Gratian's decision to dedicate a *questio* of his *Decretum* to simoniacal entry into religion was crucial for the evolution of the issue. Gratian's *Decretum* was one work in the long line of canonical collections. However, its use of certain technical innovations, such as illustrative cases and comments on the texts, and its avowed intention to harmonize and regularize the canon law, made it an outstanding example of its genre. Its appearance early in the intellectual revival of the twelfth century assured it of a place of importance in the schools. Although the *Decretum* never received official approbation from the church, it became the basic manual and source book for canonical studies in the second half of the twelfth century. Training in canon law was a valuable asset for an ambitious man, and the *Decretum* was studied, glossed, and commented by many of those who attained high office in the church in the later twelfth century.

It was the *Decretum*, with its format of authoritative texts and Gratian's own comments, that set the boundaries within which later canonists and moralists carried on the discussion of simony in the entrance to religious houses. As a legacy of a half-century of intense intellectual activity that centered on the *Decretum*, there survives an abundant, mostly unpublished, body of canonistic literature. The comments on *causa I, questio II*, were the chief focus for a treatment of monastic simony that completed and expanded that of Gratian.

These commentaries were limited, more or less, to the issues
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raised by the Decretum and to the controversies in the schools about doubtful or disputed points in it. As a result of their common basis in the text of Gratian, the commentaries shared large amounts of traditional material and some stereotyped approaches. In addition, the canonists had the habit of quoting one another, often without acknowledgment, so that there was a considerable amount of overlapping comment. However, the canonists did differ in emphasis, in detail, and in particular opinions. Each succeeding commentator felt compelled to take account of, and to respond to, some of his predecessors on some issues. Thus later commentaries became more sophisticated as a result of the accumulation of opinions and of arguments. Certain issues were settled by a consensus of commentators, but many continued to be contested until the cessation of formal commentary on Gratian, in the early thirteenth century.4

The commentary as a literary form was, by its nature, discontinuous and disjointed, because of its obligation to follow the course of the authoritative text that was being commented. In the canonical commentaries on causa I, there was seldom a clear theoretical structure. Instead, the commentaries concentrated on interesting and disputed points. However, the decretists who wrote about simony in the entrance to religious life gave attention to six main issues, which they apparently thought required discussion and resolution.

I shall organize my discussion around the six issues. First, why was ingressus monasterii, entry to a monastery, a thing whose sale involved simony? Second, what difference was there between a payment for entry and an offering on the occasion of entry? Third, did the economic state of a religious house affect the problem of payment for entry? Fourth, could a man be induced to enter religious life for money? Fifth, what was to be done to the monk who was received simoniacally? Sixth, what was to be done with the money paid for entry?

1. Why Was the Entry of a Monastery a Thing Whose Sale or Purchase Involved Simony?

Gratian did not say in a direct way why the purchase of entry to
a religious house was simoniacal. He noted in the prologue to causa I, questio III, that the propostum religionis, i.e., the religious state, was a spiritual thing.\(^5\) This was no innovation, for it was a well-established view that the taking of the monastic habit was a second baptism. He noted in the same prologue that "not only those who receive spiritual things for a price, but also those who accept temporal things connected to spiritual things are judged simoniacs."\(^6\) Thus he suggested that whether ingressus monasterii was itself a spiritual thing, or was merely connected to a spiritual thing, it was simoniacal to buy or sell it. Paucapalea, Gratian's earliest commentator, was content to allow the master's haziness by simply listing the position of monk among other ecclesiastical offices and orders, without further distinction.\(^7\) Roland Bandinelli treated the issue succinctly: "But nothing ought to be demanded as a result of force or agreement for the acquisition of a holy thing, and therefore [it ought not to be demanded] for the entrance of a church."\(^8\) However, as in the Decretum itself, Bandinelli's text left a certain ambiguity about whether the entry to a church was spiritual itself or an access to something spiritual.

The author of the Summa Parisiensis, writing about 1160, proposed an analysis that attempted to explain more clearly what made it simoniacal to purchase entry into religious life:

Therefore, in order that we may establish some certainty over this matter, we say: Seeing that [holy] orders and ecclesiastical office and things connected to them, that is, things which cannot be had without them, such as prebends and the like; also fraternal society, i.e., that which lay converts dwelling in cloisters or in hospices have, I say, fraternal society and things connected to it, that is, which cannot be had without it, such as administration of the claustral offices —since all these things are such that it is simony to buy or sell them.\(^9\)

This text, as it stands in Latin, is difficult to interpret, in part because the clauses that make it up are disorderly. T. P. McLaughlin, the editor of the Summa Parisiensis, noted several reasons for the confusion of the text. In the first place, it was a reportatio, notes on an oral lecture; in the second place, the scribe who copied the notes was not competent or careful.\(^10\) In spite of these difficulties, the Summa seems to have divided things susceptible of
simoniacious treatment into two categories. The first was the category of "[holy] orders and ecclesiastical office and things connected to them." This was a clear restatement of the traditional view that holy orders and positions in the church hierarchy, and their exercise, were subject to simoniacious manipulation. The second category was that of "fraternal society, i.e., that which lay converts dwelling in cloisters and hospices have." This category was not a traditional one in the discussion of simony, and was apparently created to explain why payment for mere ingressus monasterii was simoniacious. The term laicus conversus probably designated that new category of members found in many twelfth-century religious houses. Such conversi joined the house permanently, took vows, and had their prescribed round of prayers and pious practices. However, they were separate from the monks. They were often illiterate and performed much of the hard physical work of the house. Such "lay converts" were truly members of the religious community. One of their distinguishing features was that they did not receive any holy orders. Hence, to the author of the Summa Parisiensis, they stood as the very model of a kind of minimal member of a religious community, fully a part of it but receiving within it neither holy orders nor important administrative posts. When such a person paid to enter a religious house, what did he receive? By his status as a laicus conversus, he obtained neither orders nor offices. What he did obtain was "fraternal society," i.e., membership in a religious community. The author of the Summa Parisiensis defined more exactly the nature of that fraternal society: "May you distinguish thus, since in prebenda two things are understood, i.e., the external income of the prebend, and a certain spiritual adjunct, such as the communion of the brethren, participation in the choir, and in the chapter, etc." Thus to participate as a full member in the ceremonies and way of life in a monastery was to enjoy its "fraternal society," even if the member held no office and exercised no holy orders in the house. The Summa explained the simoniacious nature of purchasing entry into religion by the fact that one thereby obtained a spiritual thing, fraterna societas, which was the sum total of
rights and duties that a member of a religious community possessed. Even if the entrant remained a "lay convert," without holy orders or ecclesiastical office, the two traditional objects of simony, he did receive a spiritual thing subject to simoniacal treatment.

Thus, in contrast to the ambiguity of earlier decretists, the Summa Parisiensis held that the sale of the ingressus monasterii was simoniacal because it gave access to a spiritual thing, fraterna societas. The summa "De iure naturali," composed between 1171 and 1179, took a similar position when it classified ingressus ecclesiarum among things that were not themselves spiritual, but that were so closely linked to spiritual things that their sale was simoniacal.¹⁴

Peter the Chanter, a Paris theologian of the later twelfth century, had a pronounced interest in the problem of simoniacal entry, and was familiar with the canonical discussion of it. He wrote in his Summa de sacramentis:

Some people say about congregations of monks, canons and nuns that it is not simoniacal to receive or to give [payments] in such places when no dignity [i.e., administrative position] is acquired there. Others distinguish, and say more correctly, that spiritual fraternity ought always to be given for free.¹⁵

The conciliar legislation and canonical commentators of the period after 1170 broadened Gratian's prohibition of payment for ingressus monasterii to include all forms of regular life. Nuns and canons were explicitly mentioned in the prohibition of simony at the Council of London in 1175.¹⁶ Clement III, pope from 1187 to 1191, issued two decretal letters concerning canons, apparently regular and secular, who had entered their houses simoniacally.¹⁷ In the late twelfth century, hospitals, which were generally structured as groups living under a religious rule, began to add to their statutes a prohibition of simony in entry.¹⁸ The military order of the Templars was warned about simoniacal entry by Innocent III in 1213.¹⁹ Indeed, the inclusion of all forms of religious life in community under the prohibition of simoniacal entry enabled Peter the Chanter to discuss entry into aliqua congregatio, without further qualification as to the nature of the group.²⁰
In summary, most of the decretists who broached the question took the view that *ingressus monasterii* was not in itself a spiritual thing, but provided access to a spiritual thing, membership in a religious body. For that reason, its sale or purchase was simoniacal.

