

## INTRODUCTION

Ecclesiastical councils present a peculiar problem for historians of the medieval church, and especially for those trying to understand the nature of medieval papal authority. Despite an ancient pedigree, the pre-eminence of ecclesiastical councils began to fade over the course of the central Middle Ages. The centuries after 1050 are more often presented as a period in which a newly self-confident papacy rose, determined to maintain its hard-won independence from lords both secular and ecclesiastical. One result of that determination, especially when seen alongside the emergence of the papal states as a territorial conglomeration in central Italy, has been the so-called papal monarchy.<sup>1</sup> For Walter Ullmann, whose interpretation still carries a certain weight, the papal monarchy reached its ‘zenith’ with Innocent III, although since the time of Barraclough scholars have debated the validity of the concept.<sup>2</sup> As a result, the synod and papal council, traditional decision-making bodies of the Church, have all too often been perceived as procedural rubber stamps, especially those held under forthright pontiffs such as Innocent III.<sup>3</sup> The implication that these bodies acted as venues

<sup>1</sup> E.g. C. Morris, *The Papal Monarchy* (Oxford, 1989). I. S. Robinson, *The Papacy, 1073–1198: Continuity and Innovation* (Cambridge, 1990), implicitly takes a similar perspective.

<sup>2</sup> W. Ullmann, *A Short History of the Papacy* (London, 1972), p. 223, although his arguments antedated this publication; Ullmann took an extremely *longue durée* approach to the history of the papacy.

<sup>3</sup> Innocent III retains a central role in perceptions of the medieval papacy. See e.g. H. Tillmann, *Pope Innocent III* (Amsterdam, 1980); J. Sayers, *Innocent III: Leader of Europe* (London, 1994); J. C. Moore, *Innocent III: To Root up and to Plant* (Leiden and Boston, 2003); J. C. Moore (ed.), *Innocent III and his World* (Aldershot, 1999). For more nuanced perspectives on Innocent’s pontificate, see works by Brenda Bolton, including and especially the studies collected in her *Innocent III: Studies on Papal Authority and Pastoral Care* (Aldershot, 1995). The recent octocentenary of the 1215 council also provided an opportunity for a rethinking of its role, via a series of major international conferences in Italy and Spain; the associated volumes are only now starting to come to press, but see e.g. M. Boulton (ed.), *Literary Echoes of the Fourth Lateran Council in England and France (1215–1405)* (Toronto, 2018); J. Bird and D. J. Smith (eds.), *The Fourth Lateran Council and the Crusade Movement*.

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for the general approval of decrees which emerged from the curia according to a predetermined papal agenda, presents a stark contrast to the more inclusive ideas of a council as a place for discussions, judgments, and, above all, counsel.

For the twelfth century, the central elements of all such debates concern the extent and nature of papal power and, by consequence, the purpose of papal government. With the close of the Investiture Controversy and the Concordat of Worms in 1122, the existence of an independent papacy was no longer in question.<sup>4</sup> Open to interpretation, however, were the extent of its authority and its interactions with secular rulers who often, although by no means universally, viewed ecclesiastical authority with suspicion. Stephen of Blois forbade his archbishop of Canterbury, Theobald, from attending the 1148 Council of Reims held by Pope Eugenius III; Henry II, in the Constitutions of Clarendon, attempted to impose a regulation that limited the right of ecclesiastics to appeal to Rome.<sup>5</sup> At the same time, all clerics and especially the papacy functioned concurrently in both ecclesiastical and secular spheres. Ecclesiastical princes, popes, bishops, and abbots also functioned as secular lords in their own right.

