a comparison with the costs of Spanish diocesan chancelleries, see Rico Callado (2021) 306–307.

Overall Conclusions

At the end of this work, it is good to pick up the threads of the discourse from the questions posed at the beginning, and to try to draw some, albeit partial, conclusions.

The choice of pursuing a systematic analysis of some of the the most chronologically organic and organised sources of the SCC, such as the *Libri Decretorum*, made it possible to conduct large-scale surveys, and thus appreciate data which otherwise and with other sources could not have been observed in their full complexity. On the one hand, the thematic and quantitative survey confirmed expectations, but on the other it brought to light results that were, in some ways, unexpected.

The study of the activity of the Congregation of the Council over a specific time span has shown how this dicastery, from its foundation until almost the end of the 17th century, was particularly busy processing requests coming from the Marche. The combination of a geographical proximity to Rome and the innumerable competences the dicastery had within the general framework of the government of the Universal Church made the SCC an institution of reference for the ecclesiastical entities located in this province of the Papal States. This finding is also supported by Menniti Ippolito's results, which, although based on surveys covering a more limited period of time than the one studied in the present work, show that the SCC, as well as the Congregation of Bishops and Regulars, were consulted more by communities in central and southern Italy than the rest of the peninsula.[1]

Going deeper, however, yielded unexpected results in terms of the type of subjects covered and their incidence.

In fact, the data have shown that although the SCC was engaged in processing petitions concerning many Tridentine issues, two areas that could not be specifically traced back to the normative corpus that came out of Trent assumed an important weight: the general decrees *De rebus regularium non alienandis* and *De celebratione missarum*.

1 See Menniti Ippolito (2011) 23–30.

These two measures introduced important new elements. The first is that they were to all intents and purposes standalone regulations, issued 60 years after the conclusion of the Council of Trent. The second element to consider is that both were promulgated by the SCC itself. This placed them rightfully and prominently in a still underexplored field, that of the law produced by the Roman congregations. At the same time, the control of decrees was also delegated to the SCC, which from a jurisdictional point of view meant combining the power to produce law and the power to enforce it in a single body. Implementing these general decrees consolidated and enlarged the SCC's already wide-ranging gracious competence, which included, for instance, the granting of dispensations in matrimonial matters or those for absence from residence, to name but the best known. From a quantitative point of view, within the space of two years (1624–1626), the overall workload of the congregation, at least limited to the Marche, experienced a considerable increase that must be attributed to the entry into force of these measures. This data, if supported by other comprehensive research on other territories, could be a useful element in the challenging attempt to periodise the history of the dicastery and its procedures. The *De rebus regularium non alienandis*, i. e. the prohibition to alienate property belonging to the regular clergy without prior licence from the SCC, was intended to put a stop to the laxity enabled by the privileges previously granted to religious orders. Being the result of a centralising will, it required, at least in principle, all religious communities in Europe to seek prior apostolic approval before entering into contracts with third parties. Moreover, this measure, which was added to those already existing for the property of the secular clergy, was part of the papal policy aimed at a tighter control of religious orders, which the Council of Trent had failed to achieve in the hastily devised decree *De regularibus et monialibus*.

The entry into force of the *De rebus regularium non alienandis* generated the *iter si in evidentem*, a specific practice of voluntary jurisdiction, which was structured on several decision-making levels, involving various institutions and actors of the Church. This had been widely transposed both in practice and in the *ius proprium* of religious orders and congregations, as demonstrated by the inclusion of the decree itself, or specific references to it, in the religious constitutions promulgated and approved during the 17th century. The success of the application of the *De rebus regularium non alienandis* can also be attributed to the efficient internal organisation of the various reli-

gious families, by now largely embedded in the congregational system, which in turn provided for hierarchical and institutionally uniform structures that facilitated and made efficient a close relationship between central and peripheral bodies.

As far as the *praxis supplicationis* is concerned, archival findings show that the decision-making process started from the bottom within the local chapters of convents and monasteries, where monks and friars gathered in their most basic deliberative structure and decided to do something about their state of economic need, for example by way of the sale, rent or exchange of their land.

The next step involved the occasional intervention of the religious general superiors, who would examine the communities' requests and give or deny their assent to the transaction. Subsequently, the religious procurators general at the Roman Curia, vested with an all-encompassing mandate, would take charge of the file, undertaking not only to deliver the petition to the secretary of the SCC, but ensuring that a successful outcome was achieved. Their professional ties with Curia officials and knowledge of internal practices served to look after the interests of those orders they were called upon to represent and safeguard.

The petitions were drafted by the petitioners, or their agents, in a standardised style that aimed to impress the readers by appealing to the principles of evident usefulness, urgency, piety etc. The SCC did not conduct a merely formal check on the content of the supplications, as evidenced, for example, by the *litterae pro informatione* sent locally to the bishops with which the dicastery requested both technical clarifications on the petitions and confirmation of the veracity of the information received.

The SCC, in accordance with its *modus procedendi* regarding gracious matters, processed petitions mainly through the secretary and not in plenary session. Although it ascertained the presence of minimum legitimacy requirements, the actual verification and subsequent granting of the licence was left to third parties. The analysis of sources revealed that the SCC, through individual decrees, delegated these matters to general superiors or cardinal protectors, but mainly to diocesan ordinaries.

The large-scale recourse to the diocesan bishop as apostolic executor by Rome to resolve local issues was an ancient practice that had been reinforced and extended by the Council of Trent. The papal policy sought, on the one hand, to not totally remove the exemption regime privileging certain regular

clergy, and on the other to not further extend episcopal power. Apostolic delegation, which in canon law could be used in different ways, thus remained an expedient, marked by the character of temporariness and revocability, to regulate the power relations between regular and secular clergy in the periphery, and to reinforce the authority of the central government. In the context of alienations, however, this instrument of governance does not seem to have the character of being exceptional, but that of being quite common.[2] Indeed, archival findings have shown that the Church made stable and continuous use of it, not to mention that it was also used in other areas of both voluntary and contentious jurisdiction.

The bishop as a judge delegate for alienations acted on the basis of the jurisdictional limits imposed by the SCC's rescript, instituting proceedings in the diocesan courts. These cases had a judicial 'guise', and were similar, though not identical, to those that diocesan pastors were accustomed to handle in ordinary alienations. All the structures and actors of the diocesan curia, both central and peripheral, related with a certain flexibility to the needs of the local procedure *si in evidentem*. The judges had to ascertain that the proposed transaction did not harm Church interests, and it was also their task to assess whether the supplicant-beneficiaries' claims were true. The instruments they used were the issuance of edicts, the examination of witnesses, and technical verifications by experts. Judges also seemed to make full use of their delegated powers, resisting, where called for, requests that did not meet the necessary criteria to be fulfilled. This happened both when the judge took note of the untruthfulness of the speakers' claims and when he ascertained that the rescripts presented at the chancellery were not authentic.

The *iter si in evidentem*, which turns out to be one of the most articulate procedures of voluntary jurisdiction, thus shows that the SCC was an indispensable link in a decision-making chain that involved other institutions and many actors. The various central and local bodies organised in the hierarchical structure of the Catholic Church seemed to move in a collaborative and complementary manner towards the ultimate goal of safeguarding the interests of the Church.

This work, given the historiographical shortcomings concerning the SCC, has tried to focus on a precisely delineated area of competence of the dicas-

2 Cf. Cavarzere (2012) 95–96.

tery in the early modern age. Sources characterised by a marked repetitiveness and standardisation, such as those concerning dispensation practice, and in particular those of an economic-patrimonial nature, proved useful for understanding a cross-section of the everyday life of central and local bodies.

In any case, many questions remain open and there are many paths to follow. First of all, light should be shed on the transposition of the *De rebus regularium non alienandis* also in the European dioceses, investigating in this regard also the role of the monarchies in the administration of the goods of the regular clergy, as well as their possible relationship with the SCC. It would be desirable to get an overview of and analyse the papers, albeit limited and fragmented, of the tribunals of the religious orders, which still remain the great absentees in historiography. An investigation of this kind would make it possible to understand what the degree of internal discipline was, especially with regard to punishments and censures for unlicensed alienations.

At the level of central government, the present work has made a brief foray into the sometimes conflicting links between the SCC and the Congregation of Bishops and Regulars. But more generally, there is still much to be investigated in the context of ecclesiastical institutions, both spiritual and temporal, with regard to the dispensational praxis and the way in which Apostolic Letters were drafted and dispatched in the world of alienations.[3]

In particular, an analysis from a comparative perspective of the internal procedures of the Dataria, Apostolic Chamber and the Congregation of Good Government in relation to alienation procedures could be a valuable area of research.[4]

3 With regard to the state of scientific research on the concept of dispensation, promising results will come from the recent project "DispRel. Dispenser. De la flexibilité dans les normativités religieuses des sociétés européennes (Moyen Âge – XXe siècle)" coordinated by Arnaud Fossier and linked to the University of Burgundy. The project, which brings together the Institut Religion, Spiritualités, Cultures et Société (Université catholique de Louvain), the École française de Rome, the Institut de recherche et d'histoire des textes (CNRS) and the Institut d'histoire du droit (Université Paris-Panthéon-Assas), aims to investigate the practice of dispensation in Christianity, Islam and Judaism from a comparative perspective. Of particular interest will be the results of the second line of research, which deals with the management of dispensations in Roman institutions, with particular reference to the Apostolic Penitentiary, the Apostolic Dataria and the Holy Office.

4 The Congregation of Good Government had powers over the alienation of community property and the assumption of debts. See Lodolini (ed.) (1956) CLIX.

In this respect, studies with a systematic approach that cross-references the data of various governing bodies would be helpful, so as to shine a light on the fine line between conflicts of attribution and the sharing of competences. As far as the diocesan dimension is concerned, this work has only touched upon a particular type of voluntary jurisdiction procedure. It would be advisable to extend the research to the study of the bishop's practice, ordinary and delegated, on all 'administrative' affairs. This would also allow comparisons and integrations with the purely judicial procedures, which also await further investigation.

In this regard, efforts would be desirable to improve, especially in local archives, the usability of archival series and documents, by implementing effective finding aids to facilitate wide-ranging research. In addition, the availability of prosopographical studies on officials working in diocesan *curiae*, especially in lesser-known dioceses, would give a strong impetus to research on the functioning of local ecclesiastical institutions.

Appendix

Charts

Chart 1: Quantitative survey of decrees issued by the Congregation of the Council per individual diocese (1564–1681)

Chart 2: Quantitative survey of decrees issued by the Congregation of the Council, by diocesan provinces

Chart 3: Comparison of the Marche entries in the *Positiones Sess.* series and the *Libri Decretorum* series, by diocese

Chart 4: Quantitative survey of decrees issued by the Congregation of the Council between 1564 and 1681

Chart 5: Quantitative survey of alienation cases by diocese (1564–1681)

Chart 6: Quantitative survey of decrees issued by the Congregation of the Council, by macro-thematic areas (1564–1681)

Chart 7: Multi-level system of ecclesiastical alienation procedures (regular clergy)

Chart 8: Quantitative survey of cases concerning the *De rebus regularium non alienandis*, processed by the SCC in the Jesi area for religious orders and congregations (1624–1681)

Chart 9: Quantitative survey of cases concerning the *De rebus regularium non alienandis*, processed by the SCC in the Fermo area for religious orders and congregations (1624–1681)

Chart 10: The institutional positions that could usually be commissioned by the SCC

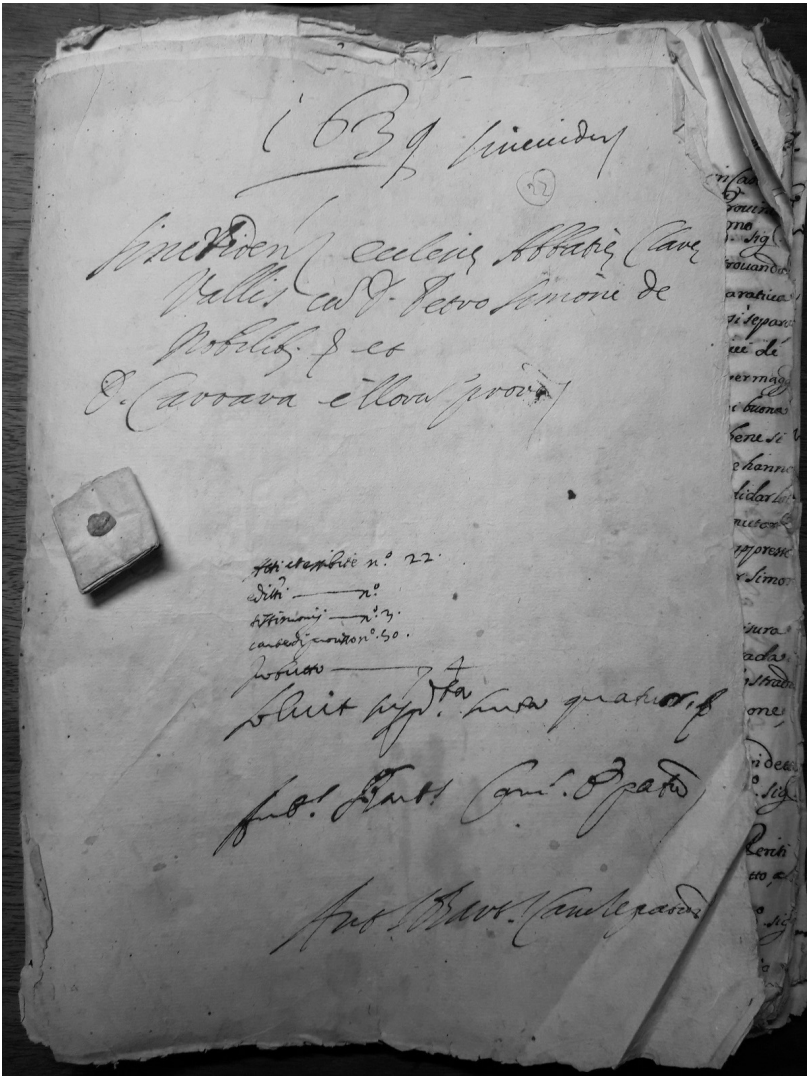


Image 1: ASDJ, *Classe XI*, b. 181, n. 355, fasc. 22, n. f. *[processus si in evidentem front cover]*

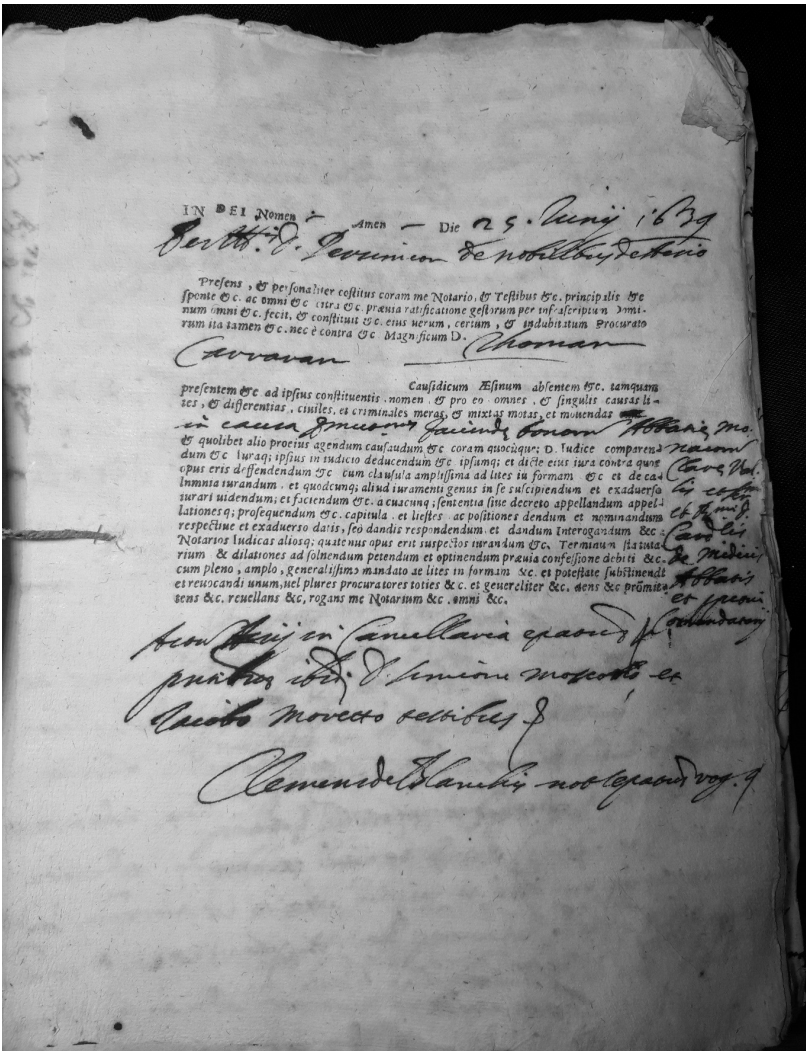


Image 2: ASDJ, *Classe XI*, b.181, n. 355, fasc. 22, n. f. *[procura ad causam]*

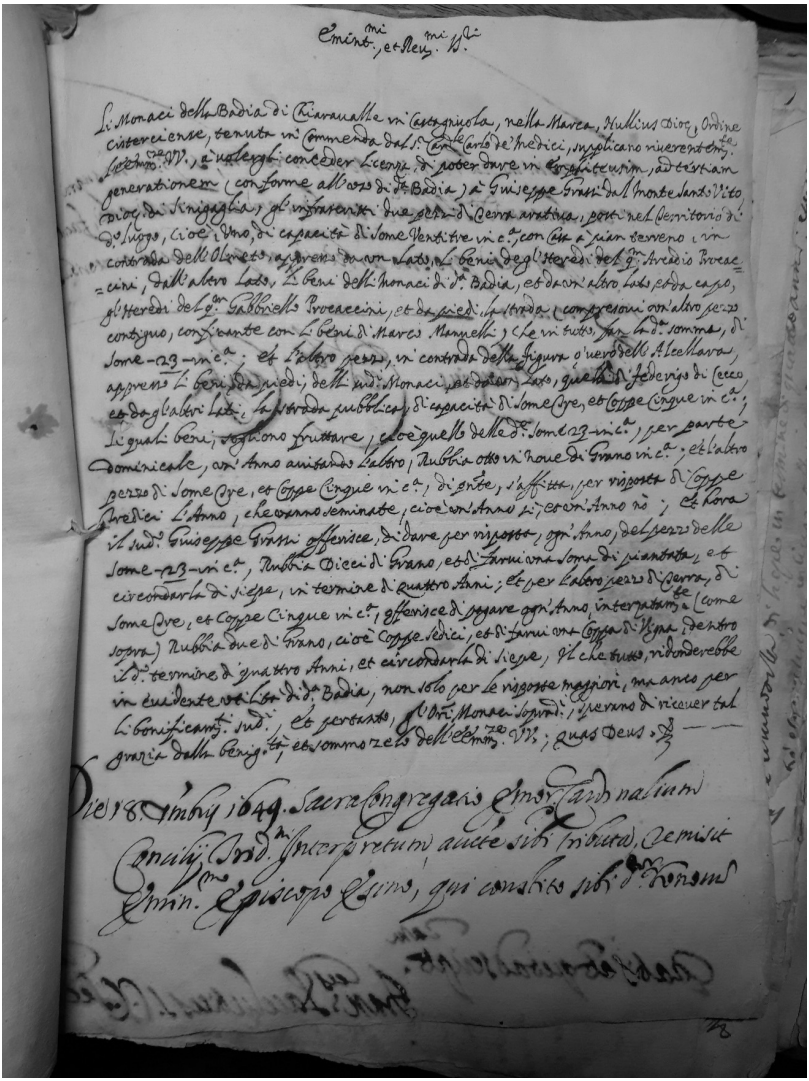


Image 3: ASDJ, *Classe XIX*, b. 342, n. 446, n. f. [SCC's Rescript, *recto*]

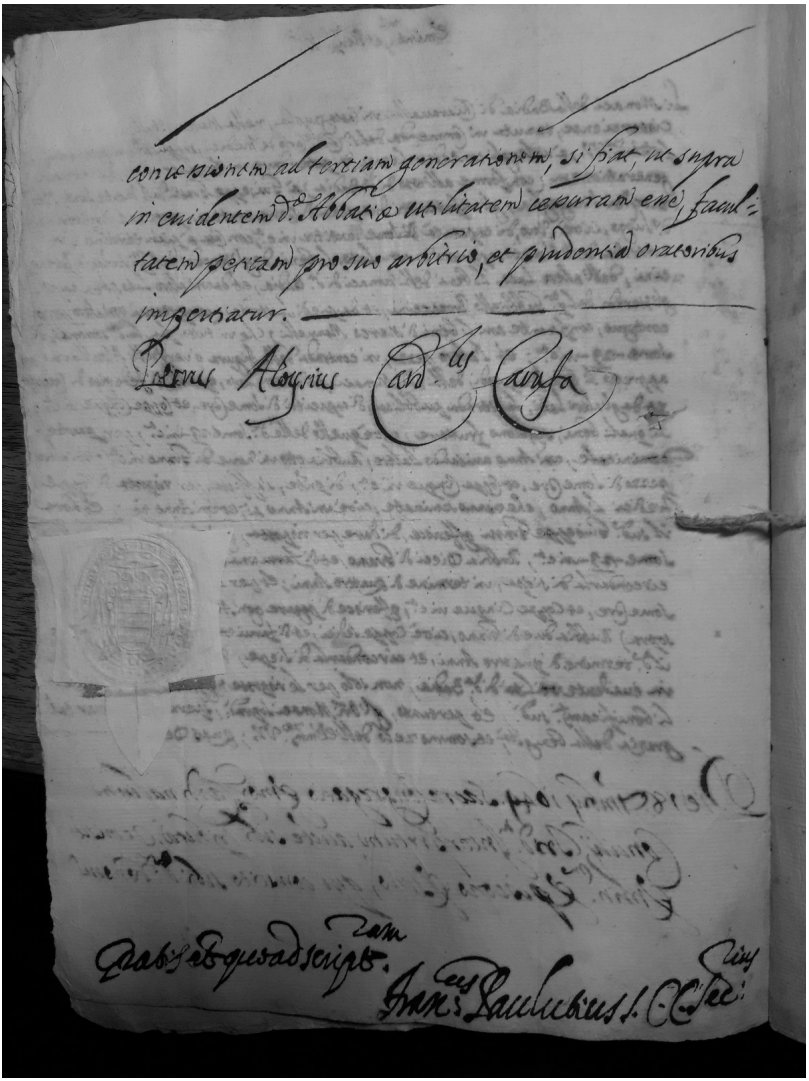


Image 4: ASDJ, *Classe XIX*, b. 342, n. 446, n.f. [SCC's Rescript, *verso*]