2. What Difference Was There between a Payment for Entry and a Gift Made on the Occasion of Entry?

Almost all those entering religious life were accompanied by a gift of some kind, a gift that was a normal, customary concomitant to entry. Indeed, there was a conviction among religious that it was only right for the gift to come with the new member. Rudolph of Saint Trond gave expression to that conviction when he wrote:

> For that portion which ought to come to the son in the world ought, by the law of God and of men, to follow him to the church in which he [the father] wishes to hand him over to God.\(^{21}\)

Gratian and the decretists were not hostile to the view that a person entering religious life ought to make a gift, if he possessed the means to do so. Gratian took note of that view, though without embracing it, when he wrote:

> Hence it appears clear that those about to enter a monastery ought to offer their goods to the officials [of it], and unless they offer their goods, they should not otherwise be received.\(^{22}\)

Stephan of Tournai, whose *summa* on the *Decretum* was composed about 1159, supported the entrance gift as a moral necessity.

> Certain people say that they do not hold him perfect, who leaves all his goods to his parents, and gives nothing to the needy church which he enters. . . . For there are many who leave all their goods to their parents and take the habit of poverty, not from a love of poverty, but so that they may enrich their parents, or so that they may be made bishops. . . .\(^{23}\)

The commentator Sicardus of Cremona, writing about 1179-81, likewise took a favorable view of entry gifts when he wrote:
Money demanded conditionally from those who have entered is a permitted procedure. No, indeed, it ought to be done as a counsel of perfection, if the weakness of our era would sustain it, so that none of those rich persons who could be supported on their family’s wealth should be received in a church unless he left his goods to his parents . . . or distributed them to the poor . . . or added them to the possessions of the church. . . .

The decretists evidently had no quarrel with the entrance gift as such. However, the rising concern in the twelfth century about simony in entrance to religious houses called into question the customary connection of entry and gift.

As the controversy at Saint Panteleon revealed, there were individuals who drew the conclusion that there need be, indeed should be, no entrance gift at all. There was support for such a negative view of entrance gifts in some of the monastic rules of late antiquity and in twelfth-century criticism of monastic venality. Some canonists entertained, at least as a debating topic, the idea that individuals rich enough to give a gift were not eligible for reception in religious houses at all. Gratian had taken care to point out in his dictum after chapter 7 of causa I, questio II, that those who had been rich were not prohibited from entry into religion, provided that they disposed of their wealth to their relatives, to the poor, or to the church. The Summa coloniensis composed about 1169, proposed the following opinion as a debating point to be rejected: "Therefore, if those with possessions are not to be gathered in monasteries, then neither are those who give [entrance gifts], since he who gives has [possessions]."

If such opinions had become widespread in the twelfth century, major adjustments would have been necessary in the economic life of religious houses, since entrants were important both for bringing new possessions and for assuring the security of properties already held. In fact, however, in spite of the views of a few theorists, the decretists had no intention of anything so revolutionary as an end to gifts on the occasion of entry into religion. They concentrated instead on the nature of those gifts.
S I M O N I A C A L  E N T R Y  I N T O  R E L I G I O U S  L I F E

The key words, recurring in the conciliar decrees and canonists’ comments of the twelfth century, were exactio and pactio, which denoted concern about compulsion and negotiation connected with entry into religion. Gratian formulated one of the significant distinctions when he wrote, “But it is one thing to offer one’s goods voluntarily, it is another to pay exactions.”

Roland Bandinelli echoed this comment, with significant modifications:

On this point it must be noted that some of those things which are offered are put forward voluntarily, others under pressure; likewise, some by agreement, others by pure generosity. Therefore, we say nothing at all should be demanded nor if demanded paid; nor should anything be given by pact for entrance of a church.

These texts of Gratian and Roland Bandinelli make clear that the nexus of gift and entrance was not to be broken. However, the nexus had to result from the free-will offering of a gift by the new entrant. The consensus of decretist opinion was that if a gift was demanded of a new entrant, and consequently was not a result of a free-will offering, it was simoniacal. Any gift offered voluntarily by the entrant was acceptable, indeed, praiseworthy. The notion of exaction, which stood in opposition to that of free-will offering, served as a means of distinguishing simoniacal fees from legitimate gifts, and thus justified the entry gift, within given limits.

There was a second, more complex issue with which the canonists had to deal. That was the situation in which entry was preceded, not by an exaction, but by a pact or agreement. For instance, Rudolph of Saint Trond had recommended to the monks of Saint Panteleon that the father who was reluctant to give a gift with his son “hear from you the advice of saint Augustine and the command of saint Benedict’s Rule.” Rudolph advised the monks to meet with the father and to reason with him about a gift. He insisted that such a discussion be handled carefully, without giving in to greedy or simoniacal intentions.

This sort of negotiatory meeting constituted a major problem for those concerned about the integrity of monastic entry. It was often
unnecessary to fix an amount or to demand overtly anything from the prospective monk or his family. The latter were frequently quite willing to offer a reasonable gift in order to obtain a place for a child or an adult. The burning question in the normal situation must have been the size and nature of the gift, rather than whether there would be a gift. A discussion about entry and gift, as recommended by Rudolph of Saint Trond, must often have turned into a bargaining session, as happened at Saint Denys de Nogent-le-Rotrou about 1190.

When Dom Nicholas presided over the church of St. Denys, a certain knight, William of Villula, approached him and asked humbly that he consent to make his son William a monk, for the love of God and of him. He promised that he was going to place many goods there and that he would, as best he could, give his aid and counsel in all things [to the monastery], if his request received the effect he desired. Orriacus, the brother of the forenamed William, promised that he would do similar things, if what they sought was fulfilled. The prior, bearing diligently the care of the church committed to him and desiring to improve it during his tenure of office, decided that he would satisfy their will, if they worked to give something . . . from their revenues along with the boy.35

The brothers consented to the prior's suggestion, and they offered two tithes and the confirmation of earlier gifts along with the boy. In this charter there was no fixed sum sought, and there was no clear demand for a gift. Indeed, the two brothers took the initiative in offering to give something for the reception of the boy. Yet there was an air of commerce about such agreements, and the decretists felt that such a bargain before reception was trading in holy things and that such a child was received in religious life because his relatives paid, voluntarily to be sure, a considerable sum for his entry.

To support their view, the canonists could cite the general prohibition in the law against simoniacal pacts for acquiring any holy object.35 But they also relied heavily on the letter of the Pseudo-Boniface to justify their objection to the particular form of bargaining that accompanied entry into religion. In that letter the pope had given permission to a group of monks to receive a new member
from another monastery. "But nevertheless, if he whom you seek is so useful to your need, let him come, provided however that every pact is absent and every agreement ceases. . . ." On the basis of this very explicit text, the decretists banned pacts and agreements, either on the part of the entrant or the house, to give anything in return for entry into religious life.

A problem subsidiary to that of pacts and agreements was the timing of a gift. Apparently there was a view current that a pact to give a gift before or at entry was forbidden, but that a pact about a gift to be transferred after the actual entrance was acceptable. As will be demonstrated in section three of this chapter, gifts agreed on after entry were allowed for the special case of entrants to impoverished houses. But, as a general proposition, the canonists were not willing to admit that a pact about an entry gift could be legitimized by any temporal subterfuge. The author of the Summa Parisiensis attacked such manipulations that were intended to conceal either a pact or a demand: "Money ought not to be demanded [nor] if demanded given, either along with the entrant, or before or after [entry], since that is simoniacal. But, if it is offered freely, then before or after it is laudably received or given." A commentator on the early thirteenth-century Compilatio III summarized this view of the effect of timing on pacts and agreements: "But is one able to offer something at the time when he is received? Lawrence said no . . . John and Vincent said—and I believe well—that it is permitted to give at that time so long as a pact does not precede, since if a pact precedes, then neither before nor after [reception] is it licit to give. . . ." Thus the canonists agreed that no simoniacal pact or demand could be legitimized merely by delaying the payment until after the actual entrance into the religious house.

Finally, the decretists were interested in whether the ultimate use of money received by pact or by exaction made any difference in evaluating the act itself. Rufinus wrote, " . . . Although some say that then without sin money can be demanded for entrance, when something is demanded with the intention that the sum exacted should afterward be spent in the need of the church or
the aid of the poor.” In the course of his argument, Rufinus rejected such an opinion, as did several of the later canonists. The *Summa coloniensis* noted:

I say nothing should be demanded from those who are to be received, for the sake of any pious act, as Alexander says in the chapter “Ex multibus”, toward the end: “We establish that no cleric of whatever grade should dare to offer anything for a benefice in a church either to the fabric of the churches or to the coffers of the churches or even what is to be offered to the poor, since, with scripture as witness, he who receives [something] illicitly, so that he may give well, is burdened rather than aided.

The decretists held that the ends, even pious ones, for which an entry gift was exacted could not justify the exaction itself.