While the lure of considering the papacy in the light of its relationship with secular powers remains strong, there is an increasing movement to consider the secular and ecclesiastical powers as overlapping spheres working alongside one another rather than as antagonists, which certainly seems to have been more in keeping with contemporary practice. Part of that change is the interest, particularly outside the anglophone world, in ideas of ‘centre’ and ‘periphery’, especially in the context of the medieval papacy.<sup>6</sup> Such research builds on

*The Impact of 1215 on Latin Christendom and the East* (Turnhout, 2018), and A. A. Larson and A. Massironi (eds.), *The Fourth Lateran Council and the Ius Commune* (Turnhout, 2019). Innocent’s precise relationship to the 1215 council is therefore currently being reconsidered, but there remains an overwhelming scholarly attachment to the idea that he was directly, if not personally, responsible for the contents of its canons.

<sup>4</sup> The year 1122 marks the end of the period characterised by Harold Berman as the catalyst for a legal ‘revolution’. See: *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, MA, 1983); J. A. Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians, and Courts* (Chicago, 2008), p. 79 n. 15 summarises the critiques.

<sup>5</sup> John of Salisbury, *Historia Pontificalis*, ed. and trans. M. Chibnall (Oxford, 1956), pp. 6–8.

<sup>6</sup> See e.g. the essays in J. Johrendt and H. Müller, *Romisches Zentrum und kirchliche Peripherie. Das universale Papsttum als Bezugspunkt der Kirchen von den Reformpäpsten bis zu Innocenz III.* (Berlin, 2008); G. Drossbach and H.-J. Schmidt, *Zentrum und Netzwerk. Kirchliche Kommunikationen und Raumstrukturen im Mittelalter* (Berlin, 2008). For a recent summary, see C. Zey and M. P. Alberzoni, ‘Legati e delegati papali (secoli XII–XIII): stato della ricerca e questioni aperte’, in Zey and Alberzoni (eds.), *Legati e delegati papali. Profili, ambiti d’azione e tipologie di interventi nei secoli XII–XIII, con la collaborazione di Renato Mambretti e Pietro Silanos* (Milan, 2012), pp. 4–12.

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questions of delegated authority, papal legates, and the relationship between prelates and the papacy, but it has also shifted direction. Rather than focussing on the verbal explications of power from the head of the ecclesiastical hierarchy, there is growing interest in the exercise of power and authority by prelates who were forced to balance their ecclesiastical roles and ideals with secular or familial responsibilities.<sup>7</sup> It increasingly seems as though it was not only the popes of the twelfth century who were ‘practical men’, to employ Southern’s phrase.<sup>8</sup> Martyrs such as Becket provide at best an honourable exception.

Having been characterised variously as a ‘crisis’ and a ‘Renaissance’ since the 1920s, the twelfth century was a time of intellectual change and revival.<sup>9</sup> Yet deciding which elements of the changing culture of Latin Christendom were most influential remains problematic. Both ecclesiastical and secular laws, for example, saw a movement towards written expositions and away from ideas of custom over the period, brought about in part by changing patterns of literacy and in part due to the emergence of the law schools. Debates over the relationships within the *ius commune* tend, however, to be unhelpful, breaking down into arguments over how far individual elements borrowed from one another, and how far each region instead presents its own independent narrative.<sup>10</sup>

As far as the popes are concerned, questions of twelfth-century vitality play into still-live debates which emerged from nineteenth-century caricatures of a grasping papacy to evolve into the idea of a papal hierarchy made infamous by Ullmann.<sup>11</sup> Debates have focussed on the intention and extent of papal control, conceptualising the period between 1050 and

<sup>7</sup> The anglophone literature alone is extensive, but see e.g. J. Ott, *Bishops, Authority and Community in Northwestern Europe, 1050–1150* (Cambridge, 2015); J. Eldevik, *Episcopal Power and Ecclesiastical Reform in the German Empire: Tithes, Lordship and Community, 950–1150* (Cambridge, 2012); J. Ott and A. Trumbore-Jones (eds.), *The Bishop Reformed: Studies of Episcopal Power and Culture in the Central Middle Ages* (Aldershot, 2007); K. Rennie, *Law and Practice in the Age of Reform: The Legatine Work of Hugh of Die*, *Medieval Church Studies*, 17 (Toronto, 2010).

<sup>8</sup> R. W. Southern, *The Making of the Middle Ages* (London, 1978), p. 146.