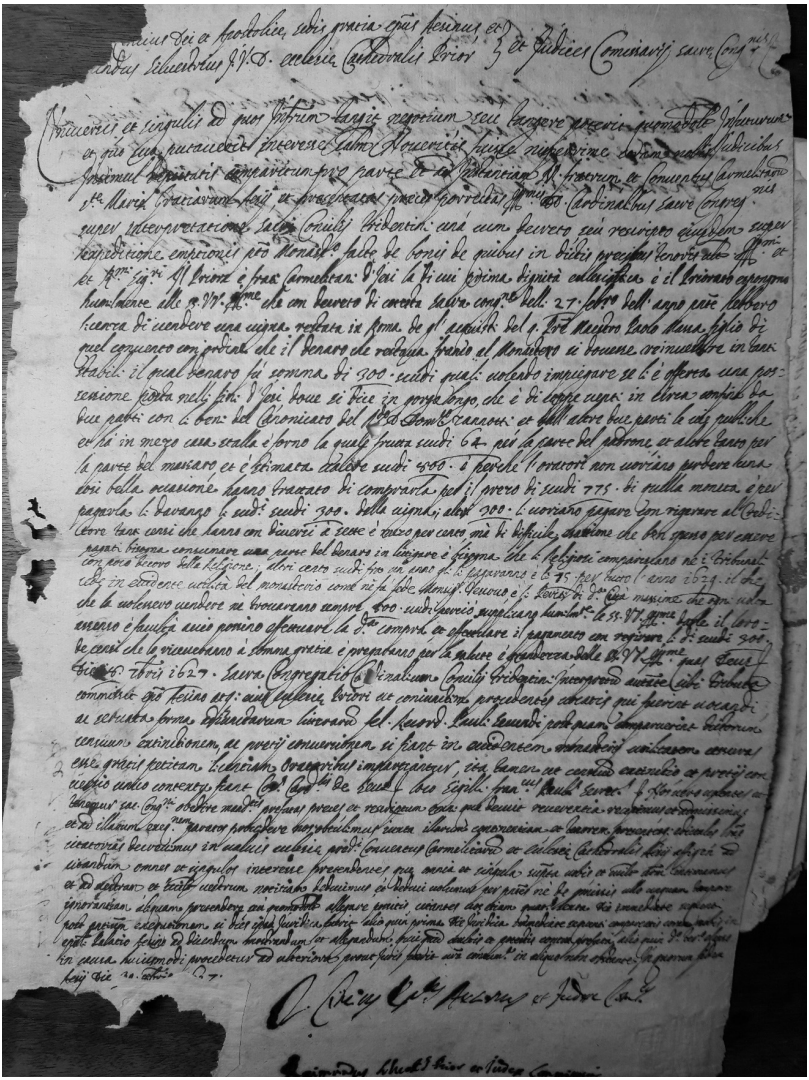


Image 5: ASDJ, *Classe XI*, b. 181, n. 355, fasc. 14, n. f. [Edict]

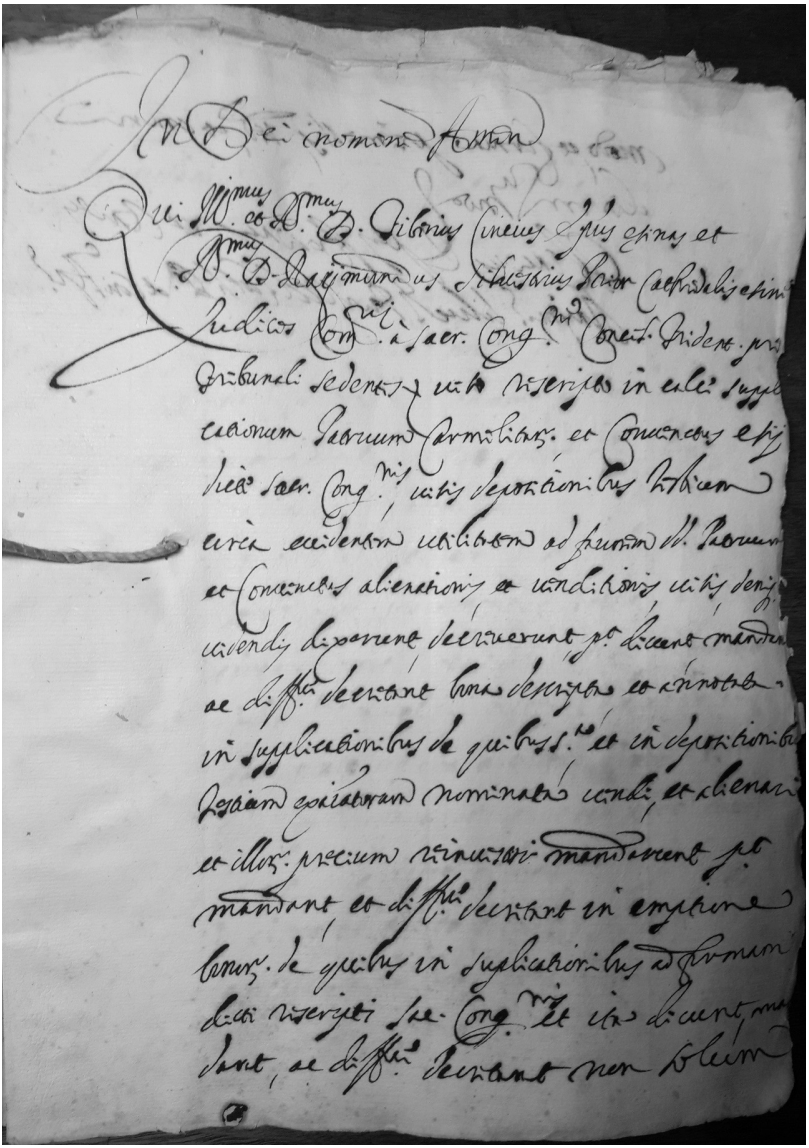


Image 6: ASDJ, *Classe XI*, b. 181, n. 355, fasc. 19, n. f. [bishop's judgment]

Documentary Annex

A. Decree *De rebus regularium non alienandis*

"Sacra [Congregatio cardinalium Concilii Tridentini]; Rerum experimento edocta, quantum Religiones accipiant detrimenti ex bonorum immobilium, et pratiosorum mobilium distractionibus, quas crebro faciunt Regulares, Apostolicis privilegiis innixi, ac pro inde deinde operae pretium putans, illorum facilitatem aliqua ratione compescere; specialis S.D.N. iussu, Generalibus, et Provincialibus, Capitulis, vel Congregationibus, Abbatibus, Generalibus, quibuscumque aliis superioribus regularibus cuiusvis Ordinis, Congregationis, Societatis, vel Instituti intra fines Europa existentibus, omnium rerum, et bonorum immobilium, ac pretiosorum mobilium alienationem, omneque pactum, per quod ipsorum dominium transfertur, censos perpétuos, seu vitalitios hypothecam, locationem, et conductionem ultra triennium, concessionem in feudeum, vel emphyteusim, prater quam in casibus a iure permissis, fieri perpetuo prohibet, atque interdicit absque ipsius Congregationis Concilii expressa licentia in scriptis, et gratis concedenda sub pena privationis omnium officiorum, qua tunc obtinebunt, vocisque activa, et passiva ac perpetua inhabilitatis ad illa in posterum obtinenda, quam ipso facto absque alia acclaratione incurrans sublata etiam generali, et protectora illam moderandi, aut relaxandi facultate; poenis nihilominus Apostolicarum Constitutionum, et praesertim felicis recordationis Pauli II, qua incipit Ambitiosae, in suo robore permansuris. Alienationes vero, patta, census, hypothecas, locationes, conductiones, et concessiones quascunque contra huiusmodi prohibitionem faciendas Sanctitatis sua auctoritate ipso iure nullas, atque irritas decernit. Non obstantibus constitutionibus, et ordinationibus Apostolicis in favorem quaruncumque personarum, atque ordinum tam mendicantium, quam non mendicantium, militiarum etiam S. Iacobi Herosolymani Congregationum, Societatum, ac cuiusvis alterius instituti, etiam necessario, et in individuo exprimendi, Monasteriorum, Conventum, Collegiorum, Domorum, ac locorum Regularium quorumcunque, nec non illorrum etiam iuramento, confirmatione Apostolica, vel quavis firmitate alia roboratis, statutis, vel consuetudinibus etiam immemorabilis, exemptionibus quoque, indultis privilegiis sub quibuscunque tenoribus, et formis, et sub quibusvis etiam derogatoriarum derogatoriis aliisque efficacioribus, et in solitis clausulis, nec non irritantibus Decretis etiam motu proprio. et ex certa scientia, aut de Apostolica potestatis plenitudine, aut alias quomodolibet etiam per viam communicationis, seu extensionis concessis, et iteratis vicibus approbatis, et innovatis, etiam si pro illorum sufficienti derogatione de illis, eorumque totis tenoribus, ac formis, specialis, et individuo, ac de verbo ad verbum, non autem per clausulas generales idem importantes, mentio, seu quavis alia expresso habenda, et aliqua alia exquista forma servanda esset, tenores huiusmodi prasentibus, pro expressis habentes, quibus quoad ea, qua prasenti

Decreto, ac prohibitioni adversatur, allis alias in suo robore permansuris, specialiter, et exprese Sanctitatis sua acutoritate derogat caterisque contraris quibuscunque. Datum Romae die 7 Septembris 1624."[1]

B. Decree *De celebratione missarum*

Decreta Sacrae Congregationis Concilii felicis recordationis Urbani Papae VIII. Auctoritate edita de Celebratione Missarum.

"Cum saepe contingat in quibusdam ecclesiis tam manum missarum celebrandarum numerum ex variis defunctorum relictis aut piorum eleemosynis impositum esse, ut illis pro singulis diebus praescriptis nequeat satisfieri; et tamen nova onera missarum in dies suscipiantur; indeque fiat, ut depereant piae testantium voluntates, obstricta benefactoribus fides violetur, defunctorum animae suffragis priventur, ecclesiis debitus subtrahatur cultus, ac christifideles gravi scandalo affecti, plerumque a similibus charitatis operibus retrahantur: cumque his malis maximum inter cetera fomentum praebeat, aut quod ii, qui missas supra vires celebrandas suscipiunt, sperent, illas brevi ad pauciorem numerum a superioribus reductum iri, aut quod ecclesiis, sorte pecuniarum absumpta, plerumque nuda remaneant, onera missarum absque ullo emolumento, aut quod eleemosyna pro illis celebrandis sit adeo tenuis, ut non facile inveniantur, qui velint huic se muneri subiicere, et redditus ecclesiae aut monasterii adeo exigui, ut sacerdos pro necessaria sua sustentatione novis se oneribus obstringere compellatur: sacra Congregatio cardinalium Concilii Tridentini interpretum, animadvertens, facturam se rem Deo gratissimam, charitatique ac iustitiae maxime consentaneam, si pro viribus satagat hunc teterrimum abusum e christiana republica convellere atque eradicare, SS.D.N. Urbani divina providentia Papae VIII auctoritate sibi specialiter attributa, infrascripta decreta edidit. Ac primo districte prohibet, atque interdicit, ne episcopi in dioecesana synodo, aut generales in capitulis generalibus, vel alias quoquomodo, reducant onera ulla missarum celebrandarum, aut post idem Concilium imposita, aut in limine fundationis; sed pro his omnibus reducendis, aut moderandis, vel commutandis, ad Apostolicam Sedem recurratur, quae, re diligenter perspecta, id statuet, quod magis in Domino expedire arbitrabitur: alioquin reductiones, moderationes et commutationes huiusmodi, si quas contra huius prohibitionis fomam fieri contigerit, omnino nullas atque inanes decernit.

Deinde, ubi, pro pluribus missis etiam eiusdem qualitatis celebrandis, stipendia, quantumcumque incongrua et exigua, sive ab una sive pluribus personis collata fuerint aut conferentur in futurum, sacerdotibus, ecclesiss, capitulis, collegiis, hospitalibus, societatibus, monasteriis, conventibus, congregationibus, domibus, ac locis piis quibuscumque, tam secularibus quam regularibus, sacra Congregatio sub obtestatione divini iudicii mandat ac praecipit, ut absolute tot missae celebrentur, quot ad rationem attributae eleemosynae praescriptae fuerint, ita ut alioquin ii, ad quos pertinet, suae obligationi non satisfaciant, quinimo graviter peccent et ad restitutionem teneantur. Id vero ut deinceps obser-

1 AAV, *Congr. Concilio*, *Libri Decret.* 12, ff. 185v–187v.

vetur exactius, sacra Congregatio eadem auctoritate revocat privilegia et in dulta omnia quibusvis, ecclesiis, ac locis piis, tam secularibus quam regularibus, cuiuscumque ordinis, congregationis et instituti, quamcumque ob causam concessa, quibus indulgetur, ut certarum missarum vel anniversariorum celebratione, aut aliquibus collectis seu orationibus, plurium missarum oneribus in futurum suscipiendis satistiat.

Ac similiter, one damnabile lucrum ab ecclesia removere volens, prohibet saceerdoti, qui missam suscepit celebrandam cum certa eleemosyna, ne earadem missam alteri, parte eiusdem eleemosynae sibi retenta, celebrandam committat.

Praeterea, ne in ecclesiis, in quibus onera missarum in perpetuum imposita sunt, sacerdotes in eis, ut par est, adimplendis eo tepidiores ac segniores reddantur, quod onera huiusmodi eum nulla aut parva sint tilitate coniuncta, statuit atque decernit, ut pecuniae ac bona mobilia ecclesiis, capitulis, collegiis, hospitalibus, societatibus, congregationibus, monasteriis, conventibus, ac locis omnibus, tam secularibus quam regularibus, atque illorum personis in futurum simpliciter acquirenda cum onere perpetuo missarum celebrandarum, ab iis, ad quos pertinet, sub poena interdicti ab ingresssu ecclesiae ispo facto incurrenda, a die realis acquisitionis statim debeant penes aedem sacram, vel personam fide et facultatibus idoneam, deponi, ad effectum illa seu illorum pretium quamprimum investiendi in bonis immobilibus fructiferis cum expressa et individua mentione oneris, quod illis annexum reperitur.

Ac si eadem bona immobilia auctoritate apostolica deinceps alienari contigerit, eorumdem pretium, sub eadem poena, ut supra, deponi, atque in aliis bonis stabilibus itidem fructiferis cum eiusdem oneris repetitione atque annexione converti debeat.

Ad haec sacra Congregatio quibusvis capitulis, collegiis, societatibus et congregationibus, necnon omnibus et singulis ecclesiarum ac piorum locorum, tam secularium quam regularium, superioribus, vel aliis, ad quos pertinet, districte prohibet, ne imposterum onera perpetua suscipiant missarum celebrandarum, seculares quidem sine episcopi, vel eius generalis vicarii, regulares vero sine generalis vel provincialis consensu et licentia in scriptis et gratis concedenda: alioquin secularis, qui huius prohibitionis transgressor extiterit, ab ingressu ecclesiae interdictus sit eo ipso; regularis vero poenam privationis omnium officiorum, quae tunc obtinebit, ac perpetuae inhabilitatis ad alia de cetero ontinenda, vocisque activae ac passivae, absque alia declaratione, incurrat.

Elemosynas vero manuales et quitidianas pro missis celebrandis ita denum iidem accipere possint, si oneribus antea impositis ita satisfecerint, ut nova quoque onera suscipere valeant; alioquin omnino abstineant ab huiusmodi aleemosynis, etiam sponte oblatis, in futurum recipiendis, et capsulas auferant ab ecclesiis eum inscriptione illa, Eleemosyna pro missis, vel alia simili, sub iisdem poenis ipso facto incurrendis, ne fideles hac ratione frustrentur.

Episcopus vero, seu eius vicarius, aut generalis, vel provincialis, ubi de licentia pro perpetuis oneribus fuerint requisiti, in singulis casibus diligenter inquirant de singulis missarum celebrandarum obligationibus cuique ecclesiae, monasterio, aut loco pio incumbentibus; nec antea assensum huiusmodi aut licentiam praebeant, quam eis legitime constiterit, illius sacerdotes tam novo oneri suscipiendo, quam antiquis iam susceptis satisfacere posse, praecipuamque rationem habeant, ut redditus, qui ecclesiis et locis piis relinquuntur, omnino respondeant oneribus adiunctis, secundum morem cuiusque civitatis vel provin-

ciae, intelligantque, si in re tanti momenti desides aut negligentes fuerint, in novissimo die se huius praetermissi muneris rationem esse reddituros.

Postremo illustrissimi patres non sine gravi animi dolore intelligentes, mama fere omnia, quae regularem disciplinam evertunt, ac praecipere nimiam hanc facilitatem fovent in oneribus missarum supra vires suscipiendis, veluti ex infecta radice pullulare ex maiori regularium numero, quam ferant redditus et eleemosynae cuiusque monasterii, inhaerentes summorum Pontificum, ac sacri Tridentini Concilii decretis hac de re editis, SS. D. N. auctoritate praecipiunt ac mandant omnibus et singulis generalibus, provincialibus, commissariis, ministris, praesidenitbus, abbatibus, prioribus, praepositis, guardianis, vicariis et quibuscumque aliis superioribus monasteriorum, conventuum, ac domorum regularium bona immobilia possidentium, vel non possidentium, cuiuscumque Ordinis, congregationis et instituti existentium, intra fines Italie et insularum adiacentium, ut singuli, ad quos pertinet, in qualibet provincia, adhibitis duobus aut tribus regularibus sui Ordinis vel congregationis probatioribus et rerum usu peritioribus, bona immobilia, census, redditus et proventus omnes, consuetas item eleemosynas et obventiones, tam communes monasteriorum, conventuum et domorum eiusdem provinciae, quam etiam singularibus personis religiosis assignatas, seu permissas, in communem usum deinceps conferendas, decem annorum immediate praecedentium habita ratione, diligenter et mature recognoscant, iis omnibus detractis, quae reparationes, praestationes, grandines, sterilitates, aliave cuiuslibet generis onera consueverunt absorbere.

Eaque omnia scripto fideliter exarata, idem superior, cuius interest, in proximo capitulo seu congregatione generali vel provinciali coram tribus iudicibus ab ispomet capitulo seu congregatione deligendis, proponat, qui, computatis huiusmodi redditibus, eleemosynis et obventionibus universis, et oneribus ut supra detractis, sedulo examinent, quot religiosi homies, connumeratis etiam laicis, aliisque necessariis servientibus, in uniquoque monasterio, conventu et domo regulari iuxta regionis et proprii instituti morem, victum et vestitum et medicinalia in comuni habentes, competenter valeant sustentati. Tum eorumdem bonorum, reddituum, eleemosynarum et onerum praecisam notam ipsimet capitulo seu congregationi exhibeant, ut in illo diligenter omnibus discussis, cuiusque familiae, monasterii, conventus, ac domus regularis in singula quaque provincia certus earum tantum personarum numerus, patrum capitularium voto, praefigatur, quae redditibus, eleemosynis et obventionibus, ut superius, sufficienter alii possint.

Ne vero superiores, qui id praestare debent, serius, aut remissius, quam par est, suo muneri satisfaciant, mandat sacra Congregatio, ut infra annum, post proximum capitulum generale vel provinciale computandum, omnia hoc de genere capitulariter gesta, in authenticam formam redacta, ad sacram ipsam Congregationem Concilii singuli mittant.