In summary, Gratian’s commentators and successors branded as simoniacal all exactions, all pacts, and all temporal subterfuges in receiving new religious. The canonical norm for judging gifts was their free-will character; otherwise, they were simoniacal.

3. *Did the Economic State of a Religious House Affect the Problem of Payment for Entry?*

There was one significant modification that many decretists brought to their opposition to pacts and demands for payment on the occasion of entry into religion. One of the practical realities of the later twelfth century was that religious houses varied significantly in size and income. For a house with a substantial endowment, the gifts brought by entrants probably did not constitute a crucial percentage of its annual income. However, for houses on the poorer end of the spectrum, the reception of a member without an increase in income could conceivably work a hardship. The twelfth-century decretists were normally administrators at some time in their careers, and, in any case, they were concerned with the workings of a complex institution, the church. They were aware that the income accompanying a new entrant was, in practice, a necessity for a poor house. Their treatment of Gratian’s text gradually adapted it to the problems of poor religious houses.

The Bolognese decretist Rufinus upheld as a matter of course
Gratian’s opposition to forced payments and to pacts on the occasion of entry. However, he introduced a new element, not found in Gratian’s treatment of simoniacal entry, when he took account of the economic condition of the house.

If anyone who possesses his own income in abundance is received by a church that is not particularly rich, it is demanded of him either that he add his income to the goods of the church, or that he live off his own possessions and not seek support from the church.45

In the Decretum itself Gratian’s focus had been upon the wealth of the entrant rather than upon the poverty of the church being entered.46 Rufinus shifted the stress to the financial state of the religious house. If it was poor, it could lay down certain conditions for the reception of a wealthy entrant. Since the entrant could choose whether or not to live off—and therefore to retain—his own property, Rufinus felt obliged to point out that this procedure was not intended for persons entering a house under a rule of poverty,

... even though certain defenders of evil custom drunkenly think these texts apply to regular canons. But how, from these authorities, is it granted to regular canons to live from their own or their parents’ goods, since they ought to possess nothing personal, but ought to have all things in common.47

Gratian had posed this difficulty of exegesis for his interpreters because he had not distinguished carefully in causa I, questio II, between clerics entering houses living under a rule of poverty and those entering communities whose members retained personal property. His original question had been formulated around ingressus monasterii, but it became at times ingressus ecclesiae, i.e., entrance to any ecclesiastical body that received members.48 Gratian’s concern was to prevent wealthy persons from living at the expense of the church, but his choice of authoritative texts centered on secular rather than regular clergy.49 He had cited three texts about clerics who had the option to retain their personal wealth, and he concluded:

But by these authorities, they are not prohibited from being received by a church, who were formerly rich and left it all ... or gave it to
the poor, . . . or added it to the possession of the church . . . : but they are prohibited who reside in the homes of their parents or who, unwilling to leave their goods, desire to be supported by ecclesiastical income.\textsuperscript{50}

It is evident that Gratian framed his opinion about rich men entering a church on the model of secular clerics, who had the option to retain and live from their personal wealth. When his commentators attempted to apply this opinion to regular clergy, they found themselves in the untenable situation of seeming to recommend that clergy bound to personal poverty nonetheless be given the choice of retaining their personal property, a view that Rufinus denied. The author of the \textit{Summa coloniensis}, writing about 1169, recognized this anomaly and tried to correct it by distinguishing between two types of reception:

Therefore, let this be the opinion in this question, that one may never demand from those to be received, but sometimes from those already received, that they give their goods to the church or that they not demand support from it. I say "received" to support [i.e., perhaps novitiate], but not to profession, since the rule does not allow personal property to professed religious.\textsuperscript{51}

Stephan of Tournai, writing about 1159, adapted the exception for poor churches directly to the needs of religious houses living under a rule of poverty: "Note however that if any monastery is so poor that it cannot provide for those who convert, in that case an abbot may well demand from one offering himself to the monastery, and having some possessions, that from which he who is converted may derive necessities."\textsuperscript{52}

Huguccio, whose work was a summation of much that preceded him, reiterated the opinion that a man of means entering a poor church should choose whether to give his goods away or to live from them at no cost to the church.\textsuperscript{53} But, he also proposed the alternate solution, used by Stephan, which fit well the needs of a religious house living under a rule of poverty:

If nevertheless the church is so poor that it cannot provide for more than are there, then the prelate can legitimately say to a person wishing to enter that church, "This church is so poor that it cannot provide
for those in it and therefore we cannot receive [you]. But if you have
resources whence you can live, we are prepared to receive you and
you may offer to the church [something] from which it may provide for
you." There is not noted here the vice of greed and of simony, but
the necessity of the church is simply made known.54

Thus Huguccio offered the potential entrant the choice whether to
make a gift so that a poor house could receive him or to forgo entry
because of the church's poverty. This was a choice adapted to the
needs and circumstances of a regular house.

This exception for the poor religious house met an obvious need,
and it became, in one form or another, a permanent part of the
discussion of simony in entrance to religious life.55 However, the
exception threatened to reopen the way for simoniacal pacts and
demands. The canonists tried therefore to hedge it with qualifica­tions that would prevent abuse.

Some decretists feared that the ability or willingness to make a
gift would become the determining factor in receiving new mem­bers.56 A conciliar canon of the early thirteenth century does indi­cate that some French houses rejected those candidates who stood
on their right not to make a gift.57 Some canonists proposed that a
man be formally received first, and only after reception should the
house's poverty be discussed with him. Rufinus was a proponent of
this measure:

It should be recognized that sometimes money is demanded from those
to be received and sometimes from those who have already been re­ceived. Likewise, sometimes [it is demanded] absolutely, and some­times conditionally. . . . Thus, money is never to be demanded
absolutely or conditionally from those who are to be received. . . . How­ever, from those who have been received, it is not to be demanded
absolutely at all, nor conditionally except in this single situation.58

The "single situation" was, of course, that in which a wealthy man
entered a poor church. In Rufinus' view it was not enough that a
poor church demand only from those already received. The demand
had to be made "conditionally" rather than "absolutely." I inter­pret these terms to mean that not every religious house could re­quest a gift from every person received, but that only poor houses
could ask a gift of well-to-do entrants, and even then without compulsion.

But to receive a person and only then to ask for a gift for his support could be inconvenient and embarrassing if he would not or could not make a gift. The *Summa coloniensis*, and later Huguccio, upheld the opinion that poverty justified mentioning the house's finances even before an individual was received: "But nevertheless if the poverty of the monastery is so severe that an increase in the number of persons would require an increase in the endowment, in such a case we do not disapprove of indicating the situation of the place to those seeking entry."\(^5^9\) The *Summa coloniensis* went so far as to suggest, without explicit disapproval, the idea of fixing fees for entrance of such poor places: "Certain persons go so far as to say that even fixed entry fees are permitted in this case, using as a justification for their opinion the custom of monks."\(^6^0\)

Peter the Chanter, who discussed the exception for poor houses on a number of occasions, gave it a careful minimalist interpretation, along the lines followed by Huguccio:

Likewise, if any congregation is so much in need that it can not receive more brethren, if anyone seeks its membership, they can licitly demand from him enough from which he can be supported there for so long as he lives. But when he has died, they ought to give those things back, unless he voluntarily wishes to hand them over. But, if they demand from him a perpetual revenue, it is simony, since they could exist without it.\(^6^1\)

Peter prescribed a different procedure in his *Verbum abbreviatum* when he recommended that a poor house receive an applicant on his merits to a form of spiritual, nonresident membership, and then agree to receive him as a resident member of the congregation if he was able to provide it with a life revenue for his support.\(^6^2\) Thus Peter the Chanter recommended, at different times, both the demand from those already received and the demand from those to be received. Apparently, if a house was truly poor and if its motives were pure, then either procedure was acceptable.

The successors of Gratian, in fifty years of discussion, had attempted to balance the legitimate needs of a poor house against the
crime of simonia-cal reception of new members. They held to a ban on all forced gifts and pacts, but with the important proviso that a poor religious house could make known its plight to a potential recruit, and could ask the recruit to provide his own support either before or after the house received him.

4. Could a Man Be Induced to Enter Religious Life for Money?

Gratian had introduced into the learned discussion of monastic simony an issue that derived from the letter of the Pseudo-Boniface, cited in *causa* I, *questio* II, canon 2. The letter dealt with the case of monks who asked the pope whether it was licit for them to pay another monastery for a monk whom they wished to join their congregation, perhaps as their abbot. The pope replied that the purchase of a religious vocation would be simony, because it was a divine gift that inspired a person to choose to enter a religious house. Gratian's authority and the fact that the Pseudo-Boniface was almost the only *auctoritas* in the *Decretum* that pertained directly to monastic simony were such that the propriety of paying a man to come to religious life became a standard item in discussions about monastic simony. Gratian's commentators decided that it was illicit to induce anyone to enter religious life by means of a gift.