<sup>9</sup> C. H. Haskins, *The Renaissance of the Twelfth Century* (Cambridge, MA, 1927); R. L. Benson and G. Constable with Carol Lanham (eds.), *Renaissance and Renewal in the Twelfth Century* (Cambridge, MA, 1982); T. Bisson, *The Crisis of the Twelfth Century* (Philadelphia, 2009); T. F. X. Noble and J. van Engen (eds.), *European Transformations: the Long Twelfth Century* (Notre Dame, 2012); J. D. Cotts, *Europe’s Long Twelfth Century: Order, Anxiety, and Adaptation* (New York, 2013).

<sup>10</sup> E.g. the debates outlined in a recent debate in *Law and History Review*: S. Reynolds, ‘The emergence of professional law in the long twelfth century’, *Law and History Review*, 21 (2003), 347–66; followed by P. Górecki, ‘A view from a distance’, 337–76; C. Radding ‘Legal theory and practice in eleventh-century Italy’, 377–81; P. Brand, ‘The English difference: the application of bureaucratic norms within a legal system’, 383–7.

<sup>11</sup> For a recent overview of many of these discussions and debates, see K. Sisson and A. A. Larson (eds.), *A Companion to the Medieval Papacy: Growth of an Ideology and Institution* (Leiden, 2016), esp. A. A. Larson, ‘Introduction’, pp. 1–16 at 1–9, and T. F. X. Noble, ‘Narratives of papal history’, pp. 17–33.

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1250 as a clash between the institutionalised ‘Church’ and ‘State’ and demarcating the medieval period as a time when tensions between the two were at their height.<sup>12</sup> Alongside the otherwise more celebrated pontificates of Gregory VII and Innocent III, that of Alexander III proved a useful hunting ground: both the Alexandrine schism and the Becket conflict could be portrayed as struggles by a nascent independent state – in these cases, Germany and England – against unclerical attempts by the popes to involve themselves in secular matters. For some scholars, such as Stubbs, these attempts were ultimately futile; for others, such as Maitland, they met with greater success.<sup>13</sup> Some studies, including those by Ullmann, have employed the evidence of canon law to investigate contemporary thinking on dualism and the Gelasian ‘two swords’ doctrine, and on the role of canon law in creating the institutional Church.<sup>14</sup> Some of these studies were well-received; others less so.<sup>15</sup> One result, however, has been the equation of legal and political thought, and the consequent growth in studies that use canon law in particular to buttress arguments concerning papal supremacy as indicated in the *Dictatus papae* and the letters of Innocent III. Falling between Gregory VII and Innocent, the popes of the twelfth century were overlooked except when they could be used to support a teleological argument for the gradual growth of the papal monarchy. The sole scholarly biography of Alexander III, written by Marcel Pacaut, was not purely a biography but a ‘study of [his] conception of papal authority’.<sup>16</sup>

The legal element meant that, when the backlash came, it began amongst legal historians. Even in the early 1990s, the implications of John Gilchrist’s argument that contemporary lawyers virtually ignored

<sup>12</sup> Exemplified in e.g. B. Tierney, *The Crisis of Church and State, 1050–1300* (repr., Toronto, 2004).

<sup>13</sup> F. W. Maitland, ‘Church, state and decretals’, in his *Roman Canon Law in the Church of England: Six Essays* (London, 1898), p. 98 and passim; C. Donahue, Jr., ‘Roman canon law in the medieval English Church: Stubbs vs Maitland re-examined after 75 years in the light of some records from the church courts’, *Michigan Law Review*, 72 (1973–4), 647–71 at 648–54.

<sup>14</sup> W. Ullmann, *The Growth of Papal Government in the Middle Ages* (London, 1955), pp. 370, 373; W. Ullmann, *Medieval Papalism: The Political Theories of the Medieval Canonists* (London, 1949), p. 76. Also, for the thirteenth century, see J. Watt, *The Theory of Papal Monarchy in the Thirteenth Century: The Contribution of the Canonists* (New York, 1965), pp. 9–57, on the theory as elucidated between Gelasius and Innocent III, including Gratian and the decretists.