Numerumque familiae, singulorumque conventuum, monasteriorum et domorum huiusmodi regularium, capituli seu congregationis generalis vel provincialis sententia et auctoritate praefinitum, iidem superiores, tam generales et provinciales omnes, quam locales, perpetuo sevare omnino teneantus, nec possint illum quoquomodo augere, etiam praetextu augmenti reddituum, absque sacrae ispius Congregationis licentia. Superiores autem huiusmodi, qui praedicta omnia in praefixo termino non praestiterint, vel numerorum, ut supra praescriptum, quovis modo augere praesumpserint, privationis omnium officiorum, quae tunc temporis obtinebum, vocisque activae e passivae, et ad omnia suae

religionis officia et gradus inhabilitatis perpetuam poenam eo ipso incurrere, atque aliis etiam gravioribus a Sede apostolica infligendis sacra Congregatio subiacere voluit et declaravit. Deinceps vero monasterium, conventus, domus, congregatio, vel societas religiosorum seu regularium, nullibi recipiatur, nisi, praeter alia ad id requisita, in singulis eiusmodi locis duodecim saltem fratres, aut monachi, seu religiosi degere et ex redditibus et consuetis eleemosynis, detractis omnibus ut supra detrahendis, competenter sustentari valeant, ad praescriptum decreti a felicis recordationis Gregorio XV hac de re editi. Alioquin monasteria et loca huiusmodi post hac recipienda, in quibus duodecim religiosi, ut supra, sustentari, atque inhabitare non poterunt, et actu non inhabitaverint, Ordinarii loci visitationi, correctioni, atque omnimodae iurisdictioni subiecta esse intelligantur. […] Datum Romae, die XII iunii MDCXXV. Cosmus Card. De Torres. Prosper Fagnanus S.C. Secr."[2]

C. Apostolic Constitution *Ambitiosae cupiditati*

"Ambitiosae cupiditati, illorum praecipue, qui divinis et humanis affectati, damnatione postposita, immobilia et pretiosa mobilia Deo dicata, ex quibus ecclesiae, monasteria et pia loca reguntur illustranturque, et eorum ministri sibi alimoniam vindicant, profanis usibus applicare, aut cum maximo illorum ac divini cultus detrimento exquisitis mediis usurpare praesumunt, occurrere cupientes, omnium rerum et bonorum ecclesiasticorum alienationem, omneque pactum, per quod ipsorum dominium transfertur, concessionem, hypothecam, locationem et conductionem ultra triennium, nec non infeudationem vel contractum emphyteuticum, praeterquam in casibus a iure permissis, ac de rebus et bonis in emphyteusim ab antiquo concedi solitis, et tunc ecclesiarum evidenti utilitate, ac de fructibus et bonis, quae servando servari non possunt, pro instantis temporis exigentia, hac perpetuo valitura constitutione praesenti fieri prohibemus, praedecessorum nostrorum constitutionibus, prohibitionibus et decretis aliis super hoc editis, quae tenore praesentium innovamus, in suo nihilominus robore permansuris. Si quis autem contra huius nostrae prohibitionis seriem de bonis et rebus eisdem quicquam alienare praesumpserit: alienatio, hypotheca, concessio, locatio, conductio et infeudatio huiusmodi, nullius omnino sint roboris vel momenti, et tam qui alienat, quam is, qui alienatas res et bona praedicta receperit, sententiam excommunicationis incurrat. Alienanti vero bona ecclesiarum, monasteriorum locorumque piorum quorumlibet, inconsulto Romano Pontifice aut contra praesentis constitutionis tenorem, si pontificali vel abbatiali praefulgeat dignitate, ingressus ecclesiae sit penitus interdictus. Et si per sex menses immediate sequentes sub interdicto huiusmodi animo (quod absit perseveraverit indurato: lapsis mensibus eisdem a regimine et administratione suae ecclesiae vel monasterii, cui praesidet, in spiritualibus et temporalibus sit eo ipso suspensus. Inferiores vero praelati, commendatarii, et aliarum ecclesiarum rectores, beneficia vel administrationem quomodolibet obtinentes, prioratibus, praeposituris, praepositatibus, dignitatibus, personatibus, administrationibus, officiis, canonicatibus, praebendis, aliisque ecclesiasticis cum cura et sine cura saecularibus et regularibus

2 AAV, *A.A.*, *Arm*. *I–XVIII*, 5002, ff. 13r–18v.

beneficiis, quorum res et bona alienarunt duntaxat, ipso facto privati exsistant, iliaque absque declaratione aliqua vacare censeantur, possintque per locorum ordinarios, vel alios, ad quos eorum collatio pertinet, personis idoneis, (illis exceptis, quae propterea privatae fuerint,) libere de iure conferri, nisi alias dispositioni apostolicae sedis sint specialiter aut generaliter reservata; nihilominus alienatae res et bona huiusmodi ad ecclesias, monasteria et loca pia, ad quae ante alienationem huiusmodi pertinebant, libere revertantur. Nulli ergo omnino hominum liceat hanc paginam nostrae prohibitionis et innovationis infringere, vel ei ausu temerario contraire. Si quis hoc attentare praesumpserit: indignationem omnipotentis Dei, et beatorum Petri et Pauli Apostolorum eius se noverit incursurum. Datum Romae apud sanctum Marcum, anno Dominicae Incarnationis MCCCCLXVIII Kalend. Martii Pontificatus nostri Anno IV."[3]

D. A *Breve si in evidentem*

"Alexander PP VII

Dilecte fili sal[ute]m et ap[osto]licam ben[edictionem] Nuper pro parte dilecto[rum] filior[um] Eremitar[um] ordinis Camaldulen[sis] Mon[as]t[er]ii seu Eremi delle Grotte del Massaccio nunc[upa]t[ur] Aesin[ae] Dioc[esis] Nobis expositum fuit quod ipsi in suburbio Civitatis Aesinae possident unam domum illiq[ue] contiguum hortulum ex quibus quando locarentur annua pensio maior octo vel decem scutor[um] monetae ad summum percipi minime posset alias eidem Mon[as]t[er]io seu Eremo a quon[dam] Balthasare Calvanio donatos cum expressa conditione quod domus h[uius]mo[d]i in hospitium d[ic]ti ordinis destinati redigiq[ue] et illud nullo unquam t[em]pore in alium usum converti, vendive aut permutari posset, alias ipsa domus et hortulus ad favorem d[ic]ti Balthasaris eiusq[ue] succ[ess]orum devolvi intelligerentur, quoniam vero sicut eadem expositio subiungebat suburbium h[uius]mo[d]i a personis parum pudicis publicisq[ue] meretricibus ad p[raese]ns incolitur, ideo[que] ipsi exponentes domu[m], et hortulum h[uius]mo[d]i deserere cogantur quando sibi ap[osto]lica auct[oritat]e indultum non sit quod ipsi domum et hortulum h[uius]mo[d]i vendere et pretium inde redigen[dum] in emptionem alterius domus ad eundem eff[ect]um et usum hospitii h[uius]mo[d]i convertere et erogare possint, Nobis propte[re]a iidem exponentes asserentes expressum ad haec dilector[um] filior[um] heredum d[ic]ti Balthasaris pro toto eo quod ipsor[um] in praemissis interesse posset accedere consensum humil[iter] supplicari fecerunt ut sibi opp[ortu]ne ut infra providere de benignitate ap[osto]lica dignaremur, nos ig[itur] eosdem exponentes specialibus favorib[us] et gratiis prosequi volen[tes] et eor[um] singulares personas a quibusvis exco[municati]o[n]i[bu]s suspen[sionis] et interd[i]cti alii[sque] eccl[esiasti]ic[is] s[e]nt[ent]iis cen[suris] et poenis a iure vel ab ho[m]i[n]e quavis occ[asi]one vel causa latis si quibus q[uo]mo[dolibe]t innodatae ex[ist]unt ad eff[ect]um p[raesen]tium dumtaxat consequen[s] harum serie absolven[tes] et absolutas fore censen[tes], h[huius]mo[di] supp[licatio]nibus

3 Friedberg (ed.) (1959) Extravag. Comm. lib. III, tit. IV, cap. 1, p. 1269

inclinati, Discretioni tuae per p[raese]ntes co[mm]ittimus et mandamus ut veris ex[iste]ntibus narratis, eisdem exponentibus venditionem et pretii conversionem h[uius]mo[d]i de consensu vocator[um] in eventum alienationis ut praemittitur faciendi l[ice]ntiam auct[oritat]e n[ostr]ra ap[osto]lica concedas, Non obstantibus p[raefa]ta d[ic]ti Balthasaris dispo[sitio]ne quam in et quoad praemissa sufficienter commutamus, ac foel[icis] rec[ordationis] Pauli II et alior[um] Rom[anorum] Pont[ificum] Predec[ess]orum n[ost]rorum de rebus Eccl[esiae] non alienandivis;[dis] aliisq[ue] Const[ituti]onibus et ordinationibus ap[osto]licis ceterisq[ue] contr[ar]iis quibuscumq[ue]; Volumus autem q[uo]d venditio et pretii conversio h[uius]mo[d]i unico contextu fiant vel saltem pretium p[raefa]tum penes Montem Pietatis vel personam fide et facultatibus idoneam deponatur inde non amovendum nisi ad eff[ect]um illud ut p[e]t[it]ur convertendi. Dat[um] Romae apud S. Petrum sub Annulo Piscatoris die XI Martii MDCLVI. Pont[ificat]us N[ost]ri Anno Primo.

G. Gualterius"[4]

4 ASDJ, *Classe XI*, b.181, n. 355, fasc. 17, n. f.

Sources and Bibliography

Archival Sources

Archivio Apostolico Vaticano (AAV)

AAV, *Congr. Concilio, Libri Litter.* 1, 14
AAV, *Congr. Concilio, Libri Decret.* 1–31, 41
AAV, *Congr. Concilio*, *Positiones (Carte sciolte)* 5 (E), 27 (E), 28 (F), 29 (F), 31 (F), 32 (F)
AAV, *Congr. Concilio*, *Positiones Sess.* 224, 225, 263, 266, 267, 268, 269
AAV, *A.A., Arm. I–XVIII*, 5002
AAV, *A.A., Arm. I–XVIII*, 5747
AAV, *Congr. Vescovi e Regolari, Positiones Monial.* "1646 giugno–settembre"
AAV, *Congr. Vescovi e Regolari, Positiones Regul.* "1676 novembre–dicembre"
AAV, Sala Indici, S.C.C. Synopsis Resolutionum, 1. (A–F)

Archivio della Congregazione Cistercense di S. Bernardo in Italia (ACCSBI)

ACCSBI, S. Maria in Castagnola – Chiaravalle d'Ancona, bb. 1, 3, 21.

Archivio Generale dell'Ordine dei Carmelitani (AGOC)

AGOC, *Prov. Romandiolae et Piceni*, Conventus singuli: Iesi (1603–1776)

Archivio Storico Arcivescovile di Fermo (ASAF)

ASAF, III-B-21
ASAF, *Processi si in evidentem*, Fermo 1 (1585–1693)
ASAF, *Processi si in evidentem*, Fermo 3 (1550–1660)
ASAF, *Processi si in evidentem*, Montegranaro 28 II (1653–1702)
ASAF, *Processi si in evidentem*, S. Vittoria in Matenano 60 I (1558–1660)

Archivio di Stato di Ancona (ASAn)

ASAn, *Archivio notarile di Jesi, Tommaso Matoffi*, n. 1523.

ASAn, *Archivio notarile di Chiaravalle, Ottavio Balloni*, n. 41

Archivio Storico Comunale Cupramontana (ASCC)

ASCC, *Eremo camaldolese delle Grotte di Cupramontana, Atti relativi a legati pii*, n. IV

ASCC, *Eremo camaldolese delle Grotte di Cupramontana, Catasto dei beni stabili dell'Eremo*, n. XIX

ASCC, *Eremo camaldolese delle Grotte di Cupramontana*, *Cause*, n. XV [Corrispondenza dell'Eremo dei Frati Bianchi]

Archivio Storico della Congregazione Camaldolese di Monte Corona (ASCMC)

ASCMC, *Fondo Procura*, *Grotte*, vol. XII

Archivio Storico della Diocesi di Jesi (ASDJ)

ASDJ, *Classe IV*, b. 87, vol. 93

ASDJ, *Classe XI*, b. 181, n. 355, fasc. 1, 4, 5, 7, 8, 11, 14, 16, 17, 19, 21, 22, 26

ASDJ, *Classe XI*, b. 267, n. 395, 396

ASDJ, *Classe XIX*, b. 342, n. 446

ASDJ, *Classe XXI*, b. 352, n. 405

ASDJ, *Classe XXI*, b. 353, n. 405

Archivio Generale dell'Ordine dei Gesuiti/Archivum Romanum Societatis Iesu (ARSI)

ARSI, Inst. 153 – II

ARSI, Inst. 158 – I1

ARSI, *Rom*. 250

Biblioteca storico-srancescana e picena San Giacomo della Marca

Acta in Capitulo Provinciali Ord. Min. Conventualium Provinciae Marchiae (1622), Ancona: Marco Salvioni

Printed Sources

Amydenii, Theodorus (1701), Tractatus de officio et jurisdictione Datarii nec non de stylo datariae, Coloniae Agrippinae: Metternich

Barbosa, Agustino (1724a), Pastoralis Solicitudinis Sive De Officio et Potestate Episcopi, Pars Tertia, Lugduni: Sumptibus Anisson et Posuel

Benoffi, Francesco Antonio (1830), Dei Procuratori Generali dei Minori nella Curia Romana. Memorie storiche della vita di Giovanni Dacre d'ordine Minorita, Vescovo di Trevigi, Pesaro: coi tipi di Annesio Nobili

Besozzi, Raimondo (1750), La storia della basilica di Santa Croce in Gerusalemme dedicata alla santità di Nostro Signore Papa Benedetto Decimoquarto, Roma: Per Generoso Salomoni alla Piazza di S. Ignazio

Bizzarri, Andrea (1863), Collectanea in usum Secretariae Sacrae Congregationis Episcoporum, et Regularium, Roma: Tip. Camerae Apostolicae

Casarrubios, Alphonsus de (1609), Compendium Privilegiorum Fratrum Minorum et aliorum Mendicantium, et non Mendicantium, Venetiis: Apud Haeredes Petri Ricciardi

Coelli, Giacomo (1656), De Bono Regimine rerum ad universitates spectantium in Bullam X. Clementis Papae VIII, Romae: Sumptibus Ioannis Casonii Sub signo S. Pauli

Compendium privilegiorum, et gratiarum Societatis Jesu (1584), Romae

Confetti, Giovanni Battista (1610), Privilegiorum Sacrorum Ordinum Fratrum Mendicantium et non Mendicantium Collectio, Venetiis: Apud Thomam Baglionum

Constitutiones fratrum Ordinis beatissimae Dei genitricis Mariae de Monte Carmeli recognitae et correctae decreto cap. gener. Romae celebrati anno 1625 (1766), Romae: Ex Typographia Hermathenea

Constitutiones Urbanae Fratrum Ordinis Minorum Conventualium S. Francisci (1628), Romae: Apud impressore Camerale

Corradi, Pyrrhus (1735a), Praxis beneficiaria, recentioribus constitutionibus apostolicis, Rotalibus Decisionibus, Sacrarumque Congregationum Declarationibus …, Venetiis: Ex Typographia Balleoniana

Corradi, Pyrrhus (1735b), Praxis Dispensationum Apostolicarum, ex solidissimo romanae curiae stylo …, Venetiis: Ex Typographia Balleoniana

De Luca, Giovanni Battista (1673), Il Dottor Volgare, Lib. VII: Parte terza delle alienazioni e degli altri contratti proibiti, Roma: Giuseppe Corvo

De Luca, Giovanni Battista (1675), Il Vescovo Pratico overo discorsi familiari nell'ore oziose …, Roma: per gli Eredi del Corbelletti

De Luca, Giovanni Battista (1697), Relatio Romanae Curiae Forensis, eiusque Tribunalium, et Congregationum, in: idem, Theatrum veritatis et iustitiae, lib. XV, Lugduni: Sumptis J. A. Cramer et P. Perachon, 263–422

De Rosa, Tommaso (1676), De Exequutoribus Literarum Apostolicarum tam Gratie quam Iustitiae, Roma: Ex Typographia Reverendae Camerae Apostolicae

Didacus ab Aragonia (1753), Dilucidatio Privilegiorum Ordinum Regularium, Praesertim Mendicantium, Bononiae: Apud Simonem Occhi

Ducasse, Francois (1706), La pratique de la juridiction ecclesiastique, volontaire, gratieuse et contentieuse, fondée sur le droit commun et sur le droit particulier du Royaume, Toulouse: Le veuve de J. J. Boude, Claude Gilles Lecamus et Jacques Loyau

Fagnani, Prospero (1705), Commentaria in tertium librum Decretalium, Coloniae: Apud Wilhelmum Metternich

In Regulam Divi Patris Benedicti Declarationes; Et Constitutiones Patrum Ordinis Camaldul. (1649), Venetiis: Apud Ioannem Iacobum Herz

Lambertini, Prospero (1739), Thesaurus resolutionum Sacrae Congregationis Concilii, in causis ab anno 1721 usque ad 1723 propositis, t. II, Urbini: Ex Typographia Ven. Cappellae SS. Sagramenti Sumptibus Hieronymi Mainardi

Lunadoro, Girolamo (1635), Relatione della corte di Roma e de' riti da osservarsi in essa, e de' suoi magistrati, e offitii, con la loro distinta giurisdittione …, Padova: Appresso Paulo Frambotto

Manuale De' Frati Minori Conventuali Di S. Francesco Per Istruzione de' Novizi, E Professi Cherici, e Laici (1733), Napoli: Presso Stefano Abbate

Mittarelli, Giovanni Benedetto (1764), Annales Camaldulenses Ordinis Sancti Benedicti, t. VIII, Venetiis: Apud Jo. Baptistam Pasquali

Monacelli, Francesco (1844), Formularium Legale Practicum Fori Ecclesiastici, Romae: Ex Typographia Reverendae Camerae Apostolicae

Monsignani, Eliseo (1718), Bullarium Carmelitanum Plures continens Summorum Pontificum Litteras et Constitutiones, pars II, Romae: Typis Georgi Plachi, Caelaturam Profitentis, et Characterum Fuforiam, apud S. Marcum

Novario, Giovanni Antonio (1677), Summae Bullarum sive Apostolicarum Constitutionum vsu frequentiorum commentaria in quibus celebriores Iuris ecclesiastici, et pontificii materiae explanantur, Romae: Sumptibus Feiis Caesaretti

Ordinationes et Decreta in Synodo Aesina. IV. V. et VI Iulii M.DC.LVIII. Celebrata Eminentissimo, et Reverendissimo Domino Alderano Cardinali Cybo Episcopo (1665), Anconae: Apud Franciscum Seraphinum

Pallottini, Salvatore (1868–1889), Collectio omnium conclusionum et resolutionum quae in causis propositis apud sacram congregationem cardinalium S. Concilii Tridentini interpretum prodierunt ab eius institutione a. 1564 ad a. 1860, 17 vols., Roma: typis Sacrae congregationis de propaganda fide

Panceri, Gio Bartolomeo (1700), Lustri storiali de scalzi agostiniani eremiti della Congregazione d'Italia, e Germania, Milano: Nella Stampa di Francesco e Fratelli Vigoni

Pellegrini, Carlo (1666), Praxis Vicariorum et omnium in utroque; Foro Iusdicentium quatuor partibus comprehensa, Romae: Typis Michaelis Herculis

Peretti, Bartolomeo (1588), Commentarius in Extravagantem Ambitiosae De Rebus Ecclesiae Non Alienandis, Bononia: Ex Officina Alexandri Benatii

Peyrinis, Laurentius de (1649), Privilegia regularibus, praesertim minimis, Venetiis: Apud Iuntas et Bada

Plettenberg, Hunold (1693), Notitia Congregationum et Tribunalium Curiae Romanae, Hildesii: Typis Joan. Leonardi Schlegelii

Regola di S. Benedetto e Costitutioni della Congregatione degli Eremiti Camaldolesi di Monte Corona, riviste, e approvate dal Sommo Pontefice Clemente nono (1670), Roma: Appresso Filippo de' Rossi

Regole, ordini, e capitoli della venerabile Compagnia della Sacratissima Spina eretta nella chiesa di S. Agostino dell'illustrissima città di Fermo (1741), Fermo: Per Domenico Antonio Bolis e Fratelli

Regula S.P.N. Benedicti Abbatis, Una cum Constitutionibus Monachorum Congregationis S. Bernardi in Italia Ordinis Cisterciensis (1641), Romae: Ex typographia Rever. Camerae Apotolicae

Ricci, Aloysius Johannes (1619), Praxis rerum fori ecclesiastici et variae decisiones …, Francofurti: In Officina Petri et Iacobi Chouet

Ricci, Aloysius Johannes (1674), Praxis Aurea Quotidianarum rerum Ecclesiastici Fori, Venetiis: Apud Laurentium Marchesinum et Socios

Ricci Pepoli, Rosario (1730), Prattica ecclesiastica civile e criminale e d'appellazione con la prattica delli SS. Sacramenti per li parochi, confessori, e vicari foranei, con le formole all'uso moderno …, Napoli: A spese di Nicolò e Vincenzo Rispoli

Roderico, Emanuel (1616), Nova Collectio et Compilatio Privilegiorum Apostolicorum Regularium Mendicantium et non Mendicantium, praesertim in quibus ipsae religiones communicant, Antuerpiae: Apud Petrum et Ioannen Belleros

Sbrozzi, Giacomo (1630), Tractatus de officio et potestate vicarii episcopi, Venetiis: Ex Typographia Georgii Valentini

Siena, Lodovico (1746), Storia della città di Senigaglia consacrata alla santità di Nostro Singore Bendetto XIV, Sinigaglia: Stamperia di Stefano Calvani

Synodi Firmanæ. Provincialis Sub Illustrissimo, Et Reuerendissimo D. Sigismundo Zanettino; Et Dioecesana Sub Eminentissimo, Et Reuerendissimo D. Carolo Card. Gualterio, Archiepiscopis, Et Principibus Firmanis (1662), Firmi: Apud Andream de Montibus

Tamburini, Ascanio (1650), De Iure Abbatum et Praelatorum inferiorum, tribus tomus distinctum, vol. II, Lugduni: Sumptibus Laurentii Anisson et Soc.