Peter the Chanter lectured on the problem at Paris in the last two decades of the twelfth century, and his views are an adequate summary of earlier canonist opinion:

It is asked if it is permitted to anyone to sell himself for taking the religious habit. . . . For example, [suppose] someone is invited to the monastic habit by an abbot who sees that his church needs such a person. The man says that he has a poor little mother whom he neither wishes nor is able to leave all alone, or [he has] an unmarried sister or [he is] in debt. It is asked whether it is permitted to him to offer himself without a pact, so that, i.e., with the intention that, he would enter their monastery if they would free him from debt? In such a case, a pact is ruled out by *causa* I, *questio* II, *Quam pio* [i.e., Pseudo-Boniface].

But there were apparently people who could see little harm in paying a man's debts so that he might enter religious life. Indeed,
Peter’s treatment is followed by several sentences, perhaps by a
student taking notes on the lecture, that expressed doubt about the
whole basis for calling this simony. "But does not intention result
in simony? But such a simony, if it is simony, does not seem to have
much impiety about it. But, is it not simony when reception of the
religious habit is arranged for a price? And likewise, if it is simony,
is it not a mortal sin?" 66

Caesarius of Heisterbach told with satisfaction of a man of learn­
ing who entered the Premonstratensians under the condition that
they pay his debts: "When the provost of the aforementioned
monastery learned of that [condition], he very gladly paid the
money, and the scholastic immediately took the habit." 67 Thus
even in the first third of the thirteenth century, when Caesarius
wrote, the simony in paying a good man to come to religious life
was not always evident. However, the letter of the Pseudo-Boniface
and the force of the canonical tradition deriving from it convinced
most canonists that to pay a man to come to religious life was the
purchase of a gift of God; and so, in a strictly technical sense, it
was simony.

Although this form of simony was certainly not so common as
payment offered by the entrant, it was not merely an academic
fantasy. Charters reveal that monasteries were, at times, willing
to pay debts on the property of an entrant in order to obtain the
endebted property. The entrant, for his part, was freed from the
debts and could give the endebted property as part or all of his
entrance gift. At Vigeois in the Limousin about 1165–71, just
such a series of bargains was concluded with an impoverished fam­
ily. 68 The charter reveals that over a period of years, the monks of
Vigeois received three brothers and the son of one of them. The
monks paid their considerable debts, provided the men with mo­
nastic garb and bedclothes, and gave a corody for life to the wife of
one brother. In return the monastery brought back into its direct
possession this family's estate, which was apparently in origin a
fief from the monastery. By paying off the debts of the sons of
Peter Fulcherius, the monks were able to take over the property
and exploit it as they wished. Thus the practice of paying a man
to take the habit could redound to the benefit of the house, if
the man brought with him endebted properties and rights that the monastery could redeem and retain.

However, the consensus of canonist opinion was that it was wrong to be paid to enter religious life, just as it was wrong to pay for entry. The only acceptable form of gift at entry was a free-will offering by the entrant or the monastery, in which neither pact nor compulsion had a place.

5. What Was to Be Done to a Monk Whose Entry Was Simoniacal?

One of the conditions of the case envisioned by Gratian in causa I was that it concerned a boy who was too young to understand his father’s payment to the monks for his reception. Gratian introduced this element so that he would have the opportunity to discuss the effect of ignorance on the boy’s guilt. His conclusion was: “In this instance, however, there was not ignorance of the law, but of a fact, and of a fact about which he was not obliged to know. Therefore, the ignorance about his father’s crime excused him from the guilt of the crime. Even if he had known it, he could not grasp it because of the weakness of his age.” As a consequence of the manner in which Gratian set up his hypothetical case, the child was not personally guilty of simony, and his punishment for simoniacal entry did not enter into discussion. Furthermore, Gratian never said specifically what was to be done about an adult who was simoniacally received nor about the prelate who received him simoniacally.

The appropriate punishment for simoniacs was a complicated problem, and that complexity was reflected in Gratian’s causa I, questio I, which contained 130 authoritative texts. Gratian attempted to harmonize the disparate opinions about simony and simoniacs that the canonical and theological traditions contained. It was a monumental task. Indeed, the decretist Everard of Ypres noted simply that the punishment of simoniacs was not fixed but arbitrary.

However, in spite of the complexity of the issue, the punishment of the pure type, i.e., of the conscious, adult simoniac, was
still governed by norms laid down in canon two of the Council of Chalcedon (451):

If any bishop shall have performed an ordination for money and shall have given for a price that grace which cannot be sold, and if he shall have ordained for money a bishop or a priest or a deacon or any one of those who are included in the clergy; or if he shall have appointed by money for the sake of his most wicked gain a dispensator or a defensor or anyone who is placed under the rule; he, who was proved to be attempting this, will lose his own rank, and he who was ordained will profit in no way from this ordination or promotion which was performed by means of business. But may he be kept from that dignity or job which he received through money. But if anyone is a go-between for such wicked and unspeakable givings and takings, if indeed he is a cleric, may he fall from his rank; but if he is a layman or a monk, may he be anathema.\(^7^2\)

Thus, in the classic case, the simoniac purchaser was to lose that which he had gained illicitly, and the other party to the transaction, the seller, was to be removed from his position as well.

Twelfth-century commentators on the Decretum did not normally broach the question of punishment for an abbot who received members simoniacally. Perhaps this was so because, at least on the level of theory, there was little incertitude: the offender was subject to the sanctions against any simoniacal seller, i.e., deposition. Innocent III confirmed that view at the Fourth Lateran Council.\(^7^3\)

On the other hand, the punishment of the monk who was received simoniacally did interest the commentators. If a simoniacal monk was treated strictly according to canon two of Chalcedon, he would lose the illicitly gained object, presumably the monastic habit. However, one of the persistent problems of religious houses in the twelfth century was that of members seeking to leave, either legally or by apostasy.\(^7^4\) The canonists, as they were no doubt aware, would have contributed to this problem if they had insisted that monks guilty of simony be forced to abandon the monastic habit. One can conjecture that individuals who wished to escape from the religious life would “confess” to simoniacal entry, and thereby win expulsion from the habit. The canonist
Rufinus, who had aided religious houses by promoting the excepti

on for poverty, also came to their assistance in this matter.

It is usual to ask at this point (since such promotions, as the council of Chalcedon says, profit in no way) . . . , whether anyone made a monk by means of money given or received or by any promise ought to be stripped of the monk's habit. To which we say that just as if any monk should be made a bishop by means of money, he would not lose the sacrament of order—which is what it is whether received well or badly—but he would lose the dignity of the sacrament, [for] to obtain that alone he gave money. For he would not care about the sacrament, if the dignity could exist apart from the sacrament. Just so, when anyone is made a monk in a particular place by means of money received or given, he ought to be deprived of that on account of which he gave or received money, i.e., he should not be a monk in that place: for it was on account of the place that the money was given. He ought not simply to be stripped of the monastic habit; for money was not given so that he could be a monk, but so that he could be a monk there.75

By asserting that the monk who entered simoniacally gained, not the religious habit, but the habit-in-a-particular-place, Rufinus was able to respect the letter of canon two of Chalcedon and also to avoid encouraging apostasy from the religious life. He recommended penal exile to another monastery, a procedure that punished the simoniac while respecting his life-long commitment to God's service.76

The Summa coloniensis advised the same punishment for the guilty monk, but it was more explicit than Rufinus about the motives for such a recommendation.

Therefore, with the exception of this case [i.e., the case of a payment to enter a poor monastery], if anyone is made a monk by means of money, it is asked whether he ought to be stripped of the habit. He did not give money so that he might be made a monk, but so that he might be a monk in that place. As a result, he ought to be removed from that place [but] not separated from the austerity of religious life, lest if we say this, we would open the way for fugitives.77

The author of the Summa coloniensis wanted to avoid making simoniacal entry an excuse to flee the "austerity of religious life," since the life of a monk was, in itself, a punishment.78
This opinion of the canonists about the fate of a simoniacal monk met a need, and it was apparently adopted in theory and in practice. Pope Alexander III, himself a decretist and commentator on Gratian, adopted such a view in a decretal letter dealing with a case of simoniacal entry that was referred to him. Pope Clement III issued a decretal letter between 1187 and 1191 that espoused the decretist opinion, but with the important qualification that the monastery into which the simoniacal monk was exiled should be stricter than the one that he had illicitly entered. The decretal letters of Alexander and Clement were incorporated in the *Compilatio II*, a canonical collection of papal letters that was put together between 1210 and 1212. Finally, the sixty-fourth canon of the Fourth Lateran Council prescribed as the preferred punishment of simoniacal entrants a penal exile to a house of stricter life (*arctior regula*).