<sup>15</sup> S. Chodorow, *Christian Political Theory and Church Politics in the Mid-Twelfth Century: The Ecclesiology of Gratian’s Decretum* (Berkeley, 1972), reviewed by R. L. Benson, *Speculum*, 50 (1975), 97–106.

<sup>16</sup> M. Pacaut, *Alexandre III: étude sur la conception du pouvoir pontifical dans sa pensée et dans son oeuvre* (Paris, 1956). Although, as with the general movement of scholarship, there is now a more nuanced understanding of Alexander’s role in government. See e.g. P. D. Clarke and A. J. Duggan (eds.), *Alexander III (1159–81): the art of survival* (Aldershot, 2012) and I. Fonnesberg-Schmidt, *The Popes and the Baltic Crusades, 1147–1254* (Leiden, 2006).

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Gregory VII's more hard-line letters were easily overlooked – in his words, 'compromise and moderation replaced ideological inflexibility' – as was Pennington's critique of the extent of Innocent III's legal education.<sup>17</sup> That scholars of canon law often refuse, with good reason, to give broad answers that are not based on an understanding or knowledge of specific manuscripts may explain in part how far these ideas were overlooked. Yet there was something demonstrably different about the papacy in the early thirteenth century compared with its predecessor two centuries earlier and while studies of legal texts go a significant way towards explaining that change, they do not necessarily give a full picture.

There is now an acceptance, in both traditional canon law scholarship and that of broader papal history, that multiple forms of authority existed at the same time, and a growing willingness to investigate how they interacted. As a result, the papacy now appears more often as one player amongst many. Concerning the fourteenth-century York Cause Papers, for example, Donahue commented that the procedures in local courts did 'not make the papal law any less binding, but [they did] make it considerably less important'.<sup>18</sup> At the same time, grandiose statements of papal power did not translate into actions. Popes engaged with wider Christian society using language heavy with the rhetoric of papal supremacy, but whatever their claims to the fullness of power, they were reliant on local co-operation to implement their ideas. During the twelfth century, cut off from its traditional lands in central Italy, split by schism, and reliant on lay and clerical support for financial aid and accommodation, the papacy lacked the resources to force any approach on a cleric or lord.<sup>19</sup> It was thus reliant on compromise, making the discourse between popes and local clerics, and the balancing of ecclesiastical and secular, and local and central, authorities a critical component of twelfth-century ecclesiastical government.

While the scholarly view of the papacy focusses increasingly on its role as responsive government, discussion of the papal councils has revolved

<sup>17</sup> J. Gilchrist, 'The reception of Pope Gregory VII into the canon law (1073–1141), II', *ZRG Kan. Abt.*, 97 (1980), 192–203 at 225–6; K. Pennington, 'The legal education of Pope Innocent III', *BMCL*, 4 (1974), 70–77; K. Pennington, 'Further thoughts on Pope Innocent III's legal education', *ZRG Kan. Abt.*, 72 (1986), 417–28. Morris, *Papal Monarchy*, p. 418 comments briefly on Innocent III's learning.

<sup>18</sup> Donahue, 'Stubbs vs Maitland re-examined', p. 708.

<sup>19</sup> See K. Pennington, *Pope and Bishops: The Papal Monarchy in the Twelfth and Thirteenth Centuries* (Philadelphia, 1984), pp. 116–19, and M. G. Cheney, 'Inalienability in mid-twelfth-century England: enforcement and consequences', *Proceedings Berkeley*, pp. 467–78 at 470–1 for two twelfth-century examples.