Tesauro, Carlo Antonio (1769), De Poenis Ecclesiasticis Praxis Absoluta et universalis, Romae: Haeredes Jo Laurentii Barbiellini

Theuli, Bonaventura (1655), Triumphus Seraphicus Collegii D. Bonaventurae, Velletri: Apud Laurentium Chellium

Torricelli, Giovanni Battista (1674), De rebus ecclesiae non alienandis ex sententia sacrae romanae rotae tractatus, Ferrariae: Ex Typographia Camerali

Zamboni, Giovanni Fortunatus (1812–1816), Collectio declarationum S. C. Card. Sacri Concilii Tridentini interpretum quae … saeculo XVIII prodierunt, 8 vols., Viennae: Typis Patrum Mechitaristarum

Bibliography

Adorisio, Antonio Maria (2008), La Congregazione cistercense di S. Bernardo nelle Marche, in: Il monachesimo nelle Marche. Atti del XLII Convegno di studi Maceratesi; Abbadia di Fiastra (Tolentino), 18–19 novembre 2006, Macerata, 229–243

Ago, Renata (1990), Carriere e clientele nella Roma barocca, Roma

Albani, Benedetta (2009), *In universo christiano orbe*: La Sacra Congregazione del Concilio e l'amministrazione dei sacramenti nel Nuovo Mondo (secoli XVI–XVII), in: Mélanges de l'École Française de Rome: Italie et Mediterranée 121, 63–73

Albani, Benedetta (2023), Un contributo per lo studio della Congregazione del Concilio. Inventario sommario delle più antiche positiones del dicastero per il periodo dal 1564 al 1680. Congr. Concilio, Positiones voll. 1–271, in: Dall'Archivio Apostolico Vaticano. Miscellanea di testi, saggi e inventari, XII, Città del Vaticano, 9–63

Alberigo, Giuseppe (1965), Le potestà episcopali nei dibattiti tridentini, in: Il concilio di Trento e la riforma tridentina. Atti del convegno storico internazionale Trento 2–6 settembre 1963, Roma, vol. II, 471–523

Alberigo, Giuseppe (1980), La 'Riforma' come criterio della Storia della Chiesa, in: Annali dell'Istituto storico italo-germanico in Trento 6, 25–33

Alberigo, Giuseppe et al. (eds.) (2013), Conciliorum Oecumenicorum Decreta, Bologna

Alibrandi, Alfonso (2022), La maîtrise de l'interprétation de la loi. L'apport doctrinal de la Sacrée Congrégation du Concile au XVII[e] siècle, Roma

Alonzi, Luigi (2005), I censi consegnativi nel XVI e XVII secolo tra finzione e realtà, in: L'acropoli 6,1, 86–102

Alonzi, Luigi (2008), La lunga durata del *Census Reservativus*. Forme di credito e contratti agrari tra medioevo ed età moderna, in: Nuova Rivista Storica 92, 343–388

Amatori, Alberico (1994), Cenni storici sopra l'antichissima Abbadia di Chiaravalle detta di Castagnola, Chiaravalle

Ammannati, Francesco (2020), La disuguaglianza economica in area marchigiana: uno studio di lungo periodo (1400–1800), in: Nigro, Giampiero (ed.), Disuguaglianza economica nelle società preindustriali: cause ed effetti / Economic inequality in pre-industrial societies: causes and effect, Firenze, 37–63

Analecta Iuris pontificii. Dissertations sur différents sujets de Droit Canonique, Liturgie et Théologie. Deuxième série (1857), Rome

Andenna, Cristina (2013), Il Cardinale Protettore centro subalterno del potere papale e intermediario della comunicazione con gli Ordini religiosi, in: Blennemann, Gordon et al. (eds.), Die Ordnung der Kommunikation und die Kommunikation der Ordnungen, vol. II, Stuttgart, 229–260

Andrés Gutiérrez, Domingo J. (ed.) (1998), Constitutiones. Congregationis Cisterciensis Sancti Bernardi in Italia (1525–1990), Romae

Angelini, Werther (1976), Ragionamento sul contratto di censo a Macerata nel Settecento, in: Studi Maceratesi 12, 211–240

Angelini, Werther (1989), Riflessioni sul contratto di censo nelle Marche in anni centrali del Sei Settecento, in: Atti e Memorie della Deputazione di storia patria per le Marche 85, 539–634

Arrieta, Juan Ignacio (1996), Il valore giuridico della prassi nella Curia Romana, in: Ius Ecclesiae 8, 97–117

Ascheri, Mario (1989), Tribunali, giuristi e istituzioni. Dal Medioevo all'età moderna, Bologna

Astuti, Guido (1961), Formulari, in: Eula, Ernesto, Antonio Azara (eds.), Novissimo Digesto Italiano, vol. VII, Torino, 585–587

Avarucci, Francesco (1982), Documentazione archivistica sulla soppressione degli Ordini religiosi in provincia di Macerata dopo l'annessione, in: Aspetti della cultura e della società nel maceratese dal 1860 al 1915. Atti del XV

Convegno di Studi Maceratesi, Macerata, 24–25 novembre 1979, Macerata, 487–526

Bacon, Jacqueline (1965), La S. Congrégation de Propaganda Fide en 1678 d'après le rapport d'Urbano Cerri au Pape Innocent XI, in: Revue historique de droit français et étranger 43, 464–481

Bagliardi, Rosalia, Stefano Santini (eds.) (2006), Notizie del Convento de Carmelitani di Jesi. Trascrizione dell'antico manoscritto di Padre Angelo Ganzetti, Jesi

Bandini, Laura, Renzo Fantappiè (1999), Inventario dell'archivio della Curia diocesana di Prato, Roma

Bangen, Johann Heinrich (1854), Die Römische Curie, ihre gegenwärtige Zusammensetzung und ihr Geschäftsgang, Münster

Barbagallo, Ignazio (1974), Agostiniani scalzi, in: Rocca, Giancarlo (ed.), Dizionario degli Istituti di perfezione, vol. I, Roma, cols. 403–415

Barrientos Grandón, Javier (2019), Bienes de los clérigos (DCH), Max Planck Institute for European Legal History Research Paper Series 2019-15, https://ssrn.com/abstract=3403988 (18.08.2024)

Barrio Gozalo, Maximiliano (2019), El sistema beneficial de la iglesia española en el antiguo régimen (1475–1834), Alicante

Bartoli Langeli, Attilio, Antonio Rigon (eds.) (2003), I registri vescovili dell'Italia settentrionale. Secoli XII–XV. Atti del convegno di studi (Monselice, 24–25 novembre 2000), Roma

Bassani, Alessandra (2019), La deposizione del testimone nel processo di diritto comune fra dottrina e prassi, in: Benedetti, Marina et al. (eds.), Tra storia e diritto. Giustizia laica e giustizia ecclesiastica dal medioevo all'età moderna, Milano, 157–181

Battelli, Giuseppe (1992), Gli studi sui vescovi e le diocesi del nord-Italia tra Cinquecento e Novecento. Panorama storiografico dell'ultimo secolo, in: Rivista di Storia e Letteratura Religiosa 28, 391–426

Battelli, Giuseppe (2016), Territorialità ecclesiastica e territorialità civile nell'Europa cristiana tra XVI–XIX secolo, in: Tagliaferri, Maurizio (ed.), I confini delle diocesi di ravennatensia. Tra storia e geografia, Atti del XXXIII Convegno di Ravennatensia. Cesena 26–27 settembre 2014, Cesena, 67–84

Battistoni, Marco (2017), Abbazie e ordini religiosi nel Piemonte di antico regime. Patrimoni e giurisdizioni, Genova

Baura, Eduardo (1999), L'atto dispensatorio come atto amministrativo, in: Arrieta, Ignacio, Piero Milano (eds.), Metodi, fonti e soggetti del diritto canonico. Atti del Convegno Internazionale di Studi 'La Scienza Canistica nella seconda metà del '900. Fondamenti, metodi e prospettive in D'Avack, Lombar-

dia, Gismondi e Corecco', Roma 13–16 novembre 1996, Città del Vaticano, 503–519

Becker, Hans-Jürgen (2013), Die Entwicklung der Appellation im kanonischen Recht: Von der klassischen Periode bis zur nachtridentinischen Epoche, in: Beiträge zur Rechtsgeschichte Österreichs 3, 11–25

Belloni, Cristina, Marco Lunari (2004), Introduzione, in: Chittolini, Giorgio et al. (eds.), I notai della curia arcivescovile di Milano (secoli XIV–XV), Roma, IX–CII

Belloni, Cristina (2006), Benefici, dispense, commissioni: prime osservazioni sul contenuto delle suppliche, in: Nubola, Cecilia, Cristina Belloni (eds.), Suppliche al pontefice. Diocesi di Trento 1513–1565, Bologna, 75–132

Belloni, Cristina (ed.) (2007), Suppliche al pontefice. Diocesi di Trento 1566–1605, Bologna

Berlingò, Salvatore (1978), La causa pastorale della dispensa, Milano

Bernacchia, Roberto (2018), Le fonti sugli insediamenti cistercensi nelle marche in età medievale, in: Cataldi, Riccardo (ed.), 'In monasterio reservetur': le fonti per la storia dell'Ordine cistercense in Italia dal Medioevo all'età moderna nelle biblioteche e negli archivi italiani e della città del Vaticano: atti del Convegno di studi promosso dalla Congregazione Cistercense di Casamari in occasione del nono centenario della fondazione di Clairvaux (1115–2015): Certosa di Pavia, 22–23 ottobre 2015, Badia di Santa Maria del Monte, 364–379

Bibliografia dell'Archivio Segreto Vaticano (1881–1999), 12 vols., Città del Vaticano

Billanovich, Liliana (1993), Fra centro e periferia. Vicari Foranei e governo diocesano di Gregorio Barbarigo vescovo di Padova (1664–1697), Padova

Bittarelli, Antonio (1988), Sisto V e la diocesi di Camerino, in: Le Diocesi delle Marche in età Sistina, 351–377

Bizzocchi, Roberto (1987), Chiesa e potere nella Toscana del Quattrocento, Bologna

Boaga, Emanuele (1971a), La soppressione innocenziana dei piccoli conventi in Italia, Roma

Boaga, Emanuele (1971b), Notes sobre l'evoluciò de les formes de govern en les ordenes religioses, in: Butlletí de Provincia Carmelitana de Catalunya 16, 4–12

Boaga, Emanuele (1981), Le 'Grazie' e il Carmelo di Jesi, Jesi

Boaga, Emanuele (1982), Aspetti e problemi degli ordini e congregazioni religiose nei secoli XVII e XVIII, in: Prandi, Adriano (ed.), Problemi di storia della Chiesa nei secoli XVII–XVIII: Atti del Convegno di aggiornamento, Bologna 3–7 settembre 1979, Napoli, 91–136

Boaga, Emanuele (1996), Il procuratore generale nell'ordine carmelitano: origine e sviluppo della figura e del ruolo, in: Carmelus 43, 42–98

Boaga, Emanuele (1999), Appendice. Per una bibliografia sugli archivi dei religiosi. Anni 1956–1996, in: Monachino, Vincenzo (ed.), I religiosi e la loro documentazione archivistica, Atti del XIX Convegno degli Archivisti ecclesiastici (Roma, 15–18 ottobre 1996), Archiva Ecclesiae 42, 49–62

Boaga, Emanuele (2006), Il Carmelo nelle Marche, in: Coltorti, Attilio (ed.), La Madonna delle Grazie nella tradizione e nell'arte 1456–2006, Jesi, 77–90

Bocchetta, Monica (2008), La Legislazione dei Minori Conventuali sugli studi e sulle biblioteche, secoli XVI–XVII, in: Bartolacci, Francesca, Roberto Lambertini (eds.), Presenze francescane nel camerinese (secoli XIII–XVIII), Ripatransone, Maroni, 249–271

Bock, Colomban (1956), Les codifications du droit cistercien, Westmalle

Bonasera, Francesco (1983), La realtà spaziale del Ducato di Urbino nella cartografia territoriale storica (1564–1631), in: Studia Picena 48, 107–116

Bonasera, Francesco (1988), La cartografia storica Marchigiana nel secolo di Sisto V, in: Le Diocesi delle Marche in età Sistina, 141–165

Borromeo, Agostino (2018), Papato e Curia romana dopo Il Concilio di Trento: l'istituzione della Congregazione cardinalizia dei Vescovi, in: Gottsmann, Andreas et al. (eds.), Incorrupta monumenta Ecclesiam defendunt. Studi offerti a mons. Sergio Pagano, prefetto dell'Archivio Segreto Vaticano, t. I, Città del Vaticano, 103–116

Bosch Carrera, Jorge (2001), El Thesaurus Resolutionum Sacrae Congregationis Concilii y la praxis canónica. Estudio de la colección y de su importancia para el conocimiento de la praxis administrativa canónica, Universidad de Navarra Facultad de Derecho Canónico

Brambilla, Elena (1984), Per una storia materiale delle istituzioni ecclesiastiche, in: Società e Storia 24, 395–450

Brambilla, Elena (2001), L'economica morale degli enti ecclesiastici. Questioni di metodo e prospettive di ricerca, in: Pastore, Andrea, Marina Garbellotti (eds.), L'uso del denaro. Patrimoni e amministrazione nei luoghi pii e negli enti ecclesiastici in Italia (secoli XV–XVIII), Bologna, 379–402

Brambilla, Elena (2003), La polizia dei tribunali ecclesiastici e le riforme della giustizia penale, in: Antonelli, Livio, Claudio Donati (eds.), Corpi armati e ordine pubblico in Italia (XVI–XIX secolo), Messina, 73–110

Brambilla, Elena (2006), La giustizia intollerante. Inquisizione e tribunali confessionali in Europa (secoli IV–XVIII), Roma

Brocanelli, Gianfranco (1974), La soppressione dei frati Minori nelle Marche, in: Studia Picena 41, 50–61

Brüdermann, Stefan (2002), Il 'Repertorium Germanicum': origine, situazione, metodi, in: Annali dell'Istituto storico italo-germanico in Trento 28, 345–351

Bucci, Alessandro (2012), La vicenda giuridica dei beni ecclesiastici della Chiesa, Cerro al Volturno

Buffon, Giuseppe (2011), Sulle tracce di una storia omessa. Storiografia moderna e contemporanea dell'Ordine francescano, Grottaferrata

Bustreo, Gian Paolo (2007), Gli archivi degli Ordini mendicanti fra Medioevo ed età moderna. Considerazioni d'insieme e spunti comparativi, in: Angiolini, Enrico (ed.), Vite consacrate. Gli archivi delle organizzazioni religiose femminili Atti dei convegni di Spezzano (20 settembre 2006) e di Ravenna (28 settembre 2006), Modena, 9–21

Caiazza, Pietro (1983), La Controriforma, l'origine e la funzione della S. Congregazione del Concilio, in: Massa, Eugenio et al. (eds.), Eremiti e pastori della Riforma cattolica nell'Italia del '500. Atti del VII Convegno del Centro studi Avellaniti. Fonte Avellana, 31 agosto–2 settembre 1983, Urbino, 5–18

Caiazza, Pietro (1992a), Tra Stato e Papato. Concili provinciali post-tridentini (1564–1648), Roma

Caiazza, Pietro (1992b), L'archivio storico della Sacra Congregazione del Concilio (Primi appunti per un problema di riordinamento), in: Ricerche di storia sociale e religiosa 42, 7–24

Caiazza, Pietro (1997a), Una fonte 'a responsabilità limitata'? Le relationes ad limina tra metodologia e storiografia, in: Rassegna Storica Salernitana 28, 43–77

Caiazza, Pietro (1997b), La prassi sinodale nel Seicento: un 'buco Nero'?, in: Ricerche di storia Sociale e Religiosa 51, 61–109

Campanelli, Marcella (1972), L'Ordine dei Minimi e la riforma innocenziana del 1649, in: Annali della Facoltà di Lettere e Filosofia della Università di Napoli 15, 109–143

Campanelli, Marcella (1999), Consistenza e gestione del patrimonio ecclesiastico regolare nel Mezzogiorno d'Italia alla metà del XVII secolo, in: Landi, Fiorenzo (ed.), Accumulation and Dissolution of Large Estates of the Regular clergy in Early Modern Europe. Proceedings of the Twelfth International Economic History Congress, Rimini, 409–430

Campanelli, Marcella (2003), Centralismo romano e policentrismo periferico. Chiesa e religiosità nella Diocesi di San'Alonso Maria de Liguori (secoli XVI–XVIII), Milano

Canosa, Javier (2003), Il rescritto come atto amministrativo nel diritto canonico, Milano

Cappelletti, Sandra (1987), Un fiume Marchigiano tra medioevo ed età moderna: il basso Esino, in: Proposte e ricerche 18, 54–76

Caracciolo, Alberto (1967), La formazione dello stato moderno, Firenze

Caravale, Mario, Alberto Caracciolo (1978), Lo stato pontificio da Martino V a Pio IX, Torino

Cárcel Ortí, Maria Milgros (2007), Visitas pastorales y relaciones ad limina. Fuentes para la geografía eclesiástica, Orviedo, 2007

Carletti, Maela (2021), L'Archivio della Provincia delle Marche dei frati Minori Conventuali: un progetto di valorizzazione e promozione, in: Picenum Seraphicum 35, 103–111

Castagnari, Giancarlo (ed.) (1990), Abbazie e castelli della comunità montana Alta valle dell'Esino, Recanati

Catani, Vincenzo (2008), I sinodi nelle diocesi di Montalto e Ripatransone, San Benedetto del Tronto

Cattana, Valerio (1986), L'Italia cistercense nella storiografia degli ultimi 25 anni (1961–1986), in: Citeaux 37, 278–286.

Cattana, Valerio (1997), Storia della Congregazione di San Bernardo in Italia, Roma

Catto, Michela, Prosperi, Adriano (eds.) (2017), Trent and Beyond. The Council, Other Powers, Other Cultures, Turnhout

Cavalleri, Ottavio (1979–1980), Visite pastorali e 'relationes ad limina', in: Archiva ecclesiae 22–23, 99–127

Cavarzere, Marco (2012), La giustizia del vescovo. I tribunali ecclesiastici della Liguria Orientale, Pisa

Cecchi, Dante (1965), Il parlamento e la Congregazione provinciale della Marca di Ancona, Milano

Cecchi, Dante (1991), Congregazioni e comuni della Marca in età sistina: mutamenti negli organi e nelle strutture, in: Cartechini, Pio (ed.), La Marca e le sue istituzioni al tempo di Sisto V, Roma, 31–47

Cencetti, Giorgio (1945), Note di diplomatica vescovile bolognese dei secoli XI–XIII, in: Piattoli, Renato (ed.), Scritti di paleografia e diplomatica in onore di Vincenzo Federici, Firenze, 159–223

Chaix, Gérald (ed.) (2002), Le Diocèse. Espaces, représentations, pouvoirs. France, XVe–XXe siècles, Paris

Chauvard, Jean-François (2020), Discipliner le mariage, contrôler les individus, enquêter sur la mobilité: quelques considérations sur les processetti matrimoniali (Venise, XVIe–XVIIIe siècle), in: Meriggi, Marco, Anna Maria Rao (eds.), Stranieri. Controllo, accoglienza e integrazione negli Stati italiani (XVI–XIX secolo), Napoli, 27–48

Chiappafreddo, Franco (1964), L'Archivio della S. C. del Concilio, in: La Sacra Congregazione del Concilio, 395–422

Chironi, Giuseppe (2005), La mitra e il calamo. Il sistema documentario della Chiesa senese in età pretridentina (secoli XIV–XVI), Monteriggioni

Chittolini, Giorgio (1973), Un problema aperto: la crisi della proprietà ecclesiastica fra Quattrocento e Cinquecento, in: Rivista storica italiana 85, 353–393

Chittolini, Giorgio (1994), 'Episcopalis curiae notarius'. Cenni sui notai di curie vescovili nell'Italia centro-settentrionale alla fine del medioevo, in: Fonseca, Cosimo Damiano (ed.), Società, istituzioni, spiritualità. Studi in onore di Cinzio Violante, vol. I, Spoleto, 221–232

Chittolini, Giorgio (2015), Un certo modo di possedere. Beni ecclesiastici fra chierici e laici (secoli X–XVIII, Italia centro-settentrionale). Alcune note, in: Rivista storica italiana 127, 883–924

Chittolini, Giorgio et al. (eds.) (2004), I notai della curia arcivescovile di Milano (secoli XIV–XV), Roma

Cicconi, Rossano (ed.) (1994), Insediamenti agostiniani nelle Marche del XVII secolo. Le relazioni del 1650 e la Soppressione Innocenziana, Tolentino

Cicerchia, Andrea (2016), I fondi camaldolesi negli Archivi di Stato delle Marche. Analisi documentaria e percorsi di ricerca, in: Croce, Giuseppe (ed.), L'Ordine camaldolese dal Medioevo all'Età contemporanea nelle fonti degli Archivi di Stato italiani. Atti della giornata di studio in occasione del millenario di Camaldoli (1012–2012), Roma, Accademia nazionale dei Lincei, 30 maggio 2014, Roma, 72–119

Cicerchia, Andrea (2018), 'Arroscisce la penna di porli in carta'. Criminalità e clero marchigiano nelle carte del tribunale dell'Auditor Camerae (secc. XVII–XVIII), in: Lavenia, Vincenzo, Diego Pedrini (eds.), Giustizia ecclesiastica e società nelle Marche in età moderna, Atti del Convegno Jesi 9 giugno 2017, Fermo, 211–234

Cincinelli, Fiammetta (2017), Aspetti e disciplina dei benefici ecclesiastici in età moderna dal Concilio di Trento a Pio VI. Benefici e giuspratronato, Patti

Ciuffreda, Antonio (1988), I benefici di giuspatronato nella diocesi di Oria tra XVI e XVII secolo, in: Quaderni Storici 67, 37–71

Colliva, Paolo (1977), Il cardinale Albornoz. Lo stato della Chiesa. Le "Consitutiones Aegidianae" 1353–1357, Bologna

Comerford, Kathleen M. (1998), Italian Tridentine Diocesan Seminaries: A Historiographical Study, in: The Sixteenth Century Journal 29,4, 999–1022

Concilium Tridentinum: Diariorum, actorum, epistularum, tractarum nova collectio (1901–2001), 13 vols., Görres-Gesellschaft, Freiburg

Congost, Rosa, Luna, Pablo (eds.) (2018), Agrarian Change and Imperfect Property. Emphyteusis in Europe (16th to 19th centuries), Turnhout

Conrad, Hermann Josef (1930), Die iurisdictio delegata im römischen und kanonischen Recht, Köln-Kalk

Conversazioni, Enrica (2009), I fondi giudiziari nell'archivio dell'ex Pretura di Jesi, in: Galeazzi, Pamela (ed.), Magistrature e archivi giudiziari nelle Marche. Atti del convegno di studi Jesi 22–23 febbraio 2007, Ancona, 147–164

Costa, Pietro (1969), Iurisdictio. Semantica del potere politico nella pubblicistica medievale (1100–1433), Milano

Couly, Auguste (1932), Les dispenses en droit canonique, in: Revue catholique des institutions et du droit 71, 174–184

Couly, Auguste (1935), Aliénation, in: Naz, Raoul (ed.), Dictionnaire de droit canonique, vol. I, Paris, cols. 403–415

Creytens, Raymond (1964), La Giurisprudenza della Sacra Congregazione del Concilio nella questione della clausura delle monache (1564–1576), in: La Sacra Congregazione del Concilio, 563–597

Croce, Giuseppe (2008), Gli Eremiti Camaldolesi di Monte Corona nelle Marche, in: Il monachesimo nelle Marche. Atti del XLII Convegno di studi Maceratesi; Abbadia di Fiastra (Tolentino), 18–19 novembre 2006, Macerata, 171–186

Croce, Giuseppe, Fossa, Ugo (eds.) (2015), L'Ordine camaldolese in età moderna e contemporanea, secoli XVI–XX, Atti del II Convegno di studi in occasione del millenario di Camaldoli (1012–2012) (Monastero di Camaldoli, 30 maggio–1 giugno 2013), Cesena

Crocetti, Giuseppe (1987), Conventi agostiniani nella antica diocesi di Fermo, Tolentino

Crovella, Hercules (1964), De libro Visitationum Sacrorum Liminum, in: La Sacra Congregazione del Concilio, 423–446

Cunill, Caroline (2017), Testigos (DCH), Max Planck Institute for European Legal History Research Paper Series 2017-8, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3073142 (06.08.2023)

Curi, Vincenzo (1880), L'Università degli studi di Fermo: notizie storiche, Ancona

Czortek, Andrea (2019), Chiesa e territorio: diocesi e province religiose tra Toscana, Umbria, Romagna e Marche fra medioevo ed età moderna (secc. XI–XVI), in: Bollettino della Deputazione di storia patria per l'Umbria 116, 539–578

D'Errico, Gian Luca (2016), Truth and Justice in a 'Forest of Thieves': The Heresies of Giovanni Battista De Luca and the Documents of the Roman Inquisition, Max Planck Institute for European Legal History Research Paper Series 2016-9, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2847613