By the late twelfth century the canonists generally agreed that simony could not be an excuse for escape from monastic vows. The guilty religious was to be sent to a house of stricter rule for penance. If no house of exile could be found, the religious could remain in his own monastery, but stripped of seniority and of the right to promotion. In this way guilt could be punished without any concession to the attempts to escape from religious life.

6. *What Was to Be Done with the Money Paid for Entry?*

Apparently, the decretists never responded to this problem directly, but they laid down principles that were used by early thirteenth-century glossators to solve it. In *causa I, questio III*, canon 2, Gratian cited a letter addressed to the bishop of Rouen and to all Gauls. The letter, which concerned simoniacal reception of office, was signaled in the *Decretum* as sent by a Gregory, and Friedberg attributed it to the era of Gregory VII. In part the letter said: “For whoever has wished to serve God by taking up religion both loses the merit and is stripped of the benefice he received, if he accepted anything. Therefore, by the force of reason, he is compelled to give back what he received unjustly, and not to retain whatever he received for the sake of filthy gain.”

This text became the focus for a discussion of what to do with
money illicitly given or received in a simoniacal transaction. The
decretists did not treat the particular case of money paid for en­
try into religion. They concentrated on the more inclusive situa­
tion of money paid for any spiritual thing, including such entry.

Some of the early decretists took the text at more or less face
value and held that the money should be returned to the giver.
Paucapalea cited a *lex Justiniani* which had ordered that "it [the
money] should be claimed for the church whose priesthood he
wished to buy. If however he is a layman, who accepted anything
for this reason, or was an intermediary in the affair, those things
which were given should be demanded in double from him and
claimed for the church." Paucapalea dissented from this view.
He explained that Justinian's law was the rigorous position, but
that Gratian's chapter recommending the return of the price to
the giver was a result of ecclesiastical mercy. Rufinus like­
wise upheld a simple interpretation of the text:

> There were some who said that the money should not be returned
to him who gave it, but should be given to the church or to the poor.
However, this is not "to give back," but to despoil; for "to give back"
is to hand over to him who had it before. Therefore, it will be more
sound to judge that it ought to be returned to the perverse giver.

Like Paucapalea, Rufinus did not admit that the giver had a strict
right to the return of the money: "... Not that the giver him­
sel is able to claim back what he gave for an immoral end. But,
the money is returned to him in his eternal opprobrium, so that
he may have it in damnation, since he thought that he could pos­s­

t such money was unclean and should not be put in the coffers of
the church or given to the poor. Therefore, a simoniacal giver
should have his money returned when his transaction was thwarted.

In the situation in which the guilty giver was not an individual
but a church, Rufinus came to the same conclusion, but for a dif­
ferent reason. He based his contention on the canonical opinion
that "the crime of an individual ought not to result in the damage
of a church." This was a view designed to protect the interests
of an ecclesiastical corporation against the incompetence and misdeeds of a person who held a responsible position in it. Rufinus argued that a church should not lose its money because an official committed a crime. Thus Rufinus held that a simoniacal giver, whether an individual or a church, should have his money returned.

The view that a simoniacal religious corporation should have its money back was generally accepted by the decretists, with the understanding that the individual officials responsible for the crime be punished. In contrast, the problem of what to do if the giver was an individual had a more complicated evolution. Apparently, many of the decretists could see no reason why a simoniac should be so fortunate as to have his money back when his illicit negotiation failed. Stephan of Tournai noted:

It [causa I, questio III, canon 2] seems to indicate that he who received anything from the sale of spiritual things ought to return [it] to him from whom he received [it]. But, since both are on a par because of immorality, he who gave cannot demand return, since in an immoral affair the situation of the possessor is better.

This uneasiness about rewarding either the giver or the receiver of a simoniacal payment was allayed by adopting the view of Justinian, cited by Paucapalea, that the money should go to the church whose office the simoniac tried to buy.

Basing themselves on the practice current in punishing the crime of calumny, Sicardus of Cremona and the author of the summa "Tractaturus magister," both writing in the late 1170s, expressed the view that neither the giver nor the receiver of a simoniacal payment should receive the money. Instead, it should be awarded to the party injured in the transaction, i.e., to the church that was involved. The summa "De iure naturali" expressed the same view:

Likewise, it is said that money simoniacally received ought to be returned. . . . But to whom, since neither the giver has a right to get it back nor does the receiver have a right to keep it? Therefore, the situation of the possessor will not be the better [of the two]. They say it ought to be returned to the church in whose injury it happens to have been given, by the example of money offered on account of
calumny, which is not returned to the giver, nor is it permitted to the receiver to keep it, but is conceded to him in whose calumny it was given. . . .

The decretists proposed other alternatives that would also have avoided giving benefit to the simoniacs; for instance, that the money be returned to the giver's heir, if he had one, or to a stricter monastery in which such lapsed simoniacal clerics were to be placed. However, the solution that awarded the money to the church that had been injured was apparently the most successful. The *Summa Lipsiensis* described the situation about 1186 as one in which the "injured church" solution prevailed without dissent.

However, the decretists apparently did not directly broach the specific question of the payment made by a man for entry into religious life. In such a case there were problems inherent in the award of the money to the monastery. The decretists agreed that the simoniacal entrant was not to be stripped of the religious habit, but was to be sent to another house for penance. Some measure had to be taken to free the house of exile from the economic burden of its prisoner. The decretists might have found a solution to this problem in a text of the *Decretum* itself. In *causa* XVI, *questio* VI, canon 4, a letter of Pope Gregory the Great had prescribed for lapsed clerics a penal entry into a monastery. His letter ordered that support be provided for the lapsed clergymen out of their own personal resources, "lest if they are stripped [of their possessions], they might be a burden to the place into which they were thrust." The decretists had cited this text for other purposes, but so far as I have been able to determine, they did not explicitly connect it to the fate of simoniac monks. That connection was drawn in the early thirteenth century by the decretalists, commenting on a letter of Pope Alexander III.

Alexander touched briefly on the issue of money in his letter about the simoniacal entry of the priest "F." The pope had written:

... If you [his investigator] find the situation as reported, may you admonish immediately and, in all strictness, compel the abbot and
the monks to return the money so unworthily received to the fore­named F., . . . may you order the said F. that he seek to serve the Lord in another monastery in the monastic habit.\footnote{101}

This letter ordered the return of the money to F. and his entry into another house, but it did not draw an explicit connection between these two commands. The letter posed a problem in the case of the money because it seemed to contradict the general trend of decrêalist thinking, which favored the award of the money to the injured church. It remained for the glossators, commenting on this decretal in the early thirteenth century, to account for the fact that, in the case of simoniacal entry, the illicitly paid money should be returned to the giver.

Alan, writing about 1210, explained the discrepancy thus: "Note that money simoniacally received ought to be restored to that institution in whose injury it was given. . . . Nevertheless, it is found returned to him who gave it as an act of mercy. . . .\footnote{102} Thus, for Alan, the variance from normal was due simply to an act of kindness on the part of Alexander III. A second glossator, writing about the same decretal, offered a more subtle explanation:

But why is it owed to him rather than to the monastery in whose prejudice it was given? . . . Solution, the money cannot remain with the monastery, lest the monks receive some profit from it, for which they have made themselves unworthy. To the second [objection], we say that the monastery is given no injury here, since it loses nothing if the possessions of others are returned. . . . Likewise, this is done in favor of the second monastery, as in \textit{causa XVI, questio VI, De lapsis}; otherwise as a rule it is owed to the [first] monastery.\footnote{103}

In this text the glossator linked the return of the money explicitly to the entry of the priest F. into a second house; the money had been returned to him for the sake of the second house, and the reference to Gregory the Great’s letter makes it clear that the priest F. was to use his money for his support at the second house. By reinterpretation, Alexander’s letter has been reconciled with the desire not to return the money to the simoniacal giver. If the monk arranged in some way not to enter another house, then the commentator recommended that he not receive the money, which was
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to remain with the first monastery. The canonist Albert, writing about 1215, summarized the reasonings of his predecessors:

... Money given for simony ought to be given to that church in whose shame it was paid. ... Solution, Alan said the procedure [i.e., award to injured church] was the common law, but this [Alexander's return of the money] is to be understood as done by way of dispensation and mercy. Others say it is done because of the crime of the abbot and of the monks, which is described here, since if the money remained with the monastery, the monks would feel a benefit of which they had made themselves unworthy. It seems to me that the money ought not to be returned to a cleric returning to the world, but it should remain with the church. ... If, however, he must go to [another form of] religious life, that which is said here obtains, lest he may be a burden to the secondary monastery. 104

On the basis of Alexander's letter, the early thirteenth-century decretalists decided the fate of the money paid for entry. The money was returned to the simoniacal monk in the case that he was to be placed in another house for penance. But if the simoniacal entrant did not remain in religious life, then the normal procedure should prevail in which the money remained with the church in whose injury it was paid.