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around how far they should be perceived as papal instruments.<sup>20</sup> The evolution of the papal council from a judicial synod under Leo IX to the fully fledged legislative general council under Innocent III supported the narrative of the progressive march of centralised papal government, and little has been done to challenge that tale.<sup>21</sup> Conciliar decrees were not the result of debate and discussion, but instead reflected papal preoccupations that were rubber-stamped by the conciliar fathers. For the 1179 council, Raymonde Foreville portrayed both conciliar canons and papal decretals as part of a stream of law-making material emanating from the curia.<sup>22</sup> Pacaut too presented papal bulls and decisions that predated the council as part of a long-term agenda that culminated in the conciliar decrees.<sup>23</sup> Both saw the conciliar canons as a form of overarching legislation expressly put forward by the papacy, and, with minor modifications, the view they espoused has held firm. Despite the growing idea of the papacy as a responsive institution in both its pastoral and legal roles, the position of papal councils in the later twelfth century remains opaque.

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This study addresses that situation in two ways. Firstly, the conciliar canons' emergence from the numerous learned debates of the period 1148–79 will be investigated. Eugenius III's 1148 Council of Reims was the last general council before the election of Alexander III and the beginning of the schism that split Latin Christendom for most of Alexander's pontificate. It represents, therefore, the last occasion before Alexander's 1179 council at which clerics from across Latin Christendom were able to come together under a single pope and discuss and debate issues of importance; 1148 is also, by lucky coincidence, within a few years of the widespread appearance of the second recension of Gratian's *Decretum*. From 1150 on, the *Decretum* moved further afield from Bologna, and its influence began to percolate into schools of law and

<sup>20</sup> For a commentary on responsive papal government in the early thirteenth century and general overview, see e.g. T. W. Smith, 'Honorius III and the crusade: responsive papal government versus the memory of his predecessors', *SCH*, 49 (2013), 99–109.

<sup>21</sup> F.-J. Schmale, 'Synodus – synodale concilium – concilium', *AHC*, 8 (1976), 80–102; F.-J. Schmale, 'Systematisches zu den Konzilien des Reformpapsttums im 12. Jahrhundert', *AHC*, 6 (1974), 21–39, esp. at 35–8. Even under Gregory VII, papal synods were held regularly every six to twelve months, and brief accounts survive: H. E. J. Cowdrey, *The Register of Pope Gregory VII* (Oxford, 2002), 3.10a, pp. 191–3; 9.35a, pp. 439–40.

<sup>22</sup> R. Foreville, 'La place de Latran III dans l'histoire conciliaire du XIIe siècle', in J. Longère (ed.), *Le troisième concile de Latran (1179): sa place dans l'histoire* (Paris, 1982), pp. 11–17, at 16.

<sup>23</sup> M. Pacaut, 'Alexandre III et le concile œcuménique de 1179', in J. Longère (ed.), *Troisième concile de Latran (1179): sa place dans l'histoire* (Paris, 1982), pp. 19–22, at 21.

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episcopal chanceries. Over the course of the twelfth century, legal learning seeped into episcopal and archiepiscopal *familiae* from schools across Christendom. Networks formed between men who had studied or worked together. The relative closeness of several members of Archbishop Theobald's *familia* represents a particularly pertinent example, especially as that group was reinforced by other colleagues throughout the Becket conflict. It was not the only such grouping, however, and the relationship of these networks to the papacy and ultimately their relevance to the drafting of the 1179 conciliar canons are the foundations of the first section of this study.

The second section assesses what happened to the canons after their promulgation in 1179. For this, fifty-six traditions of the complete decrees have been investigated, some nineteen more than in Herold's critical edition, though by no means all that have been discovered since.<sup>24</sup> However, the circulation of versions of the decrees that claim to be complete is not the only means by which their dissemination and, in particular, their use should be judged. As a result, the final chapter constitutes a study of the canons' use and citation between the council in 1179 and the appearance of Huguccio's *Summa Decretorum* and of Bernard of Pavia's *Breviarium Extravagantium* in about 1191. That year provides a flexible terminus for this study; some reference will need to be made to works composed after 1191. This is particularly true for the canonistic material, which can rarely be dated with great accuracy, but it remains a consideration for local councils and episcopal *acta*. While a new pope, Celestine III, was elected in 1191, making it easier to restrict the use of post-1191 papal letters, such a useful distinction does not exist for most bishoprics.<sup>25</sup> Especial attention is paid to the distinction between papal and local use, the latter of which terms will be used as shorthand for the canonical and non-canonical use of the canons away from the curia and the direct influence of the papacy. That distinction is fundamental to understanding how the relationship between the papacy and the rest of Christendom worked in practical terms during the later twelfth century.