D'Esposito, Francesco (2001), Patrimonio fondiario e ricchezza mobiliare dei Minori Conventuali napoletani. San Lorenzo Maggiore fra XVI e XVII secolo, in: Pastore, Alessandro, Marina Garbellotti (eds.), L'uso del denaro. Patrimoni e amministrazione nei luoghi pii e negli enti ecclesiastici in Italia (secoli XV–XVIII), Bologna, 275–299

Da Nadro, Silvino (1960), Sinodi diocesani italiani. Catalogo bibliografico degli atti a stampa 1534–1878, Città del Vaticano

Da Siena, Bernardino (1940), Il cardinale protettore negli istituti religiosi specialmente negli ordini francescani, Firenze

Dall'Olio, Guido (2018), Il tribunale vescovile di Sant'Angelo in Vado (1636–1758), in: Lavenia, Vincenzo, Diego Pedrini (eds.), Giustizia ecclesiastica e società nelle Marche in età moderna, Atti del Convegno Jesi 9 giugno 2017, Fermo, 125–152

Dani, Alessandro (2006), Il Processo per danni dati nello Stato della Chiesa (secoli XVI–XVIII), Bologna

Danieluk, Robert (2010), Documenti dell'archivio romano della Compagnia di Gesù sulla presenza e attività dei Gesuiti nelle Marche tra XVI e XVIII secolo: possibilità di ricerca, in: Ordini e Congregazioni religiose dal Concilio di Trento alla soppressione napoleonica, Atti del XLIV Convegno di Studi Maceratesi (Abbadia di Fiastra – Tolentino, 22–23 Novembre 2008), Macerata, 163–191

Del Re, Niccolò (1964), I Cardinali Prefetti della S. C. del Concilio dalle origini ad oggi (1564–1964), in: La Sacra Congregazione del Concilio, 265–307

Del Re, Niccolò (1988), La curia romana. Lineamenti storico-giuridici, 4a ed., Città del Vaticano

Dell'Asta, Lucia (2016), I molti volti della rappresentanza. Nuntii e procuratores alla curia di Innocenzo III, in: Quellen und Forschungen aus italienischen Archiven und Bibliotheken 96, 191–223

Dell'Oro, Giorgio (2015), Il Borromeo e gli ordini religiosi maschili tra devozione e conflitti giurisdizionali, in: Zardin, Danilo et al. (eds.), Norma del clero, speranza del gregge l'opera riformatrice di san Carlo tra centro e periferia della Diocesi di Milano. Atti del Convegno internazionale di studi, Milano, 21 maggio 2010, Rocca di Angera (VA), 22 maggio 2010, Germignaga, 101–127

Dell'Oro, Giorgio (2018), Le investiture beneficiarie come espressione dell'episcopato. Il Concilio di Trento e Carlo Borromeo, in: Zardin, Danilo et al. (eds.), 'Ecclesia semper reformanda' a 450 anni dal concilio di Trento. Atti dei convegni di studi, Milano 2013–2015, Germignaga, 45–72

Dellaferrera, Nelson (1997), Ministros y auxiliares de la justicia eclesiástica en Córdoba (1688–1888), in: Revista de Historia del Derecho 25, 151–182

Deutscher, Thomas (2013), Punishment and Penance. Two Phases in the History of the Bishop's Tribunal of Novara, Toronto

Domenichini, Roberto (2019), Cinquant'anni dopo. Gli archivi notarili delle Marche, in: Falcioni, Anna, Gilberto Piccinini (eds.), Notariorum Itinera. Notai Marchigiani del basso Medioevo tra routine, mobilità, specializzazioni, Ancona, 267–275

Domizi, Quinto (1988), La diocesi di San Severino Marche nell'età sistina (Note dall'Archivio Vescovile e dalle pubblicazioni di scrittori di storia locale: Cancellotti, Gentili, Servanzi Collio), in: Le Diocesi delle Marche in età Sistina, 379–406

Donati, Claudio (1999), Curie, tribunali, cancellerie episcopali in Italia durante i secoli dell'età moderna: percorsi di ricerca, in: Nubola, Cecilia, Angelo Turchini (eds.), Fonti ecclesiastiche per la storia sociale e religiosa d'Europa: XV–XVIII secolo, Bologna, 213–229

Donati, Claudio (2004), Chiesa italiana e vescovi d'Italia dal XVI al XVIII secolo: tra interpretazioni storiografiche e prospettive di ricerca, in: Annali dell'Istituto storico italo-germanico in Trento 30, 375–389

Dubois, Jean (1983), Proprietà monastica, in: Rocca, Giancarlo (ed.), Dizionario degli Istituti di perfezione, vol. VII, Roma, cols. 1002–1018

Duca Simeone, Basilio Pandžić (eds.) (1967), Archivistica ecclesiastica, Città del Vaticano

Ducros, François-Régis (2010), L'aliénation des biens ecclésiastiques sous l'Ancien Régime, in: Hypothèses 13,1, 201–209

Duggan, Charles (2016), Judges Delegate, in: Hartmann, Wilfried, Kenneth Pennington (eds.), The History of Courts and Procedure in Medieval Canon Law, Washington D. C., 229–244

Duve, Thomas (2020), Pragmatic Normative Literature and the Production of Normative Knowledge in the Early Modern Iberian Empires in the 16th–17th Centuries, in: Duve, Thomas, Otto Danwerth (eds.), Knowledge of the *Pragmatici*: Legal and Moral Theological Literature and the Formation of Early Modern Ibero-America, Leiden, 1–39

Egger, Carlo (1975), Canonici regolari, in: Rocca, Giancarlo (ed.), Dizionario degli Istituti di perfezione, vol. II, Roma, cols. 46–63

Egidi, Bruno (1995), La geografia delle Marche secondo Flavio Biondo, in: Bollettino della Società Geografica Italiana 12, 301–316

Ehlers, Caspar (2016), Rechtsräume. Ordnungsmuster im Europa des frühen Mittelalters, Berlin

Elm, Kaspar (2001), Riforme e osservanze nel XIV e XV secolo. Una sinossi, in: Chittolini, Giorgio, Kaspar Elm (eds.), Ordini religiosi e società politica in Italia e Germania nei secoli XIV e XV, Bologna, 489–504

Emich, Birgit (2015), Dalla Chiesa tridentina al mito di Trento. Una rilettura storico concettuale, in: Storica 63, 39–66

Ermini, Giuseppe (1980), La curia romana forense del secolo XVII nella relazione di Giovanni Battista De Luca, in: Archivio storico Italiano 138, 41–57

Errera, Andrea (2009), Modello accusatorio e modello inquisitorio nel processo contro gli eretici: il ruolo del procuratore fiscale, in: Di Filippo Bareggi,

Claudia, Gianvittorio Signorotto (eds.), L'inquisizione in età moderna e il caso milanese, Milano, 151–208

Etzi, Priamo (2005), Iuridica franciscana. Percorsi monografici di storia della legislazione dei tre Ordini francescani francescana, Padova

Fabiani, Giuseppe (1952), Sinodi e visite pastorali ad Ascoli dopo il Concilio di Trento, in: Rivista di storia della chiesa 6, 265–279

Facchini, Rinaldo (1925), Memorie storiche della chiesa dei S. S. Biagio e Romualdo di Fabriano, Fabriano

Fanfani, Tommaso (1981), Chiese e monasteri del territorio in età moderna: aspetti e problemi economico-sociali, in: Borelli, Giorgio (ed.), Chiese e monasteri nel territorio veronese, Verona, 211–256

Fantappiè, Carlo (1993), Il monachesimo moderno tra ragioni di Chiesa e ragion di Stato. Il caso toscano (XVI–XIX sec.), Firenze

Fantappiè, Carlo (1994a), Problemi della formazione del clero in età moderna, in: Istituzioni e società in Toscana nell'età moderna, Atti delle giornate di studio dedicate a Giuseppe Pansini, Firenze, 4–5 dicembre 1992, vol. II, Roma, 729–747

Fantappiè, Carlo (1994b), Gli Ordini Religiosi tra Storia, Sociologia e Diritto, in: L'Année Canonique 37, 215–230

Fantappiè, Carlo (1999), Strutture diocesane e archivi vescovili nell'età post-tridentina, in: La Chiesa e le sue istituzioni negli archivi ecclesiastici della Toscana, Pistoia, 27–52

Fantappiè, Carlo (2000), I problemi giuridici e finanziari dei seminari tridentini, in: Sangalli, Maurizio (ed.), Chiesa Chierici sacerdoti. Clero e seminari in Italia tra XVI e XX secolo, vol. I, Roma, 85–109

Fantappiè, Carlo (2011), Storia del diritto canonico e delle istituzioni della Chiesa, Bologna

Fantappiè, Carlo (2012), L'amministrazione nella Chiesa dal Corpus Iuris Canonici al Codex del 1917, in: Wroceński, Józef, Marek Stokłosa (eds.), La funzione amministrativa nell'ordinamento canonico. XIV Congresso Internazionale di diritto canonico. Warszawa, Uniwersytet Kardynała Stefana Wyszyńskiego, 14–18 settembre 2011, Warszawa, 125–153

Fantappiè, Carlo (2013), L'évolution du statut canonique du clergé paroissial au lendemains du Concile de Trente d'après la Congregation du Concile, in: Arabeyre, Patrik, Brigitte Basdevant Gaudemet (eds.), Les clercs et les princes. Doctrines et pratiques de l'autorité ecclesiastique à l'époque moderne, Paris, 61–76

Fantappiè, Carlo (2023), La trattatistica sulla Curia Romana (secoli XVII–XX), in: Rivista di Storia del Diritto Italiano 96, 1–33

Faoro, Luca (2006), La rubrica, sintesi del contenuto, in: Nubola, Cecilia, Cristina Belloni (eds.), Suppliche al pontefice. Diocesi di Trento 1513–1565, Bologna, 41–74

Farrica, Fátima (2019), Os regimentos dos tribunais episcopais de Évora no contexto político e religioso do século XVI, in: Revista de História da Sociedade e da Cultura 19, 419–444

Fasano Guarini, Elena (2008), L'Italia moderna e la Toscana dei principi. Discussioni e ricerche storiche, Firenze

Fattori, Maria Teresa (2004), Clemente VIII e il Sacro Collegio 1592–1605. Meccanismi istituzionali ed accentramento di governo, Stuttgart

Fattori, Maria Teresa (2012), Il 'Paradigma Tridentino' e la sua transizione: nota di lettura, in: Cristianesimo Nella Storia 33,1, 127–141

Fattori, Maria Teresa (2014), Per una storia della curia romana dalla riforma sistina, Secoli XVI–XVIII, in: Cristianesimo nella Storia 35,3, 787–848

Fattori, Maria Teresa (2021), Districts, Metropolitans and Ecclesiastical Territories: geo-local aspects of ecclesiastical territorial evolution, in: Zeitschrift für Kirchengeschichte 132, 218–262

Feci, Simona, Angelo Torre (2005), Premessa, in: Quaderni Storici 40,2, 319–332

Fedele, Pio (1946), On the Juridical Nature of Pontificial Rescripts, in: Ephemerides Iuris Canonici 2, 57–71

Ferraris, Lucio (1885–1899), Prompta Bibliotheca canonica iuridica moralis theologica, nec non ascetica, polemica, rubristica, historica, 9 vols., Romae: Ex Typographia Polyglotta

vol. I (1885), Bona, 684–713

vol. I (1885), Alienatio, 176–192

vol. III (1886), Decimae, 11–35

vol. III (1886), Executor Litterarum Apostolicarum, 479–484

vol. IV (1888), Judicium, 582–587

vol. IV (1888), Judex, 573–582

vol. VI (1890), Jurisdictio, 637–644

vol. VI (1890), Poena, 215–246

vol. VI (1890), Regulares, 584–636

Finger, Heinz (2018), Das Konzil von Trient und die Ausbildung der Säkularkleriker in Priesterseminaren während der Frühen Neuzeit, in: François / Soen (eds.), vol. II, 33–60

Firpo, Massimo (2022), Riforma cattolica e concilio di Trento. Storia o mito storiografico?, Roma

Fois, Mario (1989), Il contesto ecclesiastico ed ecclesiale italiano alla nascita dei chierici regolari, in: Archivum Historiae Pontificiae 27, 401–418

Fokciński, Hieronim (1991), La procedura da seguire nel conferimento dei benefici concistoriali secondo i decreti del concilio tridentino, in: Archivum Historiae Pontificiae 29, 173–195

Folin, Marco, Mario Bevilacqua (eds.) (2021), Dominio del sacro. Immagine, cartografia, conoscenza della città dopo il Concilio di Trento, https://doi.org/10.6092/issn.2036–1602/v12-n16–2021 (12.08.2024)

Fornaciari, Roberto (2005), Appunti per una storia della congregazione dei monaci cenobiti camaldolesi O.S.B. (1616–1907), in: Claretianum 45, 163–202

Fornaciari, Roberto (2008), I monaci cenobiti camaldolesi tra soppressioni civili ed ecclesiastiche, in: Il monachesimo nelle Marche. Atti del XLII Convegno di studi Maceratesi; Abbadia di Fiastra (Tolentino), 18–19 novembre 2006, Macerata, 187–228

Fosi, Irene (2002), '*Beatissimo Padre*…': suppliche e memoriali nella Roma barocca, in: Nubola, Cecilia, Andreas Würgler (eds.), Suppliche e gravamina: politica, amministrazione, giustizia in Europa (secoli XIV–XVIII), Bologna, 343–365

Fosi, Irene (2007), La giustizia del papa. Sudditi e tribunali nello Stato Pontificio in età moderna, Bari

Fournier, Édouard (1940), L'Origine du Vicaire général et des autres membres de la Curie diocésaine, Paris

Fragnito, Gigliola (1992), Gli Ordini Religiosi tra Riforma e Controriforma, in: Rosa, Mario (ed.), Clero e società nell'Italia moderna, Roma, 115–205

Fragnito, Gigliola (2019), La Congregazione dell'Indice, in: Archivum Historiae Pontificiae 53, 241–259

Frajese, Vittorio (2006), Nascita dell'Indice. La censura ecclesiastica dal Rinascimento alla Contoriforma, Brescia

François, Wim, Violet Soen (eds.) (2018), The Council of Trent: Reform and Controversy in Europe and Beyond (1545–1700), 3 vols., Göttingen

Fransen, Gérard (1971), Réflexions sur la juridiction ecclésiastique, in: Revue théologique de Louvain 2,2, 129–144

Frenz, Thomas (2008), I documenti pontifici nel medioevo e nell'età moderna, Città del Vaticano

Frenz, Thomas (2013a), si in evidentem, in: Lexikon der Papstdiplomatik, Nr. 27/1, https://www.geku.uni-passau.de/lehrstuehle-und-professuren/emeriti/histhw/forschung/lexikon-der-papstdiplomatik (17.07.2025)

Frenz, Thomas (2013b), *sola signatura* gültige Supplik, in: Lexikon der Papstdiplomatik, Nr. 28/1, https://www.geku.uni-passau.de/lehrstuehle-und-professuren/emeriti/histhw/forschung/lexikon-der-papstdiplomatik (31.07.2025).

Frías, Susana (2021), Vicario (DCH), Max Planck Institute for Legal History and Legal Theory Research Paper Series 2021-13, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3955118 (04.08.2023)

Friedberg, Albert (ed.) (1959), Corpus Iuris Canonici. Pars Secunda Decretalium Collectiones, Graz

Furlan, Elisa, Francesco Trolese (eds.) (2022), Dalla riforma di S. Giustina alla Congregazione Cassinese. Genesi, evoluzione e irradiazione di un modello monastico europeo (sec. XV–XVI). Atti del Convegno internazionale di studi per il VI centenario di fondazione della Congregazione "De unitate", Padova, Abbazia di Santa Giustina, mercoledi 18–sabato 21 settembre 2019, Cesena

Gabbrielli, Antonio, Daniela Parasassi (2009), Fonti per lo studio dei fondi camaldolesi negli Archivi di Stato italiani, in: Cardarelli, Francesco (ed.), Il Codice forestale camaldolese. Legislazione e gestione del bosco nella documentazione d'archivio romualdina, Roma, 51–120

Gaddoni, Gabriella (1985), Il concetto dell'operazione di censo nel primo Settecento ad Ancona, in: Atti e Memorie della Deputazione di storia patria per le Marche 86, 181–200

Galasso, Giuseppe (1987), Genesi e significato di una grande inchiesta, in: Campanelli, Marcella (ed.), I Teatini, Roma, XI–XXXVI

Gallo, Erminio (2014), L'attività della Sacra Congregazione del Concilio in Abruzzo e in Molise al tempo del Cardinale Antonio Carafa (1569–1590), Campobasso

Ganzer, Klaus (2003), La conclusione dell'edizione degli atti del concilio di Trento, in: Annali dell'Istituto storico italo-germanico in Trento 29, 389–403

Garbuglia, Rolando (1988), I vescovi delle città di Recanati e di Loreto durante il Pontificato di Sisto V, in: Le Diocesi delle Marche in età Sistina, 423–466

Gardi, Andrea (1995), La distrettuazione diocesana nello Stato pontificio di età moderna, in: Biagioli, Giuliana (ed.), Ricerche di storia moderna IV. In onore di Mario Mirri, Pisa, 483–504

Gardi, Andrea (2017), Problemi di distrettuazione ecclesiastica nella storiografia recente, in: Crisianesimo nella storia 38, 517–542

Gatz, Erwin (ed.) (2005), Die Bistümer der deutschsprachigen Länder. Von der Säkularisation bis zur Gegenwart. Ein Historisches Lexikon, Freiburg im Breisgau

Gauchat, Patritium (ed.) (1935), Hierarchia Catholica Medii et recentioris aevi sive summorum pontificum, vol. IV: 1592–1667, Monasterii

Gaudemet, Jean (1998), Storia del diritto canonico. Ecclesia et Civitas, Milano

Gaudioso, Francesco (2004), I testamenti a favore della Chiesa, in: Dovere, Ugo (ed.), Chiesa e denaro tra cinquecento e settecento: possesso, uso, immagine. Atti del XIII convegno di studio dell'associazione italiana dei professori di storia della chiesa. Aosta 9–13 settembre 2003, Cinisello Balsamo, 153–172

Ghirlanda, Gianfranco (2019), Il Fondamento Ecclesiologico della potestà dei Superiori degli Istituti religiosi, in particolare di quelli clericali di diritto pontificio ed esenti, in: Quaderni Di Diritto Ecclesiale 32, 3, 263–279

Giacchi, Orio (1937), Natura giuridica dei rescritti in diritto canonico, in: Studi senesi 51, 207–233

Giana, Luca (2020), Decifrare la Regola. L'inchiesta innocenziana sui conventi piemontesi di antico regime, Genova

Giannini, Massimo Carlo (2003), L'oro e la tiara: la costruzione dello spazio fiscale italiano della Santa Sede, 1560–1620, Bologna

Giannini, Massimo Carlo (2005), Note sui tesorieri generali della Camera apostolica e sulle loro carriere tra xvi e xvii secolo, in: Jamme, Armand, Olivier Poncet (eds.), Offices et papauté, XIVe–XVIIe siècle: charges, hommes, destins, Roma, 859–883

Giannini, Massimo Carlo (2006a), Politica curiale e mondo dei regolari: per una storia dei cardinali protettori nel Seicento, in: Giannini, Massimo Carlo (ed.), Religione, conflittualità e cultura. Il clero regolare nell'Europa d'antico regime, Roma, 241–303

Giannini, Massimo Carlo (2006b), Introduzione, in: idem (ed.), Religione, conflittualità e cultura. Il clero regolare nell'Europa d'antico regime, Roma, 7–23

Giannini, Massimo Carlo (2019), La Congregazione dell'Immunità ecclesiastica: per una storia dell'Istituzione e dei suoi componenti (1623–1700), in: Archivum Historiae Pontificiae 53, 301–326

Giannini, Massimo Carlo, Silvano Giordano (2019), Governare per Congregazioni: La Curia papale tra pratiche istituzionali e logiche informali (XVI–XVII secolo) una proposta di lavoro, in: Archivum Historiae Pontificiae 53, 209–220

Gilomen, Hans-Jörg (1984), Der Rentenkauf im Mittelalter, von der Philosophisch-Historischen Fakultät der Universität Basel angenommene Habilitationsschrift

Giombi, Samuele (2010), Un ecclesiastico tridentino al governo diocesano. Marcello II Cervini (1501–1555) e la riforma della Chiesa fra centro e periferia, Ancona

Giordano, Silvano (2019), Le Congregazioni prima delle Congregazioni, in: Archivum Historiae Pontificiae 53, 221–240

Giovannucci, Pierluigi (2016), Vescovi, clero, ordini religiosi maschili nella vita ecclesiale post-tridentina, in: Vaccaro, Luciano (ed.), Storia religiosa dell'Italia, Milano, 359–394

Giuliani, Francesco (2024), L'*affiliatio* nei Minori Conventuali: un caso di espulsione dalla prospettiva della Congregazione del Concilio (XVII sec.), in: Picenum Seraphicum 38, 163–191

Glynn, John Carroll (1936), The Promotor of Justice. His Rights and Duties, Washington D. C.