It is vain to seek complete agreement among the canonists who treated the issue of simoniacal entry into religion. They wrote over a period of seventy-five years and with different emphases and focuses of concern. However, the canonists went far toward developing the theoretical implications of Gratian's decision to include in his Decretum a case involving simoniacal entry into religion. They defined a series of thorny issues and proposed various solutions to deal with them. On account of their work the broad intellectual principles governing the discussion of simoniacal entry had been formulated and disseminated widely by the year 1200, although many of the specific issues and, more significantly, the practical measures to be adopted were still open to disagreement.
1. For a treatment of the Decretum as a canonical collection, and as an intellectual phenomenon in its own right, see G. LeBras, J. Rambaud-Buhot, and C. Lefebvre, L'Age classique 1140-1378, sources et théorie du droit (Paris, 1965), Histoire du droit et des institutions de l'Église en Occident, no. 7.

2. LeBras et al., L'Age classique, pp. 10-11. C. E. Lewis, "Ricardus Anglicus: A familiaris of Archbishop Hubert Walter," Traditio 22 (1966): 469-71, notes that Hubert Walter, archbishop of Canterbury from 1183 to 1205, had several canonists in his household and among his advisers. S. Kuttner and E. Rathbone, "Anglo-Norman Canonists of the Twelfth Century," Traditio 7 (1949-51): 279-358, trace the interrelations of academic and administrative careers among several late twelfth-century English canonists. L. Genicot, "Aristocratie et dignités ecclésiastiques en Picardie aux XIIe et XIIIe siècles," Revue d'histoire ecclésiastique 57 (1972): 436-442, finds that at Beauvais a high percentage of non-nobles holding important positions in the church were university masters; i.e., university training could compensate for lack of noble blood. W. Holtzmann, "Die Benutzung Gratians in der päpstlichen Kanzlei im 12. Jahrhundert," Studia Gratiana 1 (1953): 323-49, stresses that from the pontificate of Alexander III (1159-81), the papacy was in the possession of canonists, and that many members of the curia were canonists as well.

3. The most useful guide to the canonical literature of the twelfth and thirteenth centuries remains S. Kuttner, Repertorium der Kanonistik 1140-1234 (Vatican City, 1937). This indispensable work may be updated by reference to the journal Traditio, which published from 1955 to 1970 an annual report and bibliography on developments in the study of medieval canon law. Since 1971, the annual report and bibliography appear in the Bulletin of Medieval Canon Law, New Series.

4. Kuttner, Repertorium, pp. 123-207, lists no summa on the Decretum written later than the second decade of the thirteenth century. The formation of separate collections of papal decretals, which were studied and glossed by canonists, led to a gradual shift in canonical studies from the Decretum to the decretals (LeBras et al., L'Age classique, pp. 290-305). J. Rambaud-Buhot, "Les Paleae dans le decret de Gratien," Proceedings of the Second International Congress of Medieval Canon Law, ed. S. Kuttner and J. J. Ryan (Vatican City, 1965), pp. 23-44, describes attempts to bring the Decretum up to date in the later twelfth century by adding appendixes of useful texts and of papal letters. Such attempts proved unsatisfactory, and gave way to decretal collections.

5. "Sed adhuc obicitur, qui ingressuri monasterium pecunias tribuunt, non propositum religionis, sed participationem stipendiorum ecclesiae emunt. Temporalia ergo, non spiritualia ementes, nequaquam simoniaci habendi sunt. 1. His ita respondetur: Non solum qui spiritualia, sed etiam qui temporalia eis annexa precio accipiunt symoniaci iudicantur" (Decretum, causa I, q. III, prologue; cf. distinctio 47, canon 9).

6. Ibid.

7. Archpriest, archdeacon, canon, monk, and any cleric were positions or orders not to be sold because they were subject to a regula (J. F. von Schulte, ed., Die Summa des Pauca palea über das Decretum Gratiani [Giessen, 1890], p. 52).


9. "Ut igitur aliquam certitudinem super hujusmodi constituimus, dicsimus: qua ordo et officium ecclesiasticum et his annexa, quae frater etiam etiam societas, fraterna societas, et annexa his, similia quae

10. “The scribe was very careless at times and frequently it seems that he could not make out what he was copying. . . . Often he has written in a clear hand words which do not exist and phrases which have no possible meaning” (McLaughlin, Summa Parisiensis, p. ix).

11. The basic distinction between offices and holy orders as objects of simony derived from the second canon of Chalcedon, cited by Gratian in causa I, quaestio I, canon 8, which is quoted below in note 72. However, it was the work of twelfth- and thirteenth-century canonists that clarified the distinction between an ecclesiastical order and an ecclesiastical position: see D. E. Heintschel, The Medieval Concept of an Ecclesiastical Office (Washington, D.C., 1956) Catholic University of America Canon Law Studies, no. 363.

12. U. Berlière, “La famille dans les monastères bénédictins du moyen âge,” Mémoires de l’Académie royale de Belgique, 2d ser., vol. 29, fasc. 2 (Brussels, 1931), documents the complex structure of inhabitants that a religious house could have. C. DuCange, Glossarium Mediae et Infinimae Latinitatis, ed. G. A. L. Henschel (Paris, 1842), 2:583, cites three texts of the twelfth and early thirteenth centuries that indicate that laici conversi were individuals who lived in a monastery, but were not monks. E. P. Sauvage, “Vitae B. PetriAbrincensis et B. Hamonis Monachorum Coenobii Saviniacensis,” Analecta Bollandiana 2 (1883): 511, contains a text that states that a laicus conversus at Savigny was a layman who took the religious habit, but remained a layman.

13. “Distingues itaque quoniam in praebenda duo intelliguntur, scilicet fructus exterior praebendae et quoddam spirituale annexum, ut est communio fratrum, participatio chori, capituli, et huiusmodi” (McLaughlin, Summa Parisiensis, p. 93). In at least two other places, the Summa added details to this view of membership in a religious body as a spiritual thing: “Similiter dicimus de praebenda, circa quam tria considerantur: consortium spirituale fratrum, jus recipiendi stipendia et ipsa stipendia. Consortium spirituale emere simonia est. Jus etiam recipiendi stipendia nomine praebendae vendere simonia est” (pp. 79~80). “Quaeritur de eis qui emunt victualia a monachis, et dicimus: si ita emunt victualia ut etiam habeant fraternitatem eorum, simoniacum est, alias non” (p. 93).

14. “De simonianis qui spiritualia emunt, vendunt, vel adnexa spiritualibus. Spiritualia, ut sunt gratie virtutum, dignitates ordinacionum, consecrationes ecclesiarum etc. Adnexa spiritualibus, ut ingressus ecclesiarii, ius decimationum, prebendarum, administrationum et similibus, que vendere simoniae est” (summa “De iure naturali,” Durham University, Cosin V III 3, fol. 41v, cited by K. W. Nørr, “Die Summen ‘De iure naturali’ und ‘De multiplici iuris divisione’,” Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung, no. 48 (1962): 142). At least one decretist, the author of the Summa coloniensis, writing about 1169, held that the ingressus monasterii was itself a spiritual thing: “Cum enim ingressus monasterii res spiritualis sit, gratis, non ob munerum largitionem concedendus est” (BN lat. 14997, fol. 51v).


17. “De regularibus canonicis,” JL 16562; “Venerunt,” JL 16620: these letters were incorporated in the Compilatio II, bk. 5, tit. 2, chaps. 7 and 8, and were commented by canonists.


22. "Hinc liquido apareat, quod ingressuri monasterium sua debent offerre rectoribus, nec aliter sunt recipiendi, nisi sua obtulerint" (Decretum, causa I, q. II, prologue). Gratian modified this view substantially by insisting that the entrant must have a free choice as to whether or not to give his property.

23. "Dicunt quidam, quod non habent eum perfectum, qui omnia bona sua relinquit parentibus et nil dat ecclesiae indigenti, quam intrat. . . . Nam multi sunt, qui omnia bona sua parentibus relinquunt et assumunt paupertatis (sic) habitum, non paupertatis amore, sed ut dientur parentes, vel ut possint episcopari" (J. F. von Schulte, ed., Die Summa des Stephanus Tornacensis über das Decretum Gratiani [Giessen, 1891], p. 146). John of Faenza, relying on Stephan of Tournai's text, repeated the opinion almost verbatim (BN lat. 14606, fol. 51'). The author of the Summa coloniensis also criticized those who gave no gift, or who gave a small gift when they could have given more: "De his intelligende sunt [i.e., the text of the Decretum critical of wealthy entrants] qui se propriis facultatibus de toto exuere nolentes, pro modica et particulari largicione ecclesiae suscripta sue personae et sumptibus ob hanc causam quasesit gravare non metuunt. Unde prosper: non est meum dicere quale peccatum cibos pauperum presumendo commitunt, qui ecclesiâ quam de propriis facultatibus iuvare debuerant insuper suis expensis gravant" (BN lat. 14997, fol. 51').