<sup>24</sup> W. Herold, 'Die Canones des 3. Laterankonzils', inaugural dissertation, University of Bonn (1952). Uta-Renate Blumenthal and Martin Bertram have discovered some sixty-four manuscript traditions (personal communication). See more recently U.-R. Blumenthal, 'Das Dritte Laterankonzil, seine Beschlüsse und die Rechtspraxis', in C. Andenna et al. (eds.), *Die Ordnung der Kommunikation und die Kommunikation der Ordnung im mittelalterlichen Europa, Band 2: Zentralität: Papsttum und Orden im Europa des 12. und 13. Jahrhunderts* (Stuttgart, 2013), pp. 37–49.

<sup>25</sup> A. J. Duggan, 'Hyacinth Bobone: diplomat and pope', in J. Doran and D. J. Smith (eds.), *Pope Celestine III (1191–1198): Diplomat and Pastor* (Aldershot, 2008), p. 1. Hyacinth had been in the curia since the mid-1140s.



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While taking into account recent criticism of the interpretation of legal texts,<sup>26</sup> this study aims to understand the relative position of conciliar *acta* within the broader scope of twelfth-century ecclesiastical history and, in particular, ecclesiastical law and the legal hierarchy of sources. Consequently, there are two important caveats concerning its source material. Firstly, the texts studied here are those loosely classified as legal in origin. In this case, that means papal letters, accounts of papal and episcopal councils and synods, and the collections and commentaries compiled for and by twelfth-century lawyers. There has been minimal recourse to the works of theologians or to penitential texts, despite the well-established proximity of the two schools of thought in the later twelfth century and the ever-convincing arguments for the importance of theological material in shaping canonical collections, particularly Gratian's *De Penitentia*.<sup>27</sup> The distinction is a rough one, and should not be regarded as implying that theological material is less important for understanding the canons' origins and use. It is purely practical, and even limiting the selection to 'legal' texts incorporates a substantial amount of material. Hiestand listed around 6,000 papal letters sent between Eugenius III's departure from Reims in May 1148 and the death of Clement III in 1191, to which should be added the 6,000 or so calendared in Jaffé-Loewenfeld.<sup>28</sup> Alongside the commentaries of canonists, these letters have formed the majority of the works investigated; at this study's very core, however, are the 950-odd letters that entered the decretal collections, and the men who wrote or requested their composition.

The volume of material imposed a second limitation. Here, the text of the 1179 decrees has not been reconstituted by creating a critical edition. Nor does this study pretend to be an exhaustive survey of the precise texts of every canonical collection; papal, archiepiscopal, or legatine letter; or conciliar canon from across Latin Christendom over the fifty years it covers. The canons' emergence and their later use and incorporation

<sup>26</sup> E.g. K. Pennington, 'Canon law in the later Middle Ages: the need and the opportunity', *Proceedings Catania*, pp. 31–42 at 33–4, on the need for manuscript research into the 'classical' juristic texts; K. Pennington, Review of B. C. Brasington and K. G. Cushing (eds.), *Bishops, Texts and the Use of Canon Law around 1100: Essays in Honour of Martin Brett* (Aldershot, 2008), *EHR*, 124 (2009), 929–32 at 930.

<sup>27</sup> For an overview, see J. Wei, 'Gratian and the schools of Laon', *Traditio*, 64 (2009), 279–322. On *De Pen.* see also J. Wei, 'Penitential Theology in Gratian's *Decretum*: critique and criticism of the treatise *Baptizato homine*', *ZRG Kan Abt.*, 127 (2009), 78–100 at 87–8.