Goria, Federico Alessandro (2008), La bolla *de non infeudando* del 1567: politica antinepotistica e tutela del demanio ecclesiastico, in: Mongiano, Elisa, Gian Maria Panizza (eds.), Le carte del diritto e della fede. Atti del convegno di studi, Alessandria, 16–17 giugno 2006, Alessandria, 93–105

Gouveia, Jaime Ricardo (2018), Ecclesiastical Justice in the Diocese of Coimbra in the 16th Century: Organization, Structure and Jurisdiction, in: Ius Canonicum 58, 223–259

Gouveia, Jaime Ricardo (2021), Ministros de los Tribunales (DCH), Max Planck Institute for Legal History and Legal Theory Research Paper Series 2021-11, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3862514 (04.08.2023)

Greco, Gaetano (1980), Ecclesiastici e benefici in Pisa alla fine dell'antico regime, in: Società e storia 11, 299–338

Greco, Gaetano (1986), I giuspatronati laicali nell'età moderna, in: Chittolini, Giorgio, Giovanni Miccoli (eds.), Storia d'Italia. Annali 9. La Chiesa e il potere politico dal Medioevo all'età contemporanea, Torino, 531–572

Greco, Gaetano (2007), La contabilità delle messe in Italia in età moderna, in: Di Pietra, Roberto, Fiorenzo Landi (eds.), Clero, economia e contabilità in Europa. Tra Medioevo ed età contemporanea, Roma, 156–172

Greco, Gaetano (2012), Tribunali e giustizia della Chiesa nella Toscana moderna. Territori e confini, competenze e conflitti, in: Giorgi, Andrea et al. (eds.), La documentazione degli organi giudiziari nell'Italia tardo-medievale e moderna. Atti del convegno di studi, Siena, Archivio di Stato, 15–17 settembre 2008, Roma, vol. II, 949–1074

Grossi, Paolo (1963), Locatio ad longum Tempus. Locazione e rapporti reali di godimento nella problematica del diritto comune, Napoli

Gualdo, Germano (1985), Documenti dell'Archivio Vaticano per la storia delle Marche nell'età di Sisto V (1585–1900), in: Studia Picena 50, 27–51

Guasco, Maurilio (1986), La formazione del clero: i seminari, in: Chittolini, Giorgio, Giovanni Miccoli (eds.), Storia d'Italia. Annali 9. La Chiesa e il potere politico dal Medioevo all'età contemporanea, Torino, 631–715

Guasti, Nicolò (ed.) (2013), I patrimoni dei gesuiti nell'Italia moderna: Una prospettiva comparativa, Bari

Hackenberg, Albert (1987), Zu den ersten Verhandlungen der S. Congregatio cardinalium Concilii tridentini interpretum (1564–1565), in: Ehses, Stephan

(ed.), Festschrift zum elfhundertjährigen Jubiläum des deutschen Campo Santo in Rom, Freiburg im Breisgau, 221–223

Haidacher, Christoph, Werner Köfler (eds.) (1995), Die Diplomatik der Bischofsurkunde vor 1250. Referate zum VIII. Internationalen Kongreß für Diplomatik (Innsbruck, 27. September–3. Oktober 1993), Innsbruck

Hartmann, Wilfried, Kenneth Pennington (eds.) (2016), The History of Courts and Procedure in Medieval Canon Law, Washington

Hashagen, Justus (1916), Zur Charakteristik der geistlichen Gerichtsbarkeit vornehmlich im späteren Mittelalter, in: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung 6,1, 205–292

Heckel, Rudolf von (1924), Das Aufkommen der ständigen Prokuratoren an der päpstlichen Kurie im 13. Jahrhundert, in: Scritti di storia e paleografia in occasione dell'ottantesimo natalizio dell'E.mo Cardinale Francesco Ehrle, vol. II, Città del Vaticano, 290–321

Heimbucher, Max (1987), Die Orden und Kongregationen der katholischen Kirche, 2 vols., Paderborn

Helfert, Joseph (1824), Von dem Kirchenvermögen und dem Religionsfonde, Prag

Henkel, Willi (1983), Das Inventar des 'Fondo Concili', in: Archiv der Konzilskongregation 15,1, 430–451

Herde, Peter (1973), Zur Audientia litterarum contradictarum und zur 'Reskripttechnik', in: Archivalische Zeitschrift 69, 54–90

Herde, Peter (2004), La giurisdizione delegata pontificia nel Medioevo e nell'età moderna e le lettere di giustizia della Cancelleria apostolica, in: Nicolaj, Giovanna (ed.), La diplomatica dei documenti giudiziari, dai placiti agli acta - secc. XII–XV) Bologna, 12–15 settembre 2001, Città del Vaticano, 25–47

Hermans, Vincent (1968), Notes historiques sur le Procureur Général de l'Ordre de Citeaux, in: Analecta Cisterciensium 24, 143–52

Hespanha, António Manuel (1990), Justiça e administração entre antiguo y nuevo régimen, in: Grossi, Paolo et al. (eds.), Hispania entre derechos propios y derechos nacionales. Atti dell'incontro di studio Firenze-Lucca 25–27 maggio 1989, Milano, vol. I, 135–204

Hinschius, Paul (1869), System des Katholischen Kirchenrechts mit besonderer Rücksicht auf Deutschland, vol. I, Berlin

Hoeflich, Michael (1981), The Concept of Utilitas Populi in Early Ecclesiastical Law and Government, in: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung 67,1, 36–74

Hoffmann, Heinrich Leonard (1965), De thesauri resolutionum S. C. Concilii historia una cum forma praesentationis externae; investigatio de aliqua phase

S. Congregationis Concilii minus nota, in: Periodica de re morali, canonica, liturgica 54, 232–289, 337–351

Hofmeister, Philipp (1963), Die Generalprokuratoren der Ordensleute beim Hl. Stuhl, in: Plöchl, Willibald et al. (eds.), Dienste des Rechtes in Kirche und Staat: Festschrift zum 70. Geburtstag von Univ. Prof. Prälat Dr. theol. et Dr. jur. Franz Arnold, Wien, 235–260

Hollingsworth, Mary et al. (eds.) (2020), A Companion to the Early Modern Cardinal, Leiden

Indice dei Fondi e relativi mezzi di descrizione e di ricerca dell'Archivio Apostolico Vaticano (2023), Città del Vaticano

Jacobson Schutte, Anne (2011), By Force and Fear: Taking and Breaking Monastic Vows in Early Modern Europe, Ithaca (NY)

Jamme, Armand, Olivier Poncet (2007), Appendici. Centri amministrativi dello stato pontificio per i quali è nota documentazione d'archivio relativa all'antico regime, in: idem (eds.), Offices, écrits et papauté (XIIIe–XVIIe siècles), Rome, 829–837

Jannaccone, Costantino (1960), Decime, in: Eula, Ernesto, Antonio Azara (eds.), Novissimo Digesto Italiano, vol. V, Torino, 257–267

Jedin, Hubert (1946), Katholische Reformation oder Gegenreformation? Ein Versuch zur Klärung der Begriffe nebst einer Jubiläumsbetrachtung über das Trienter Konzil, Luzern

Jedin, Hubert (1966), Kirche des Glaubens, Kirche der Geschichte, vol. II, Freiburg

Jedin, Hubert (1975), Geschichte des Konzils von Trient, vol. IV/2: Überwindung der Krise durch Morone, Schließung und Bestätigung, Freiburg

Katterbach, Bruno (1932), Inventario dei registri delle suppliche, Città del Vaticano

Kiedi Kionga, Jean-Rene (2020), Dispenses en droit canonique. Pour des adoucissements d'applications de règles en catholicisme romain, Paris

Klueting, Edeltraud et al. (eds.) (2006), Bistümer und Bistumsgrenzen vom Frühen Mittelalter bis zur Gegenwart, Freiburg

La Sacra Congregazione del Concilio. Quarto centenario dalla fondazione (1564–1964): Studi e ricerche (1964), Sacra Congregazione del Concilio (ed.), Città del Vaticano

Landi, Andrea (2004), Ad evitandas usuras. Ricerche sul contratto di censo nell'Usus modernus Pandectarum, Roma

Landi, Fiorenzo (1978), Tecniche contabili e problemi di gestione dei grandi patrimoni del clero regolare ravennate nei secoli XVII e XVIII, in: Quaderni storici 39,3, 976–993

Landi, Fiorenzo (1991), Clero regolare ed economia creditizia: il caso dei monaci della Congregazione cassinese, in: Banchi pubblici, banchi privati e monti di pietà nell'Europa preindustriale. Amministrazione, tecniche operative e ruoli economici Atti del Convegno Genova, 1–6 ottobre 1990, Genova, 705–731

Landi, Fiorenzo (1996), Il paradiso dei Monaci. Accumulazione e dissoluzione dei patrimoni del clero regolare in età moderna, Roma

Landi, Fiorenzo (2005), Storia economica del clero in Europa, Bologna

Landi, Fiorenzo (2015), Strategie patrimoniali e gestionali dei cenobiti camaldolesi in età moderna, in: Croce, Giuseppe, Ugo Fossa (eds.), L'Ordine camaldolese in età moderna e contemporanea, secoli XVI–XX, Atti del II Convegno di studi in occasione del millenario di Camaldoli (1012–2012) (Monastero di Camaldoli, 30 maggio–1 giugno 2013), Cesena, 71–81

Landi, Fiorenzo (ed.) (1999), Accumulation and Dissolution of Large Estates of the Regular Clergy in Early Modern Europe. Proceedings of the Twelfth International Economic History Congress, Rimini

Lauro, Agostino (1973), La Curia romana e la residenza dei vescovi, in: Malgeri, Francesco (ed.), La Società religiosa nell'età moderna. Atti del Convegno studi di storia sociale e religiosa (Capaccio-Paestum, 18–21 maggio 1972), Napoli, 869–883

Lavenia, Vincenzo (2012), L'Inquisizione romana nella Marca (secoli XVI–XVII). Prime ricerche, in: Alberico Gentili. Le Marche al tempo di Alberico Gentili: religione, politica, cultura. Atti dei convegni nel quarto centenario della morte (San Ginesio, 13–14 giugno 2009), Milano, 119–168

Lavenia, Vincenzo (2018), Inquisizione e vescovi nelle Marche: qualche sondaggio, in: Lavenia, Vincenzo, Diego Pedrini (eds.), Giustizia ecclesiastica e società nelle Marche in età moderna, Atti del Convegno Jesi, 9 giugno 2017, Fermo, 79–106

Lavenia, Vincenzo, Diego Pedrini (eds.) (2018), Giustizia ecclesiastica e società nelle Marche in età moderna, Atti del Convegno Jesi, 9 giugno 2017, Fermo

Le Diocesi delle Marche in età Sistina (1988), Atti del Convegno di Studi sul IV Centenario di Sisto V (1585–1590), Ancona-Loreto, 16–18 ottobre 1986, Studia Picena 52–53, Fano

Le Pievi nelle Marche (1991), Studia Picena 56, Fasc. I–II, Fano

Lefebvre-Teillard, Anne (1973), Les officialités à la veille du Concile de Trente, Paris

Lekai, Louis (1975), Cistercensi, in: Rocca, Giancarlo (ed.), Dizionario degli Istituti di perfezione, vol. II, Roma, cols. 1058–1098

Lemoine, Robert (1976), L'époque moderne, 1563–1789. Le monde des religieux. Histoire du droit et des institutions de l'Église en Occident, t. XV, vol. II, Paris

Lepre, Aurelio (1970), Rendite di monasteri nel Napoletano e crisi economica del Seicento, in: Quaderni storici 15,3, 844–865

Lesage, Germain (1975), Capitolo, in: Rocca, Giancarlo (ed.), Dizionario degli Istituti di perfezione, vol. II, Roma, cols. 166–175

Lodolini, Elio (ed.) (1956), L'archivio della S. Congregazione del Buon Governo (1592–1847). Inventario, Roma

Longhitano, Adoldo (1987), La normativa sul Sinodo diocesano dal Concilio di Trento al Codice di Diritto Canonico, in: La scuola cattolica 115,1, 3–31

Lugano, Placido (1908), La Congregazione camaldolese degli Eremiti di Montecorona, Frascati

Lunardi, Giovanni (1990), Le monache benedettine nel Settecento, in: Farnedi, Giustino, Giovanni Spinelli (eds.), Settecento monastico italiano. Atti del convegno di studi storici sull'Italia Benedettina, Cesena 9–12 settembre 1986, Cesena, 523–544

Mancino, Michele, Romeo Giovanni (2013), Clero criminale. L'onore della Chiesa e i delitti degli ecclesiastici nell'Italia della Controriforma, Lecce

Mancuso, Fulvio (1999), Exprimere causam in sententia. Ricerche sul principio di motivazione della sentenza nell'età de diritto comune classico, Milano

Mannori, Luca (1990), Per una preistoria della funzione amministrativa. Cultura giuridica e attività dei pubblici apparati nell'età del tardo diritto comune, in: Quaderni fiorentini per la storia del pensiero giuridico moderno 19, 322–504

Mannori, Luca (1997), Giustizia e amministrazione tra antico e nuovo regime, in: Romanelli, Raffaele (ed.), Magistratura e potere nella storia europea, Bologna, 39–65

Mannori, Luca (2007), La nozione di territorio fra antico e nuovo regime. Qualche appunto per uno studio sui modelli tipologici, in: Cammelli, Marco (ed.), Territorialità e delocalizzazione nel governo locale, Bologna, 43–63

Mannori, Luca, Bernardo Sordi (2001), Storia del diritto amministrativo, Roma

Mansilla Reoyo, Demetrio (1994), Geografía eclesiástica de España. Estudio histórico-geográfico de las diócesis, 2 vols., Roma

Mantese, Giovanni (1961), L'origine dei vicariati foranei e gli inizi della riforma tridentina a Vicenza, in: Rivista di storia della Chiesa in italia 15, 482–491

Maračić, Ljudevit (2015), Gli inquisitori d'Istria nel catalogo del Bragaldi, in: Atti. Centro di Ricerche Storiche. Rovigno 35, 401–420

Marano, Maria Cristina (1997), Le clarisse nelle Marche. Gli insediamenti del XIII secolo, in: Collectanea Franciscana 67, 105–166

Mariano, Fabio (1997), L'Eremo delle Grotte di Cupramontana, Ancona

Martínez, Faustino (2021), Sentencia (DCH), Max Planck Institute for Legal History and Legal Theory Research Paper Series 2021-14, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3974462 (06.08.2023)

Masetti Zannini, Gian Ludovico (1976), Ricerche sulla cultura e sulla formazione del clero piceno dopo il Concilio di Trento – I. La cultura del clero secolare (Note e Documenti), in: Studia Picena 43, 60–89

Mastroianni, Fiorenzo Ferdinando (1985), L'inchiesta di Innocenzo X sui conventi cappuccini italiani (1650) (Analisi dei dati), Roma

May, Georg (1956), Die geistliche Gerichtsbarkeit des Erzbischofs von Mainz im Thüringen des späten Mittelalters. Das Generalgericht zu Erfurt, Leipzig

May, Georg (1996), Der Fiskalprokurator am Gericht des Mainzer Stuhles Konrad von Fritzlar, in: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung 82,1, 82–106

Mazurkiewicz, Giorgio (2010), Agostiniani scalzi a Fermo. Verso il IV centenario della loro presenza 1614–2014, in: Quaderni dell'archivio storico arcivescovile di Fermo 49, 99–106

Meloni, Federica (2011), La Sacra Congregazione del Concilio (1718–1758). Poteri, comunicazione politica e casi matrimoniali nello specchio del Thesaurus Resolutionum. Tesi di Laurea, Università di Pisa

Meloni, Federica (2018), Le rôle de la Sacrée Congrégation du Concile dans l'interprétation de la réforme tridentine, in: François / Soen (eds.), vol. I, 371–396

Melville, Gert (1995), 'Diversa sunt monasteria et diversas habent institutiones'. Aspetti delle molteplici forme organizzative dei religiosi nel Medioevo, in: Zito, Gaetano (ed.), Chiesa e società in Sicilia. I secoli XII–XVI, Atti del II convegno internazionale dall'arcidiocesi di Catania 25–27 novembre 1993, Torino, 324–345

Melville, Gert (1997), Ordensstatuten und allgemeines Kirchenrecht. Eine Skizze zum 12./13. Jahrhundert, in: Landau, Peter, Jörg Müller (eds.), Proceedings of the 9th International Congress of Medieval Canon Law, Città del Vaticano, 691–712

Melville, Gert (2005), Regeln – *Consuetudines* – Texte – Statuten. Positionen für eine Typologie des normativen Schrifttums religiöser Gemeinschaften im Mittelalter, in: Andenna, Cristina, Gert Melville (eds.), Regulae – Consuetudines – Statuta. Studi sulle fonti normative degli ordini religiosi nei secoli centrali del Medioevo. Atti del I e del II Seminario internazionale di studio del Centro italo-tedesco di storia comparata degli ordini religiosi (Bari / Noci / Lecce, 26–27 ottobre 2002 / Castiglione delle Stiviere, 23–24 maggio 2003), Münster, 6–38

Menniti Ippolito, Antonio (2007), Il governo dei papi nell'età moderna. Carriere, gerarchie, organizzazione curiale, Roma

Menniti Ippolito, Antonio (2011), 1664. Un anno della Chiesa universale. Saggio sull'italianità del papato in età moderna, Roma

Menozzi, Daniele (1995), L'utilizzazione delle "relationes ad limina" nella storiografia, in: Ricerca storica e chiesa locale in Italia, Atti del IX convegno di studio dell'Associazione italiana dei professori di storia della Chiesa (Grado, 9–13 settembre 1991), Roma, 83–109

Merletti, Francesco (2018), Dizionario bio-bigliografico dei frati Minori conventuali della Provincia delle Marche, Osimo

Miele, Michele (1994), Note sui Concili Provinciali dello Stato della Chiesa in età post-tridentina, in: Annuarium Historiae Conciliorum 26,1, 119–126

Milagros Cárcel Ortí, Marìa (2004), Documentación judicial de la administración episcopal valentina. Procesos del Oficialato de Valencia y Xátiva (siglos XIV–XVI), in: Nicolaj, Giovanna (ed.), La diplomatica dei documenti giudiziari, dai placiti agli acta - secc. XII–XV) Bologna, 12–15 settembre 2001, Città del Vaticano, 137–206

Minnucci, Giovanni (2001), Simpliciter et de plano, ac sine strepitu et figura iudicii. Il processo di nullità matrimoniale vertente fra Giorgio Zaccaria e Maddalena di Sicilia (Padova e Venezia 1456–1457): una lettura storico-giuridica, in: Seidel Menchi, Silvana, Diego Quaglioni (eds.), Matrimoni in dubbio: unioni controverse e nozze clandestine in Italia dal XIV al XVIII secolo, Bologna, 175–197

Molignini, Luca (2015), L'abbazia di Casamari dal Concilio di Trento all'introduzione della riforma trappista (1717), in: Spinelli, Giovanni (ed.), Seicento Monastico Italiano. Atti del X Convegno di studi storici sull'Italia benedettina. Abbazia di S. Maria di Casamari (FR), Abbazia di S. Domenico di Sora, 15–18 settembre 2011, Cesena, 295–314

Moltedo, Daniela (1970), Aspetti dell'applicazione della Controriforma in una diocesi dello Stato pontificio. Macerata, in: Quaderni storici 5, 814–843

Monachino, Vincenzo et al. (eds.) (1998), Guida degli Archivi diocesani d'Italia, vol. III, Roma

Moroni, Gaetano (1840–1861), Dizionario di erudizione storico-ecclesiastica da San Pietro sino ai nostri giorni, 103 vols, Venezia

vol. V (1840), Beneficio ecclesiastico, 79–93

vol. V (1840), Beneplacito Apostolico, 93–95

vol. XVI (1842), Congregazione del Concilio, 170–179

vol. XXVIII (1844), Generale de' Religiosi, 229–231

vol. XLII (1846), Marca, 228–232

vol. XLIV (1847), Memoriale, 179–193

vol. L (1851), Padronato, 133–136

vol. LV (1852), Procuratori generali degli ordini religiosi, 278–279

vol. LXXI (1855), Superiore, 51–52

Motta, Franco, Sabina Pavone (2005), Per una storia comparativa degli ordini religiosi, in: Dimensioni e problemi della ricerca storica 1, 13–24

Moulin, Léo (1954), La primauté de l'exécutif et la notion de collégialité dans le gouvernement des religieux, in: Revue internationale des sciences administratives, 112–150

Moulin, Léo (1955), Les formes du gouvernement local et provincial dans les instituts religieux, in: Revue internationale des sciences administratives 1, 31–57, 485–523, 787–824

Moulin, Léo (1998), Les origines religieuses des techniques électorales et délibératives modernes, in: Politix 43,3, 117–162

Müller, Ewald (1934), Das Konzil von Vienne 1311–1312. Seine Quellen und seine Geschichte, Münster

Müller, Gregor (1907), Studien über das Generalkapitel: LI. Der Ordensprokurator in Rom, in: Cistercienser Chronik, Zeitschrift für Geschichte, Kunst, Literatur und Spiritualität des Mönchtums 19, 361–368

Napolioni, Angiola Maria (1991), Legati e governatori generali della Marca, in: Cartechini, Pio (ed.), La Marca e le sue istituzioni al tempo di Sisto V, Roma, 79–92

Naz, Raoul (1937), Bénéfices ecclésiastiques en Occident, in: idem (ed.), Dictionnaire de droit canonique, vol. II, Paris, cols. 406–450

Naz, Raoul (1942), Congrégation du Concile, in: idem (ed.), Dictionnaire de droit canonique, vol. III, Paris, cols. 1302–1318

Naz, Raoul (1949a), Congrégations romaines, in: idem (ed.), Dictionnaire de droit canonique, vol. IV, Paris, cols. 206–225

Naz, Raoul (1949b), Diocèse, in: idem (ed.), Dictionnaire de droit canonique, vol. IV, Paris, cols. 1257–1267

Naz, Raoul (1949c), Dispense, in: idem (ed.), Dictionnaire de droit canonique, vol. IV, Paris, cols. 1284–1296

Naz, Raoul (1957), Juridiction gracieuse, in: idem (ed.), Dictionnaire de droit canonique, vol. VI, Paris, cols. 283–290

Naz, Raoul (1965), Procureur fiscal, in: idem (ed.), Dictionnaire de droit canonique, vol. VII, Paris, col. 329

Nicolai, Gilda (2019), Select to preserve: the construction of memory in ecclesiastical archives between history and practice, in: Bibliothecae. It 8,2, 255–296

Nitkiewicz, Krzysztof (1991), La pratica della Sacra Congregazione del Concilio circa il cumulo dei benefici in Polonia (1564–1752), Roma

Nörr, Knut Wolfang (1993), Iudicum est actus trium personarum. Beiträge zur Geschichte des Zivilprozeßrechts in Europa, Frankfurt am Main

Nörr, Knut Wolfang (2012), Romanisch-kanonisches Prozessrecht. Erkenntnisverfahren erster Instanz *in civilibus*, Berlin / Heidelberg

Nubola, Cecilia, Cristina Belloni (eds.) (2006), Suppliche al pontefice. Diocesi di Trento 1513–1565, Bologna

O'Donohoe, James (1965), The seminary legislation of the Council of Trento, in: Il Concilio di Trento e la riforma tridentina. Atti del Convegno storico internazionale, Trento, 2–6 settembre 1963, vol. I, Roma, 157–172

O'Malley, John (2018), What happened and did not happen at the Council of Trent, in: François / Soen (eds.), vol. I, 49–68

Olivieri, Antonio (2009), 'Notai del vescovo' e 'notai per il vescovo' dell'Italia centro-settentrionale in età bassomedievale. Il caso del vescovo di Vercelli Aimone di Challant (1273–1303) nel quadro delle evoluzioni delle cancellerie vescovili tardoduecentesche nell'Italia settentrionale, in: Pani, Laura (ed.), In uno volumine. Studi in onore di Cesare Scalon, Udine, 473–502