24. "Peccunia exigi a.b ingressis conditionaliter. Hoc licetum est, immo de perfectionis consilio faciendus esset, si defectus nostri temporis sustineret, ut nullus divitum qui possunt palearum opibus sustentari in ecclesia susciperetur nisi sua parentibus relinquueret . . . vel pauperibus distribueret . . . vel ecclesiae rebus adiungeret . . ." (BN lat. 14996, fol. 40').

25. De Borman, Chronique, 1:243–44. At least one canonist held that there should be no gift at entry: "Set nunquid eo tempore, quo quis recipitur, potest aliqüum offerre? Lau . . . dixit, quod non, ut L. Q. I Emendari (c. 104) et Q. II Quam pio (c.2)" (F. Gillmann, Des Laurentius Hispanus Apparat zur Compilatio HI auf der staatlichen Bibliothek zu Bamberg [Mainz, 1935], p. 72).

26. See above, chapter 4, pp. 72–75.

27. Decretum, causa 1, q. II, dictum after canon 7.

28. "Si ergo non sunt in cenobii colligendi habentes tune nec dantes quoniam habet qui dat" (BN lat. 14997, fol. 51'). The author went on to refute this position: "Eeontur Sanctum ablactatum anna in tribus vitulis et tribus farine mobilis et amphora vini optulit: in domum domini in silo. Et in primitiva ecclesia qui se numero fidelium adiunxerat vendebant omniam, ponentes precia eorum ante pedes apostolorum. Quorum unus amans quia de precio fraudavit et spiritui sancto mentiri praeupsit accepta maldectionis sem-
tentia expiravit. . . . Similiter ex premissis exemplis habes quod liceat offerentem suscipere . . . " (ibid.).

29. "Sed aliud est sus sponte offerre, aliud exacta persolvere" (Decretum, causa I, q. II, prologue).

30. "Ad hoc notandum est, quod eorum, quae offeruntur, alia sponte, alia coacte praestantur; item alia pactione, alia mera liberalitate. . . . Dicimus ergo nichil omnino exigendum nec exactum solvendum nec pactione aliquid pro ingressu ecclesiae erogandum" (Thaner, Die Summa, p. 13).

31. "Non ergo his auctoritatibus permittitur rectoribus ab ingressuris aliquid exigere, sed sponte oblata suscipere, quia illud damnable est, hoc vero minime" (Decretum, causa I, q. II, prologue). The Summa Parisiensis noted that, in the proper circumstances, an entrance gift was a praiseworthy thing: "Non debet exigi pecunia [nee] exacta dari vel cum intrante vel ante vel post quia simoniacum est. Sed si gratis offeratur, tunc ante vel post laudabiliiter recipitur et laudabiliter datur" (McLaughlin, Summa Parisiensis, p. 92). The "Tractatus magister" noted, "Huius questionis negative simpliciter est vera. Sponte tamen oblata post factum non sunt respuenda non precedente duntaxat conditione vel intentione" (BN lat. 15994, fol. 32r).


33. Augustine's sermon 86, Migne, vol. 38, cols. 526-29, dealt with excuses used by the rich to justify their failure to give alms to the poor.

34. De Borman, Chronique, 1:261-62.

35. "Tempore quo dominus Nicolaus ecclesie Beati-Dionisii preerat, miles quidam Guilelme de Villula ipsum adiit, atque ut filium suum, Guilemum nomine, monachum facere dignaretur humiliter postulans, promittebat etiam se bona plurima inibi collocaturum, suumque auxilium et consilium in omnibus pro posse adfuturum, si peticio ejus effectum, ut desiderabat, consequeretur. Orricus vero frater prefati Guilemii similis se facturum si impleretur quod petebant fideliter spopondit; prior denique ecclesie sibi commisse sollicita et voluntati eorum satisfacturum ita decrevit si de reditibus suis, cum ipso puero, . . . aliqua conferre satagerent" (St. Denys, no. 70, ca. 1190).


37. "Verumtamen, si vestrae necessitati adeo est opportunus quem reperistis, dum tamen omnis absit pactio, omnis cesset conventio . . . accedat . . . " (Decretum, causa I, q. II, canon 2). The decretists laid stress on opposition to pacts in their treatment of the letter of the Pseudo-Boniface: "Respondit papa quod haec quaestio difficilis sibi videtur quia inaudita. Tandem dicit quia ex pacto nihil dare debent, sed accedat illi gratis quem sibi credunt necessarium, et postea si voluerint gratis monasterio in subsidium aliquid dare, poterunt licite" (McLaughlin, Summa Parisiensis, p. 92). "Respondet apostolus, non licet ex pactione, tamen postquam factum fuerit, permittit aliquid dari fratribus illius roenobii, cui prius praeerat" (Schulte, Die Summa des Stephanus, p. 145).
38. In his comments on *causa I, questio II, canon 2, Quam Pio*, Huguccio expressed the view that the timing of a gift could make a difference in assessing its legitimacy: "Postmodum, quod non ante ne presumatur symonia, quum enim aliquid licet post quod non licet ante... Quam aliquid licet ante quod non post... Quam quod non licet ante nec post..." (BN lat. 3892, fol. 120v). The Pseudo-Boniface had recommended that the richer monastery give a gift to the poorer house after the monk had come gratis. The *Summa "Tractaturus magister"* had approved gifts made after the actual entrance: "Sponte tamen oblata post factum non sunt respuenda, non precedente duntaxat conditione vel intentione..." (BN lat. 15994, fol. 32r). A gloss to *Compilatio III*, book 5, title 2, canon 6, *Tua*, likewise approved of gifts after reception: "Non tamen receptionis tempore, set postmodum,..." (Gillmann, *Des Laurentius Hispanus*, p. 72).

39. "Non debet exigi pecunia [nee] exacta dari vel cum intrante vel ante vel post quia simoniaeum est. Sed si gratis offeratur, tunc ante vel post laudabileri recipitur et laudabileri datur" (McLaughlin, *Summa Parisiensis*, p. 92). The *Summa "De iure naturali"* likewise held that timing was irrelevant in judging the simoniacal nature of a gift: "Contrarit autem simonia a pecunia, ab obsequio et lingua, pactione apud homines, intentione apud deum, licet non precesserit pactio. Unde simoniaeum intention facit per obsequium et linguam, pactio per pecuniam, quocumque tempore detur vel accipiantur. Nescit enim tanta et simoniaeum dandi et accipiendi, set etiam dati et accepti, quandisque nulla prece-
dente pactione, si intentione, quia promotus es, post dederis..." (Nütr, "Die Summen," p. 142). Huguccio also argued that in the case of entry into religious life, the timing of a gift was irrelevant, if the gift was required: "Hie intitulatur ii quaestio scilicet an in progressu [sic] ecclesie pecunia sit exigenda vel exacta persolvenda. Haec quaestio nullam habet dubitationem, quia certum est quod in progressu [sic] monasterii, id est cunuslibet ecclesie, pecunia non est exigenda vel si fuerit exacta persolvenda non est, quia uterque simoniaeum est, scilicet exigere vel exactam persolvere sine ante perceptionem sive post perceptionem. Utrumque enim prohibetur sciocchit ante et post..." (BN lat. 3892, fol. 120r).

40. "Set nunquid eo tempore, quo quis recipitur, potest aliquid offere? Lau. [O:Laor] dixit quod non... Jo. et vi. dixerunt et credo bene, quod licet illo tempore dare, dummodo... tali... paccio non precesserit, quia si pactum precedit, nec ante nec post dari licet..." (Gillmann, *Des Laurentius Hispanus*, p. 72).

41. "... Licet quidam autum autum tunc sine peccato pecuniam pro ingressu exigi, cum aliquid ea intentione exigatur, ut exactum postmodum in necessitatem ecclesie vel pauperum almoniam erogatur" (Singer, *Die Summa*, p. 224). John of Faenza reported a similar view: "Quidam male putant exigendam si exacta postmodum in necessitatem ecclesie vel almoniam pauperum erogatur" (BN lat. 14606, fol. 51r).

42. "... Que sententia penitus exsufflanda videbitur, si illud cap. Gregorii ad memoriam reducatur, 'Non est putandar' (27), supra q.I et infra II cap" (Singer, *Die Summa*, p. 224). John of Faenza also contradicted the opinion that he had reported, "Sed infringitur hoc ex decretlo gregori ci, 'Non est putandar'..." (BN lat. 14606, fol. 51r).