<sup>28</sup> *Regesta Pontificum Romanorum*, ed. P. Jaffé, rev. S. Loewenfeld et al. (2 vols, Leipzig, 1881–8); *Initienverzeichnis und chronologisches Verzeichnis zu den Archivberichten und Vorarbeiten der Regesta pontificum Romanorum*, ed. R. Hiestand, MGH, Hilfsmittel, 7 (Munich, 1983), pp. 186–425.



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necessitates an unashamedly broad outlook; it has been physically impossible to identify, analyse, and create critical editions of all known copies of the 1179 canons, all papal letters from the period 1148–91, and all episcopal synods and letters even before the myriad of canonical works are considered. With the exception of the conciliar canons and certain canonical works outlined below, my study depends upon the printed materials available, which have been used with due respect for their many limitations. While original or secure texts have been ascertained as far as possible, this has not always been the case and a huge debt of gratitude must be acknowledged to the creators of the printed analyses and texts that exist for both canonical and non-canonical works. Had it not been for them, and in particular the Walther-Holtzmann Kartei made available by the Stephan Kuttner Institute in Munich, then this study would not have been possible.<sup>29</sup>

These limitations have been introduced for good reason. The peculiar situation of conciliar canons in the later twelfth century means that they demand a coherent, cohesive study. When discussing ‘why the history of canon law is not written’, Donahue pointed out that the next stage in canonical studies was to begin the analysis of the texts, and that to do so ‘we must be satisfied for the time being with something less than fully annotated critical editions’.<sup>30</sup> Thirty years later, the understandable focus upon editing texts shows no sign of abating, unless along very specific lines of enquiry. A recent reappraisal of writing the history of canon law concluded, in fact, the opposite: that the creation of editions and analyses is of primary importance, although it noted the importance of ‘a conscious regard and responsibility for making the law intelligible and relevant’.<sup>31</sup> The works that these specific enquiries produce are immensely valuable, but such an approach is profoundly unsatisfactory for the canons of general councils. After all, these were widely disseminated texts that constitute a genre in and of themselves and defy further classification. A narrowly confined survey cannot hope to do them justice, while waiting until every canonical work has been adequately edited would leave the councils out in the cold despite their acknowledged importance. Yet any broad study has its imperfections and can only hope for accuracy across its entirety. If more support were needed, when commenting upon the *Panormia*, Martin Brett once noted that

<sup>29</sup> Ordered by WH number at [http://www.kuttner-institute.jura.uni-muenchen.de/Walther-Holtzmann-Kartei%20-Stephan\\_Kuttner\\_Institute\\_wh\\_mit%20Bildverweisen.pdf](http://www.kuttner-institute.jura.uni-muenchen.de/Walther-Holtzmann-Kartei%20-Stephan_Kuttner_Institute_wh_mit%20Bildverweisen.pdf) (last accessed 1 September 2018). Kartei items are referenced throughout by this number.

<sup>30</sup> C. Donahue, Jr., *Why the History of Canon Law Is Not Written* (London, 1986), p. 17.

<sup>31</sup> K. Rennie and J. Taliodoros, ‘Why study medieval canon law?’, *History Compass*, 12 (2014), 133–49, at 141.

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‘error based on some manuscripts can contribute more than a prudent silence before the massed witness of them all’.<sup>32</sup> With all its associated problems, therefore, the view of Brett and Donahue has been followed here, albeit far from slavishly. In summary, the aims of this study are to help elucidate contemporary thoughts on the role and import of conciliar canons at a time of legal change, and in particular in the development of the *ius novum* that comprised one of the many intellectual achievements of the later decades of the twelfth century, and to thus better understand the mechanisms of contemporary papal government.

<sup>32</sup> M. Brett, ‘Creeping up on the *Panormia*’, in in R. H. Helmholz et al. (eds.), *Grundlagen des Rechts: Festschrift für Peter Landau zum 65. Geburtstag* (Paderborn, 2000), pp. 205–70, at 206.