Osbat, Luciano (2009), Gli archivi giudiziari negli archivi diocesani delle Marche, in: Galeazzi, Pamela (ed.), Magistrature e archivi giudiziari nelle Marche. Atti del convegno di studi Jesi 22–23 febbraio 2007, Ancona, 191–216

Osler, Douglas J. (2009a), Jurisprudence of the Baroque. A Census of Seventeenth Century Italian Legal Imprints, vol. I: A–G, Frankfurt am Main

Osler, Douglas J. (2009b), Jurisprudence of the Baroque. A Census of Seventeenth Century Italian Legal Imprints, vol. III: T–Z, Frankfurt am Main

Ostinelli, Paolo (2004), Suppliche alla Sacra Penitenzieria Apostolica e pratiche del governo vescovile: La Diocesi di Como nel XV secolo, in: Nubola, Cecilia, Andreas Würgler (eds.), Forme della comunicazione politica in Europa nei secoli XV–XVIII: suppliche, gravamina, lettere, Bologna, 15–32

Ostinelli, Paolo (2007), Penitentiary evidence and local archive material: the case of upper Italy (1438–1484), in: Jaritz, Gerard et al. (eds.), The Apostolic Penitentiary in local contexts, Rome, 7–18

Outhwaite, Brian (2006), The Rise and Fall of the English Ecclesiastical Courts, 1500–1860, Cambridge

Pacchierini, Domenico (1990), Cenno storico sulla Congregazione cistercense della provincia romana, desunto dagli atti capitolari conservati nell'Abbazia di San Bernardo alle Terme in Roma, in: Rivista Cistercense 7,3, 307–316

Paci, Renzo (2002), Vigne e vino a Jesi nel Quattrocento, in: Studia picena 67, 17–55

Paci, Renzo (2003), Dalla vigna all' "arboreto": Corinaldo, secoli XIV–XVII, in: Proposte e Ricerche 51, 7–23

Pagnin, Beniamino (1995), Note di diplomatica episcopale padovana, in: Cancian, Patrizia (ed.), La memoria delle chiese: Cancellerie vescovili e culture notarili nell'Italia centro-settentrionale (secoli X–XIII), Torino, 17–40

Palazzini, Pietro (1964a), L'atto di consegna dell'archivio della S. Congregazione del Concilio nell'1626 tra i due segretari: Fagnani e Paolucci, in: Miscellanea Antonio Piolanti, vol. II, Roma, 239–257

Palazzini, Pietro (1964b), Prospero Fagnani. Segretario della S. C. del Concilio e i suoi editi ed inediti, in: La Sacra Congregazione del Concilio, 383–393

Palese, Salvatore (2004), La documentazione archivistica della storia economica della chiesa, in: Dovere, Ugo (ed.), Chiesa e denaro tra cinquecento e settecento: possesso, uso, immagine. Atti del XIII convegno di studio dell'associazione italiana dei professori di storia della chiesa. Aosta 9–13 settembre 2003, Cinisiello Balsamo, 173–184

Palumbo, Lorenzo (1987), Enti ecclesiastici e congiuntura nell'età moderna. Proposte per la rilettura delle carte patrimoniali degli ordini religiosi, in: Pellegrino, Bruno, Francesco Gaudioso (eds.), Ordini religiosi e società nel Mezzogiorno moderno, vol. II, Galatina, 443–466

Pani, Giancarlo (2014), Il dibattito sulla residenza dei vescovi al Concilio di Trento, in: La civiltà cattolica 165, 433–443

Paravicini Bagliani, Agostino (ed.) (2010), Il papato nel secolo XIII. Cent'anni di bibliografia (1875–2009), Firenze

Parayre, Regis (1897), La S. Congrégation du Concile. Son histoire, sa procédure, son autorité, Paris

Parisciani, Gustavo (1982), I Frati Minori Conventuali delle Marche (sec. XIII–XX), Falconara

Parisciani, Gustavo (1984), La Riforma Tridentina e i Frati Minori Conventuali, Roma

Parisciani, Gustavo (1995), Santa Chiara e le Marche, Urbino

Parisciani, Gustavo (1996), I Minori conventuali a San Marco e a San Floriano di Jesi (secc. XIII–XIX), Urbino

Parisella, Alfredo (1964), 'Liber Litterarum' Sacrae Congregationis Concilii, in: La Sacra Congregazione del Concilio, 447–476

Pásztor, Lajos (1971), La Curia romana. Problemi e ricerche per la sua storia nell'età moderna e contemporanea, Roma

Pautrier, Massimo (ed.) (2010), Storia dell'abbazia delle Tre Fontane dal 1140 al 1950, Roma

Pavloff, George (1963), Papal Judge Delegates at the Time of the Corpus Iuris Canonici, Washington D. C.

Pavone, Sabina (2021), I gesuiti dalle origini alla soppressione: 1540–1773, Roma

Pecchioli, Renzo (ed.) (1966), Paolo Sarpi. Istoria del Concilio Tridentino, 2 vols., Firenze

Pedrini, Diego, Lucia Dubbini (2020), Il Prezzo del Perdono. Il tribunale episcopale di Jesi in età moderna (1530–1730), Fermo

Pellegrini, Luigi, Roberto Paciocco (eds.) (2001), I Francescani nelle Marche secoli XIII–XIV, Cinisello Balsamo

Penco, Gregorio (1968), Storia del monachesimo in Italia nell'epoca moderna, Roma

Pennacchi, Giuseppe, Vittorio Piazzesi (eds.), Acta Sanctae Sedis in compendium opportune redacta et illustrata (1876), vol. IX, Romae

Pia, Ezio Claudio (2014), La giustizia del vescovo: società, economia e Chiesa cittadina ad Asti tra XIII e XIV secolo, Roma

Picasso, Giorgio (1990), Erezione, traslazione, unione di diocesi in Italia (sec. XIV–XVI), in: De Sandre Gasparini, Giuseppina et al. (eds.), Vescovi e diocesi in Italia dal XIV alla metà del XVI secolo. Atti del VII convegno di storia della Chiesa in Italia (Brescia, 21–25 settembre 1987), vol. II, Roma, 661–674

Piergentili, Pier Paolo (2015), Bergamo nelle suppliche a Innocenzo VIII: metodologia e utilizzo delle fonti, in: Camozzi, Ermenegildo (ed.), Petitiones. Suppliche di Bergamaschi a Innocenzo VIII (1484–1492), Ariccia, 13–51

Pizzorusso, Giovanni (2022), Propaganda Fide. La Congregazione Pontificia e la giurisdizione sulle missioni, Roma

Placanica, Augusto (1972), Il patrimonio ecclesiastico calabrese nell'età moderna, vol. I, Chiaravalle Centrale

Po-chia Hsia, Ronnie (2009), La controriforma. Il mondo del rinnovamento cattolico (1540–1770), Bologna

Poidomani, Giancarlo (1999), Per una storia del patrimonio ecclesiastico nella Sicilia moderna, in: Studi Storici 40,4, 1103–1126

Poidomani, Giancarlo (2001), Bilanci, finanze e gestione patrimoniale nei collegi gesuitici siciliani alla metà del XVII secolo, in: Pastore Alessandro, Marina Garbellotti (eds.), L'uso del denaro. Patrimoni e amministrazione nei luoghi pii e negli enti ecclesiastici in Italia (secoli XV–XVIII), Bologna, 301–334

Poli, Giuseppe Agostino (1976), Sui 'censi' gravanti sulla proprietà fondiaria nel sec. XVI: il caso di Molfetta, in: Bellifemine, Graziano (ed.), Molfetta nei secoli: studi storici, Molfetta, 27–43

Polizzotto, Lorenzo (2010), I censi consegnativi bollari nella Firenze granducale: Storia di uno strumento di credito trascurato, in: Archivio Storico Italiano 168,2, 263–324

Polverari, Michele (1978), Lo Stato liberale nelle Marche. Il commissario Valerio, Agugliano

Polverari, Alberto (1988), Sisto V Papa e le diocesi di Senigallia e Fano, in: Le Diocesi delle Marche in età Sistina, 503–517

Poncet, Olivier (2007), Les archives de la papauté (XVIe–milieu XVIIe siècle): La genèse d'un instrument de pouvoir, in: Jamme, Armand, Olivier Poncet (eds.), Offices, écrits et papauté (XIIIe–XVIIe siècle), Rome, 737–762

Poncet, Olivier (2019), Un siècle de Congrègations des affaires de France (1589–1692), in: Archivum Historiae Pontificiae 53, 327–353

Porena, Filippo, Olinto Marinelli, Carlo Maranelli (1905), Perchè si debba dire Marche e non Marca, Jesi

Prete, Serafino (1950), I vescovi delle Marche al Concilio di Trento (1545–1563), in: Studia Picena 50, 5–26

Prete, Serafino (1988), Le diocesi delle marche dalle prime 'visitationes ad limina apostolorum', in: Le Diocesi delle Marche in età Sistina, 213–247

Preto, Paolo (1970), Benefici parrocchiali e altari dotati dopo il Tridentino a Padova, in: Quaderni storici 15,3, 795–813

Prodi, Paolo (1960), Lineamenti dell'organizzazione diocesana in Bologna durante l'episcopato del card. G. Paleotti (1566–1597), in: Problemi di vita religiosa in Italia nel Cinquecento, Atti del Convegno di storia della Chiesa in Italia (Bologna, 2–6 settembre 1958), Padova, 323–394

Prodi, Paolo (1972), Note sulla genesi del diritto nella Chiesa post-tridentina, in: Alberigo, Giuseppe (ed.), Legge e vangelo. Discussione su una legge fondamentale per la Chiesa, Brescia, 191–223

Prodi, Paolo (1980), Il binomio jediniano 'riforma cattolica e Controriforma' e la storiografia italiana, in: Annali dell'Istituto storico italo-germanico in Trento 6, 85–98

Prodi, Paolo (1982), Tra centro e periferia: le istituzioni diocesane post-tridentine, in: Benzoni, Gino, Maurizio Pegrari (eds.), Cultura, religione e politica nell'età di Angelo Maria Querini, Brescia, 209–223

Prodi, Paolo (2010), Il paradigma tridentino. Un'epoca della storia della Chiesa, Brescia

Prodi, Paolo (2013), Il sovrano pontefice. Un corpo e due anime: la monarchia papale nella prima età moderna, Bologna

Prodi, Paolo (2015), Una storia della giustizia. Dal pluralismo dei fori al moderno dualismo tra coscienza e diritto, Bologna

Prosperi, Adriano (1984), '*Dominus beneficiorum*': il conferimento dei benefici ecclesiastici tra prassi curiale e ragioni politiche negli stati italiani tra '400 e '500, in: Prodi, Paolo, Peter Johanek (eds.), Strutture ecclesiastiche in Italia e in Germania prima della Riforma, Bologna, 51–86

Prosperi, Adriano (2001), Il concilio di Trento: un'introduzione storica, Torino

Puza, Richard (1978), Signatura iustitiae und commissio. Ein Beitrag zum Prozeßgang an der römischen Kurie in der Neuzeit, in: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistiche Abteilung 64, 95–115

Puza, Richard (1995), Die Konzilskongregation. Ein Einblick in ihr Archiv, ihre Verfahrensweise und die Bedeutung ihrer Entscheidungen von ihrer Errichtung bis zur Kurienreform Pius' X, in: Römische Quartalschrift für christliche Altertumskunde und Kirchengeschichte 90, 23–42

Quaglioni, Diego, Silvana Seidel Menchi (eds.) (2006), I tribunali del matrimonio (secoli XV–XVIII), Bologna

Quattrone, Paolo (2004), Accounting for God: accounting and accountability practices in the Society of Jesus (Italy, XVI–XVII centuries), in: Accounting, Organizations and Society 29,7, 647–683

Rabikauskas, Paulius, Fernando De Lasala (eds.) (2003), Il documento medievale e moderno. Panorama storico della diplomatica generale e pontificia, Roma

Raia, Annamaria (2018), Conventi dei Minori Osservanti della ex Provincia Lauretana: aggiornamento della bibliografia, in: Picenum Seraphicum 32, 159–172

Rapetti, Anna Maria (1999), Struttura e relazioni, in: Studi storici 40, 407–424

Rehberg, Andreas (2007), Una categoria di ordini religiosi poco studiata: gli ordini ospedalieri. Prime osservazioni e piste di ricerca sul tema 'Centro e periferia', in: Ricerche dell'Istituto Storico Germanico di Roma 3, 15–70

Reinhard, Wolfgang (1983), Zwang zur Konfessionalisierung? Prolegomena zu einer Theorie des konfessionellen Zeitalters, in: Zeitschrift für Historische Forschung 10, 275–277

Reinhard, Wolfgang (2000), Le carriere papali e cardinalizie. Contributo alla storia sociale del papato, in: Fiorani, Luigi, Adriano Prosperi (eds.), Roma, la città del Papa. Vita civile e religiosa dal giubileo di Bonifacio VIII al giubileo di Papa Wojtyla, Torino, 263–291

Renda, Francesco (1974), Bernardo Tucci e i beni dei gesuiti in Sicilia, Roma

Rico Callado, Francisco Luis (2014a), Los procedimientos gubernativos eclesiásticos en las diócesis castellanas en la Edad Moderna, in: Ius Canonicum 54, 45–85

Rico Callado, Francisco Luis (2014b), La documentación judicial eclesiástica en la Edad Moderna. Estudio diplomático de los fondos diocesanos, Cáceres

Rico Callado, Francisco Luis (2017), La documentación gubernativa diocesana en la Edad Moderna a través de los expedientes de concursos de beneficios curados, in: Ibersid: revista de sistemas de información y documentación 11,1, 51–62

Rico Callado, Francisco Luis (2021), Una aproximación e la diplomática episcopal en la Edad Modern, siglos XVI–XVIII, in: Brocas. Cuadernos de investigación histórica 45, 297–335

Rico Callado, Francisco Luis (2022), La práctica del gobierno diocesano en la Edad Moderna. Una aproximación a través del estudio de los expedientes y sus documentos, in: Anuario de Historia de la Iglesia 31, 343–367

Ritzler Remigius, Pirminus Sefrin (eds.) (1952), Hierarchia Catholica Medii et recentioris aevi sive summorum pontificum, vol. V: 1667–1730, Patavii

Rocca, Giancarlo (1983), Regola, in: idem (ed.), Dizionario degli Istituti di perfezione, vol. VII, Roma, cols. 1410–1452

Rocca, Giancarlo (2013), La Storiografia delle Congregazioni Religiose in Europa: Orientamenti e Proposte, in: Ricerche Storiche Salesiane 32, 1, 9–47

Romanato, Gianpaolo (2007), Le leggi antiecclesiastiche negli anni dell'unificazione italiana, in: Studi storici dell'ordine dei servi di Maria 56–57, 1–120

Romanelli, Pierangela (2026), L'Archivio Storico Arcivescovile di Fermo: storia istituzionale, assetti e confini diocesani, processi di riordino documentario e ricostruzione delle fonti storiche, in: Tedeschi, Emanuele (ed.), Archivi storici delle Marche. Percorsi nella memoria documentaria regionale, in: Marca / Marche 26, 101–158

Romano, Francesca (2012), Incardinazione e presbiterio diocesano: evoluzione di un istituto giuridico per rispondere alla missione di servizio di ogni presbitero e alla *sollicitudo pro universa ecclesia*, in: Teresianum 63,2, 331–362

Romeo, Giovanni (2014), L'inquisizione romana e l'Italia moderna nella più recente storiografia, in: Rivista storica italiana 126, 188–206

Romita, Fiorenzo (1946), Sacra Congregatio Concilli De missarum satisfactione et reductione, in: Ephemerides Iuris Canonici 2, 388–408

Romita, Fiorenzo (1947), Sacra Congregatio Concilli De missarum satisfactione et reductione, in: Ephemerides Iuris Canonici 3, 181–200

Romita, Fiorenzo (1964a), Le origini della S. C. del Concilio, in: La Sacra Congregazione del Concilio, 13–50

Romita, Fiorenzo (1964b), La continuazione del 'Thesaurus resolutionum Sacrae Congregationi Concilii', in: La Sacra Congregazione del Concilio, 477–480

Rosa, Mario (2000), Per grazia del papa: pensioni, e commende nell'Italia del Seicento, in: Fiorani, Luigi, Adriano Prosperi (eds.), Roma, la città del Papa. Vita civile e religiosa dal giubileo di Bonifacio VIII al giubileo di Papa Wojtyla (Annali 16, Storia d'Italia), Torino, 291–323

Rosa, Mario (2013), La Curia romana nell'età moderna. Istituzioni, cultura, carriere, Roma

Rösser, Ernst (1937), Die gesetzliche Delegation (delegatio a iure). Rechtsgeschichte und rechtsdogmatische Untersuchung, Paderborn

Rossi, Luigi (1976), I contratti agrari a Fermo nell'età moderna, in: Atti e Memorie della deputazione di storia patria per le Marche 76, 361–379

Rossi, Mariaclara (2002), I notai di curia e la nascita di una 'burocrazia' vescovile: il caso veronese, in: Società e Storia 95, 1–33

Rurale, Flavio (2008), Monaci, frati, chierici. Gli ordini religiosi in età moderna, Roma

Rusconi, Roberto (1992), Gli ordini religiosi maschili dalla Controriforma alle soppressioni settecentesche. Cultura, predicazione, missioni, in: Rosa, Mario (ed.), Clero e società nell'Italia moderna, Roma, 207–274

Sabatini, Andrea (1964), La provincia carmelitana di Romagna e Marche (1472–1909), in: Carmelus 11, 267–307

Sägmüller, Johannes Baptist (1900), Die Geschichte der Congregatio Concilii vor dem Motu proprio 'Alias non nonnullas' vom 2. August 1564, in: Archiv für katholische Kirchenrecht 80, 3–17

Salinas, Carlos (2023), Rescriptos (DCH), Max Planck Institute for Legal History and Legal Theory Research Paper Series 2023-6, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4422393 (31.07.2023)

Salvioli, Giuseppe (1969), Storia della procedura civile e criminale, vol. III, pars II, Francoforte

Santoncini, Gabriella (1994), Il groviglio giurisdizionale dello Stato Ecclesiastico prima dell'occupazione francese, in: Annali dell'Istituto Storico Italo-Germanico in Trento. Jahrbuch des Italienisch-Deutschen Historischen Instituts in Trient 20, 63–127

Santoncini, Gabriella (2008), L'unificazione nazionale nelle Marche. L'attività del Regio Commissario generale Straordinario Lorenzo Valerio. 12 settembre 1860–18 gennaio 1861, Milano

Scherg, Leonhard (2015), Die Generalprokuratoren des Cistercienserordens beim Heiligen Stuhl vom 16. bis zum Ende des 18. Jahrhunderts, in: Analecta Cisterciensia 65, 246–256

Scheulen, Roland (1991), Das Amt des 'Vicarius Episcopalis'. Ein kirchenrechtlicher Beitrag zur Ämterstruktur in der Partikularkirche, Würzburg

Schilling, Heinz, Wolfang Reinhard (eds.) (1995), Die katholische Konfessionalisierung, Münster / Gütersloh

Schmoeckel, Mathias (2011), Dispensatio als Ausgleich zwischen iustitia, misericordia und prudentia. Aspekte einer Theologie der Gesetzesinterpretation, in: Condorelli, Orazio et al. (eds.), Der Einfluss der Kanonistik auf die europäische Rechtskultur, vol II: Öffentliches Recht, Köln, 155–184

Schmoeckel, Mathias (2021), Die Dispensation als Mittel der Konfliktlösung, in: Mayenburg, David von (ed.), Konfliktlösung im Mittelalter, Handbuch zur Geschichte der Konfliktlösung in Europa, Berlin, vol. II, 229–241

Schmugge, Ludwig (2006), Le dispense matrimoniali della Penitenzieria apostolica, in: Quaglioni, Diego, Silvana Seidel Menchi (eds.), I tribunali del matrimonio (secoli XV–XVIII), Bologna, 253–268

Schutte, Anne Jacobson (2011), By Force and Fear. Taking and Breaking Monastic Vows in Early Modern Europe, Ithaca (NY)

Schwedt, Herman (1997), Ferdinando Ughelli, in: Biographisch-Bibliographisches Kirchenlexikon, vol. XII, 812–816

Schwedt, Herman (2013), Die Anfänge der Römischen Inquisition: Kardinäle und Konsultoren 1542 bis 1600, Freiburg

Scolari, Alberto Carlo (1976), Note sull'insediamento rurale nell'ambito dell'organizzazione Monastico-Cistercense: Chiaravalle di Castagnola nella valle Esina, in: Atti e memorie della Deputazione di storia patria per le Marche 76, 119–125

Seidel Menchi, Silvana (2003), Origine e origini del Santo Uffizio dell'Inquisizione romana (1542–1555), in: Borromeo, Agostino (ed.), L'Inquisizione. Atti del Simposio internazionale: Città del Vaticano, 29–31 ottobre 1998, Città del Vaticano, 291–321

Sensi, Mario (1998), Clarisse e minorete nei secoli XIII–XV. L'esempio marchigiano, in: Atti e Memorie della Deputazione di storia patria per le Marche 103, 493–522

Sicardo, Ignacio (1954), La reforma de Clemente VIII y la Compañía de Jesús, in: Revista Española de Derecho Canónico 27, 681–723

Signorotto, Gianvittorio, Maria Antonietta Visceglia (eds.) (1998), La corte di Roma tra Cinque e Seicento 'Teatro' della politica europea, Roma

Silanos, Pietro (2012), *Vice nostra*. Vescovi di Parma con funzioni di legati e giudici delegati papali nei secoli XII e XIII, in: Alberzoni, Maria Pia, Claudia Zey (eds.), Legati e delegati papali. Profili, ambiti d'azione e tipologie di intervento nei secoli XII–XIII, Milano, 53–106

Simor, János (1866), De sacris Congregationibus romanis S. Officii et Concilii, in: Archiv für katholisches Kirchenrecht 15, 133–140

Sinisi, Lorenzo (1997), Formulari e cultura giuridica notarile nell'età moderna. L'esperienza genovese, Milano

Sinisi, Lorenzo (2016), The Commentaries on the Tridentine Decrees in the Sixteenth and Seventeenth Centuries: The First Remarks on a Category of Prohibited Works, in: Bulletin of Medieval Canon Law 33, 209–228

Sinisi, Lorenzo (2020), 'Pro tota iuris decretalium ulteriore evolutione': le *declarationes* della Congregazione del Concilio e le loro raccolte dei secoli XVI e XVII fra divieti e diffusione, in: Historia et ius 18, 1–40

Soffietti, Isidoro, Carlo Montanari (2013), I censi, le rendite e l'usura nella dottrina (secoli XV–XIX), in: Barberis, Walter, Anna Cantaluppi (eds.), La Compagnia di San Paolo 1563–2013, Torino, vol. I, 101–134

Sohn, Andreas (2002), Les procureurs à la Curie romaine. Pour une enquête internationale, in: Mélanges de l'École française de Rome: Moyen Âge 114,1, 371–389

Sordi, Bernardo (2016), I difficili sentieri del diritto amministrativo nell'ordinamento canonico, in: Quaderni fiorentini per la storia del pensiero giuridico moderno 45, 707–716

Spagnoli, Luisa, Arturo Gallia (2017), Il libro delle province francescane: uno speciale atlante per la storia del territorio. La Marca Anconitana nei secoli XIV–XVIII, in: Bollettino della Associazione italiana di cartografia 160, 104–121

Spinelli, Giovanni (2008), Le Congregazioni monastiche Medievali nelle Marche, in: Il monachesimo nelle Marche. Atti del XLII Convegno di studi Maceratesi; Abbadia di Fiastra (Tolentino), 18–19 novembre 2006, Macerata, 159–170

Spredicato, Mario (1999), Fasi congiunturali e gestione dei patrimoni monastici nel Regno di Napoli in età moderna (secc. XVII–XVIII), in: Landi, Fiorenzo (ed.), Accumulation and Dissolution of Large Estates of the Regular Clergy in Early Modern Europe. Proceedings of the Twelfth International Economic History Congress, Rimini, 389–407

Spredicato, Mario (2001), Doti monastiche e attività creditizia nel Mezzogiorno moderno, in: D'Ambrosio, Ambrosio, Mario Spredicato (eds.), Oltre le grate. I monasteri femminili nel Mezzogiorno moderno fra vissuto religioso, gestione economica e potere urbano, Bari, 333–348

Stiegler, Maria Albert (1901), Dispensation, Dispensationswesen und Dispensationsrecht im Kirchenrecht. Geschichtlich dargestellt, Mainz

Storti, Nicola (1969), La storia e il diritto della Dataria Apostolica dalle origini ai nostri giorni, Napoli

Stumpo, Enrico (1981), Cibo Malaspina, Alderano, in: Dizionario Biografico degli Italiani, vol. XXV, https://www.treccani.it/enciclopedia/alderano-cibo-malaspina_%28Dizionario-Biografico%29/ (28.07.2023)

Stumpo, Enrico (1986), Il consolidamento della grande proprietà ecclesiastica nell'età della Controriforma, in: Chittolini, Giorgio, Giovanni Miccoli (eds.), Storia d'Italia. Annali 9. La Chiesa e il potere politico dal Medioevo all'età contemporanea, Torino, 265–294

Sygut, Marek (1998), Natura e origine della potestà dei vescovi nel Concilio di Trento e nella dottrina successiva (1545–1869), Roma

Synopsis historiae Societatis Jesu (1950), J. B. Goetstouwers (ed.), Lovanii

Tabacchi, Stefano (2001), Marzio Ginetti, in: Dizionario Biografico degli Italiani, vol. LV, https://www.treccani.it/enciclopedia/marzio-ginetti_%28DizionarioBiografico%29/ (17.07.2023)

Tabacchi, Stefano (2007), Il Buon Governo. Le finanze locali nello Stato della Chiesa (secoli XVI–XVIII), Roma

Taccolini, Mario (2003), Le fonti ecclesiastiche per la storia economica, in: Onger Sergio, Mario Taccolini (eds.), Studi di storia moderna e contemporanea in onore di monsignor Antonio Fappani, Brescia, 211–222

Talamonti, Antonio (1938), Cronistoria dei Frati Minori della Provincia Lauretana delle Marche, vol. I, Sassoferrato

Tamburini, Filippo (1995), Santi e peccatori. Confessioni e suppliche dai Registri della Penitenzieria dell'archivio Segreto Vaticano (1451–1586), Milano

Tanzini, Lorenzo (2020), Una Chiesa a giudizio. I tribunali vescovili nella Toscana del Trecento, Roma

Tarantino, Daniela (2013), Dalle Extravagantes ai Bullaria. Prime note sulle raccolte di diritto della Chiesa al di fuori del Corpus Iuris Canonici fra XV e XVI secolo, in: Rivista di storia del diritto italiano 86, 81–123

Tarello, Giovanni (1976), Storia della cultura giuridica moderna. Assolutismo e codificazione del diritto, Bologna

Tassi, Emilio (1987), Fondi e documenti notevoli dell'Archivio arcivescovile di Fermo nel sec. XVII, in: Quaderni dell'archivio storico arcivescovile di Fermo 4, 25–49

Tassi, Emilio (1989), Sinodi e Concili Provinciali nella Chiesa fermana: secc. XV–XX, in: Quaderni dell'Archivio storico arcivescovile di Fermo 7, 5–34

Tesei, Bresciano (1985), Le Grotte dei Frati bianchi, Jesi

Traslosheros, Jorge Eugenio (2002), El tribunal eclesiástico y los indios en el Arzobispado de México, hasta 1630, in: Historia Mexicana 51,3, 485–516

Traslosheros, Jorge Eugenio (2022), Los hombres del obispo: vicarios y jueces eclesiásticos regionales. Michoacán, 1633–1666, in: Anuario de Historia de la Iglesia 31, 141–171

Trasselli, Franca (2007), Ilarione Rancati 'Milanese dell'Ordine cistercense', Il collegio di studi e la biblioteca romana di S. Croce in Gerusalemme, in: Aevum 81,3, 793–876

Trasselli, Franca (2018), Testimonianze scritte da monasteri cistercensi italiani, in: Cataldi, Riccardo (ed.), 'In Monastero reservetur': le fonti per la storia dell'Ordine cistercense in Italia dal Medioevo all'età moderna nelle biblioteche

e negli archivi italiani e della città del Vaticano: atti del Convegno di studi promosso dalla Congregazione Cistercense di Casamari in occasione del nono centenario della fondazione di Clairvaux (1115–2015): Certosa di Pavia, 22–23 ottobre 2015, Badia di Santa Maria del Monte, 225–259

Trevisan, Gianni (2001), Il cancelliere della curia diocesana tra antico e moderno, in: Quaderni di Diritto Ecclesiale 14, 116–127

Trifone, Romualdo (1957), Censi, in: Eula, Ernesto, Antonio Azara (eds.), Novissimo Digesto Italiano, vol. III, Torino, 91–98

Tromp, Sebastianus (1957), De manuscriptis acta et declarationes antiquas S. Congregationis Conc. Trid. continentibus, in: Gregorianum 38, 481–502

Tromp, Sebastianus (1958), De manuscriptis acta et declarationes antiquas S. Congregationis Conc. Trid. continentibus, in: Gregorianum 39, 93–129

Turchini, Angelo (1986), Roma e le strutture ecclesiastiche locali, in: Caprioli, Adriano et al. (eds.), Chiesa e società: appunti per una storia delle diocesi lombarde, Brescia, 127–140

Turchini, Angelo (2007), Registri di messe negli archivi ecclesiastici, in: Di Pietra, Roberto, Fiorenzo Landi (eds.), Clero, economia e contabilità in Europa. Tra Medioevo ed età contemporanea, Roma, 173–184

Urbanelli, Callisto (1984), Gli archivi ecclesiastici nelle Marche, in: Studia Picena 49, 57–69

Urieli, Costantino (1977), Sinodi jesini del Seicento e Settecento e patrimonio fondiario della Chiesa di Jesi, in: Atti e memorie della Deputazione di storia patria per le Marche 77, 105–124

Urieli, Costantino (1986), Jesi e il suo contado, vol. IV: Secoli XVII–XVIII, Jesi

Urieli, Constantino (1995–1998), Regesto Archivio Diocesano, [typewritten inventory], 3 vols., [Jesi]

Urieli, Costantino (2003), Relationes ad limina. Relazioni triennali dei Vescovi di Jesi dal sec. XVI al XX, Jesi

Van Hove, Alphonse (1936), De rescriptis, Mechliniae

Vaquero Piñeiro, Manuel (2006), Die Rentenkaufverträge im spätmittelalterlichen und frühneuzeitlichen Italien, in: Quellen und Forschungen aus italienischen Archiven und Bibliotheken 86, 252–293

Varsányi, Guillelmus (1964), De competentia et procedura Sacrae Congregationis Concilii ab origine ad haec usque nostra tempora, in: La Sacra Congregazione del Concilio, 51–161

Velasco Pedraza, Julian Andrei (2021), Beneficios eclesiásticos (DCH), Max Planck Institute for European Legal History Research Paper Series 2021-5, https://ssrn.com/abstract=3830347 (18.08.2024)

Verducci, Carlo (1986), Un fondo archivistico e l'agricoltura del Fermano nei secoli XVII e XVIII, in: Quaderni dell'Archivio storico Arcivescovile di Fermo 2, 15–33

Verducci, Carlo (2007), La viticoltura nel Fermano tra XVII e XIX secolo, in: Proposte e Ricerche 59, 325–339

Viti, Giuseppe (1982), I Cistercensi nelle Marche, in: Aspetti e problemi del monachesimo nelle Marche. Atti del Convegno di Studi (Fabriano, 4–7 giugno 1981), Fabriano, vol. I, 107–134

Volpi, Roberto (1983), Le regioni introvabili. Centralizzazione regionalizzazione dello Stato Pontificio, Bologna

Wacke, Andreas (1989), Zur iurisdictio voluntaria, in: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Romanistische Abteilung 106,1, 180–209

Walne, Peter (ed.) (1984), Dictionary of Archival Terminology. Dictionnaire de terminologie archivistique. English and French with Equivalents in Dutch, German, Italian, Russian and Spanish, München

Walter, Peter, Günter Wassilowsky (eds.) (2016), Das Konzil von Trient und die katholische Konfessionskultur (1563–2013), Münster

Wassilowsky, Günter (2014), Posttridentinische Reform und päpstliche Zentralisierung. Zur Rolle der Konzilskongregation, in: Merkt, Andreas et al. (eds.), Reformen in der Kirche. Historische Perspektiven, Freiburg, 138–157

Wassilowsky, Günter (2018), The Myths of the Council of Trent and the Construction of Catholic Confessional Culture, in: François / Soen (eds.), vol. I, 69–98

Weber, Christoph (1994), Legati e governatori dello Stato Pontificio (1550–1809), Roma

Weber, Christoph (1996), Senatus Divinus: Verborgene Strukturen im Kardinalskollegium der frühen Neuzeit 1500–1800, Frankfurt am Main

Wernz, Francis Xavier (1906), Ius decretalium ad usum praelectionum in scholis textus canonici sive iuris decretalium, t. II, Pars Secunda: Ius costitutionis eccles. catholicae, Romae

Wernz, Francis Xavier, Peter Vidal (1935), Ius canonicum, t. IV, vol. II, Romae

Wessels, Gabriel, Hilary Mary Doswald (1934), Acta Capitulorum Generalium Ordinis Fratrum B.V. Mariae de Monte Carmelo. Ab anno 1598 usque ad annum 1902, vol. II, Romae

Wetzstein, Thomas (2004), Heilige vor Gericht. Das Kanonisationsverfahren im europäischen Spätmittelalter, Köln

Wiesner, Christian (2022), Tridentinisches Papsttum und Trienter Residenzpflicht. Römische Konzilrezeption zwischen Kurienzentralismus und Seelsorgsreform (1563–1680), Stuttgart

Witte, Arnold (2020), Cardinal Protectors of Religious Institutions, in: Hollingsworth, Mary et al. (eds.), A Companion to the Early Modern Cardinal, Leiden, 124–143

Witters, Willibrord (1976), Costituzioni monastiche, in: Rocca, Giancarlo (ed.), Dizionario degli Istituti di perfezione, vol. III, Roma, cols. 198–204

Zakar, Polykarp (1997), Momenti essenziali della storia costituzionale dell'Ordine Cistercense, in: Analecta Cisterciensia 53, 208–365

Zardin, Danilo (1995), Tra continuità delle strutture e nuovi ideali di 'Riforma': La riorganizzazione borromaica della curia arcivescovile, in: Pissavino, Paolo, Gianvittorio Signorotto (eds.), Lombardia Borromaica. Lombardia Spagnola 1554–1659, Roma, 695–764

Zardin, Danilo (2015), Vicari foranei e clero locale tra centro e periferia. La riforma borromaica alla conquista del territorio diocesano, in: idem et al. (eds.), Norma del clero, speranza del gregge l'opera riformatrice di san Carlo tra centro e periferia della Diocesi di Milano. Atti del Convegno internazionale di studi, Milano, 21 maggio 2010, Rocca di Angera (VA), 22 maggio 2010, Germignaga, 33–50

Zarri, Gabriella (1986), Monasteri femminili e città (secoli XV–XVIII), in: Chittolini, Giorgio, Giovanni Miccoli (eds.), Storia d'Italia. Annali 9. La Chiesa e il potere politico dal Medioevo all'età contemporanea, Torino, 357–429

Zarri, Gabriella (1999), Ordini religiosi e autorità episcopale: le visite pastorali a chiese esenti e monasteri, in: Nubola, Cecilia, Angelo Turchini (eds.), Fonti ecclesiastiche per la storia sociale e religiosa d'Europa: XV–XVIII secolo, Bologna, 347–368

Zarri, Gabriella (2003), Note sui concili provinciali post-tridentini, in: Prodi, Paolo (ed.), Forme storiche di governo della Chiesa universale. Giornata di studio in occasione dell'ultima lezione del Prof. Giuseppe Alberigo 31 ottobre 2001, Bologna, 127–141

Zarri, Gabriella (2012), I circoli spirituali femminili della riforma. Gian Matteo Giberti e le Costituzioni per le monache, in: Baldissin Molli, Giovanna, Marco Agostini (eds.), Atti del Convegno di studi. Gian Matteo Giberti (1495–1543), Verona, 29–37

Zarri, Gabriella, Francesca Medioli, Paola Vismara Chiappa (1997), *De monialibus* (secoli XVI–XVII–XVIII), in: Rivista di Storia e Letteratura religiosa 33,3, 643–715

Zendri, Christian (2004), Il 'Tractatus de supplicationibus, seu errorum propositionibus' di Pierre Rebuffi (1487–1557), in: Nubola, Ceciclia, Andreas Würgler (eds.), Forme della comunicazione politica in Europa nei secoli XV–XVIII: suppliche, gravamina, lettere, Bologna, 33–51

Zenobi, Bandino Giacomo (1976), Ceti e poteri nella Marca pontificia, Bologna

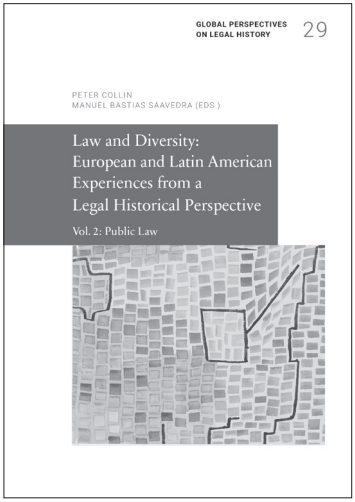
Zenobi, Bandino Giacomo (1982), I caratteri della distrettuazione di antico regime nella Marca pontificia, in: Paci, Enzo (ed.), Scritti storici in memoria di Enzo Piscitelli, Padova, 61–106

Zenobi, Bandino Giacomo (1994), Le 'ben regolate città'. Modelli politici nel governo delle periferie pontificia in età moderna, Roma

Zenobi, Ciro (1979), L'episcopato jesino di Mons. Gabriele del Monte (1554–1597), Roma

About the Author

Francesco Giuliani is a historian and archivist whose research focuses on early modern ecclesiastical institutions. He holds a PhD in History from the Universität Mannheim.



Peter Collin
Manuel Bastias Saavedra (eds.)

Law and Diversity: European and Latin American Experiences from a Legal Historical Perspective.

Vol. 2: Public Law

Global Perspectives on Legal History 29

Frankfurt am Main: Max Planck Institute for Legal History and Legal Theory 2026.
766 p., € 36,13 D
ISBN 978-3-944773-56-8
eISBN 978-3-944773-57-5
Open Access Online Edition:
http://dx.doi.org/10.12946/gplh29

Our modern legal system is based on the principle of equality. But is equality perhaps not also a concept that inadequately describes the complexity of normative orders? Highly differentiated societies with a multitude of collective identities and functional rationalities are in a permanent state of tension with this legal postulate. The contributions to this volume examine how this tension has developed with regard to public law in Europe and Latin America over the last 200 years.

Global Perspectives on Legal History is a book series edited and published by the Max Planck Institute for Legal History and Legal Theory, Frankfurt am Main, Germany. As its title suggests, the series is designed to advance the scholarly research of legal historians worldwide who seek to transcend the established boundaries of national legal scholarship that typically sets the focus on a single, dominant modus of normativity and law.
The series aims to privilege studies dedicated to reconstructing the historical evolution of normativity from a global perspective.
It includes monographs, editions of sources, and collaborative works. All titles in the series are available both as premium print-on-demand and in the open-access format.

Released volumes

29 | Peter Collin, Manuel Bastias Saavedra (eds.)

Law and Diversity:
European and Latin American Experiences
from a Legal Historical Perspective.
Vol. 2: Public Law

28 | Fupeng Li

Translating Weimar
The Cultural Translation of the Weimar Constitution in China (1919–1949)

27 | Julia Hütten

German Identity, Intermarriage, and Divorce in Colonial Samoa (1900–1914)

26 | Agustín E. Casagrande

Constitución y Arbitrariedad
Conceptos e imaginarios del constitucionalismo argentino

25 | Donal K. Coffey, Stefan Vogenauer (eds.)

Legal Transfer and Legal Geography in the British Empire

24 | Máximo Sozzo, Jorge Núñez (eds.)

Los viajes de las ideas sobre la cuestión criminal hacia/desde Argentina.
Traducción, lucha e innovación (1880–1955)

23 | Anna Clara Lehmann Martins

The Fabric of the Ordinary.
The Council of Trent and the Governance of the Catholic Church in
the Empire of Brazil (1840–1889)

22 | Adriane Sanctis de Brito

Seeking Capture, Resisting Seizure.
An International Legal History of the Anglo-Brazilian Treaty
for the Suppression of the Slave Trade (1826–1845)

21 | Peter Collin, Agustín Casagrande (eds.)

Law and Diversity: European and Latin American Experiences
from a Legal Historical Perspective.
Vol. 1: Fundamental Issues

20 | Stephen B. Aranha

Towards a Democratic Franchise.
Suffrage Reform in the Twentieth-Century Bahamas

19 | Nicola Camilleri

Staatsangehörigkeit und Rassismus.
Rechtsdiskurse und Verwaltungspraxis in den Kolonien Eritrea
und Deutsch-Ostafrika (1882–1919)

18 | Pamela Alejandra Cacciavillani

Celebrar lo imposible.
El Código Civil en el régimen jurídico de la propiedad: Córdoba entre
fines del siglo XIX y comienzos del XX

17 | Mariana Armond Dias Paes

Esclavos y tierras entre posesión y títulos.
La construcción social del derecho de propiedad en Brasil (siglo XIX)

16 | Gunnar Folke Schuppert

A Global History of Ideas in the Language of Law

15 | Luisa Stella de Oliveira Countinho Silva

Nem *teúdas*, nem *manteúdas*: História das Mulheres e Direito
na capitania da Paraíba (Brasil, 1661–1822)

14 | Mario G. Losano

Le tre costituzioni pacifiste.
Il rifiuto della guerra nelle costituzioni di Giappone, Italia e Germania

13 | Pilar Mejía, Otto Danwerth, Benedetta Albani (eds.)

Normatividades e instituciones eclesiásticas en el
Nuevo Reino de Granada, siglos XVI–XIX

12 | Otto Danwerth, Benedetta Albani, Thomas Duve (eds.)

Normatividades e instituciones eclesiásticas en el virreinato del Perú, siglos XVI–XIX

11 | Massimo Brutti, Alessandro Somma (eds.)

Diritto: storia e comparazione.
Nuovi propositi per un binomio antico

10 | Gunnar Folke Schuppert

The World of Rules.
A Somewhat Different Measurement of the World

9 | Guido Pfeifer, Nadine Grotkamp (eds.)

Außergerichtliche Konfliktlösung in der Antike.
Beispiele aus drei Jahrtausenden

8 | Elisabetta Fiocchi Malaspina

L'eterno ritorno del *Droit des gens* di Emer de Vattel (secc. XVIII–XIX).
L'impatto sulla cultura giuridica in prospettiva globale

7 | Víctor Tau Anzoátegui

El Jurista en el Nuevo Mundo.
Pensamiento. Doctrina. Mentalidad

6 | Massimo Meccarelli, María Julia Solla Sastre (eds.)

Spatial and Temporal Dimensions for Legal History.
Research Experiences and Itineraries

5 | Benedetta Albani, Otto Danwerth, Thomas Duve (eds.)

Normatividades e instituciones eclesiásticas en la Nueva España, siglos XVI–XIX

4 | Osvaldo Rodolfo Moutin

Legislar en la América hispánica en la temprana edad moderna.
Procesos y características de la producción de los Decretos del Tercer Concilio Provincial Mexicano (1585)

3 | Thomas Duve, Heikki Pihlajamäki (eds.)

New Horizons in Spanish Colonial Law.
Contributions to Transnational Early Modern Legal History

2 | María Rosario Polotto, Thorsten Keiser, Thomas Duve (eds.)

Derecho privado y modernización.
América Latina y Europa en la primera mitad del siglo XX

1 | Thomas Duve (ed.)
Entanglements in Legal History: Conceptual Approaches

More information on the series and forthcoming volumes: http://global.lhlt.mpg.de

MAX PLANCK INSTITUTE
FOR LEGAL HISTORY AND LEGAL THEORY



What role did the Congregation of the Council play in the procedures for the alienation of temporal goods held by religious orders in the early modern period? Through an analysis of the application of the decree *De rebus regularium non alienandis* (1624), this book provides a historical-legal insight into the functioning and competences of the Congregation of the Council in the field of voluntary jurisdiction, within the context of the early modern Papal States.

http://global.lhlt.mpg.de

ISBN 978-3-944773-58-2