43. "Nichil inquam a suscipiendis cuiuscumque pietatis obtentu exigendum, ut ait alexander capitulo 'ex multis' circa finem: Constituimus ut nullus cuiuscumque gradus clerics pro ecclesie beneficio audeat aliquid conferre aut in ecclesiarum fabrica vel in donariis ecclesiarum seu etiam quod pauperibus erogatur quia testa scriptura qui ma/le accipit ut bene dispenset gravatur potius quam iuvetur" (BN lat. 14997, fol. 51r-51v). The reference is to a letter of Alexander II, JL 4722.


45. "Si aliquid, qui census proprius exuberauer possit, suscipitur est ab ecclesia, que non admodum dives est, exigetur ab eo, ut vel census suum ecclesie rebus amumeret vel suis rebus intercatur et sumptum de ecclesia non requirat..." (Singer, *Die Summa*,
p. 224). John of Faenza repeated Rufinus’ view and added to it a reason why a rich person should not be allowed to keep his wealth after entry: “Si aliquis qui census proprios exuberatur [sic] possidet, susceptus est a ecclesia quae non admodum dives est, exigitur ab eo vel ut census suum ecclesie rebus annumeret vel de ecclesie sumptum non requirit maximè cum occasione rerum suarum occupatus servitio desit ecclesie” (BN lat. 14605, fol. 51r).

46. Decretum, causa I., q. II., canons 6, 7, 8, 9, 10.

47. "... Licet quidam prave consuetudinis defensores illa decreta ebriose sentiant data pro canonicia regularibus. Sed quomodo ex auctoritatis illis indulgetur canonici regularibus vivere de propriis aut de bonis parentum, cum nullum proprium possidere, sed omnia in commune habere debeant?” (Singer, Die Summa, pp. 225-25). Stephan of Tourmai made a similar comment about the applicability of Gratian’s texts to regular clergy (Schulte, Die Summa des Stephanus, pp. 145-46). John of Faenza followed Rufinus on the issue: “Quidam dicant hoc dici de canonicia regularibus, sed quomodo ex auctoritatis illis indulgetur canonici regularibus vivere de bonis parentum aut de propriis cum nullum proprium possidendum, sed omnia in commune habere debeant” (BN lat. 14605, fol. 51r).

48. “Secundo, an pro ingressu ecclesiae sit exigenda pecunia, vel si exacta fuerit, an sit persolvenda?” (Decretum, causa I., prologue). “Sequitur secunda questio, qua queritur, an pro ingressu monasterii pecunia sit exigenda, vel exacta persolvenda?” (ibid., q. II., prologue). “Auctoritate Bonifacii patenter ostenditur, quod, ... ita nulli pecuniae interesse ecclesiae largiri oportet ingressum” (ibid., dictum after canon 4). "Multorum auctoritaribus luce clarius constat, quod ab ingressuris monasterii non licet pecuniam exigere ... " (ibid., dictum after canon 10).

49. Ibid., canons 6, 7, 8, 9.

50. “Verum his auctoritatibus prohibentur ab ecclesia suscipi non elli, qui quondam fuerunt divites et omnia reliquerunt, ... aut pauperibus distribuerunt, ... aut ecclesiae rebus adiunxerunt ... : sed elli, qui in domibus parentum residentes vel sua relinquere nolentes ecclesiasticis facultatis pasci desiderant” (ibid., dictum after canon 7).

51. “Hec ergo sit in hac questione sententia ut nunquam a suscipiendis sed a susceptis quandoque exige debet ut res suas ecclesie adnuuerent vel sumptus ab ea non postulent. Susceptis dico ad sustentationem, non ad professionem, quia professis regularis propria habeere non licet” (BN lat. 14997, fol. 51v). Stephan of Tourmai also commented that Gratian’s opinions and texts were not always appropriate for regular clergy: “De secularibus dicit, nam regularibus aequaliter distribuendum, vel generaliter de omnibus ... ” (Schulte, Die Summa des Stephanus, p. 146).

52. “Nota tamen, quia, si aliquod cenobium ita pauperum est, quod non possit sufficere his qui convertuntur, in hoc casu abbas ab offerente se cenobio et habente aliqua bene potest exigere unde habeat necessaria qui convertuntur” (Schulte, Die Summa des Stephanus, p. 145). John of Faenza proposed a similar view in his summa: “Nota si aliquod cenobium its pauper est quod nec possit sufficere his qui convertuntur, in hoc casu abbas ab offerente se monasterio vel cenobio et habente aliqua bene potest potest [sic] exigere unde habeat necessaria qui convertuntur” (BN lat. 14606, fol. 51v).

53. “Autoritate bonifacii. c. quam pio. Ad versionem [sic], id est, ad fidem et cultum dei, gregorii c. Sicut episc. Item opponitur ad id quod dixerat, sed licet quod pro ingressu ecclesie nichil est exigendum a suscipientibus vel susceptis, sed omnes quel recipiuntur debeirent [sic] gratis suscepti et suscepti passi de rebus ecclesie, exceptis talibus de qualibus locuntur sequentia capitula. A talibus enim et videtur posse exigi ut sua temporalia conferant ecclesie vel absentiauer in sumptibus ecclesie vel locantur” (BN lat. 3892, fol. 120v).
54. "Si tamen ecclesia est adeo pauper quod non possit pluribus quam ibi sunt sufficere, licite potest dicere prelatus volenti illum ecclesiam intrare: ecclesia ista adeo pauper est quod non potest presentibus sufficere et ideo non possimus suscipere. Sed si tu habes unde possis vivre parati sumus te recipere et tu offeras ecclesie unde ipsa possis [sic] etiam ibi sufficere. Non notatur hic vicium cupiditatis et simonie, sed simpliciter declaratur necessitas ecclesie" (BN lat. 3892, fol. 120v).

55. "Nota si aliquod cenobium ita pauper est quod nec possit suficere bis qui convertuntur in hoc casu abbas ab offerente se monasterio vel cenobio et habente aliqua bene potest exigere unde habeat necessaria qui convertuntur" (BN lat. 14606, fol. 51r). "Conditionaliter potest ab eo exigi qui ingressus est ecclesiis quae divitis non habundat, et habet de patrimonio vel de alio unde vivere possit" (Summa monacensis, Munich, Clm 16084, fol. 16v). "Suppone quod monasterium adeo extenuatum quod non potest pluribus sufficere. Nunc quid possunt aliquid exigere? Credo sic in hunc modum, 'Frater, scias quia res huius monasterii pluribus sufficere non possunt; si volueris intrare ducas unde vivere possis' (Tancred on Compilatio I, bk. 5, tit. 2, canon 7, BN lat. 15599, fol. 51v). "Sed quid si monasterium ad quod velo transire non sufficit in possessionibus ad sustinendum plures quam habeat. Respondetur: licite potest a me aliquid petere pro mea sustentacione" (Guilelmus on Compilatio I, bk. 5, tit. 2, canon 7, BN lat. 3932, fol. 56v).

56. "Non inde habemus quod ab eo qui, cum nichil promittit, monasterium petit, propter ingressum liceat exigere. Similiter ex premissis exemplis habes quod liceat offerentem suscipere; non tamen quod a suscipiendo fas sit quicquid exigere vel propter oblata suscipere" (Summa coloniensis, BN lat. 14997, fol. 51v). Peter the Chanter held that, in cases of extreme need, the ability to make a gift could be taken into account: "Aliquis accedet ad pauperem locum ubi sunt quatuor heremite vel monachi quorum singuli habent suum panem tantum. Petit recipi ad conversationem inter illos. Illi, ostendentes paupertatem suam, petunt ut faciant assignari locum unde habeat victum et vestitum tempore vite sue. Accedit dives aliquis et paciscitur cum illos de procurando eo in victu et vestitu suo tempore vite sue. Est ne hec pactio simoniaca? Non credit et distinguit inter causam propter quam et causam sine qua non fieret cum fieri non possit. Causa enim sine qua non fieret, cum fieri possit, est causa propter quam, principalis scilicet non secundaria, et ista inducit simonia in huiusmodi, reliqua non" (Dugauquier, Summa de Sacramentis, vol. 3, pars. 2a, 16).

57. "Praecipimus etiam sub poena suspensionis [ne] ab ingressuris claustrum, vel pastus vel vestimentum exiguantur, neque denarii, neque aliud in fraudem praedictorum, ita quod propter hoc non repellantur" (canon 27, Council of Paris [1213], Mansi, 22:833b; also in Council of Rouen [1214], canon 30, Mansi, 22:911d).

58. "... Seiendum est quod pecunia aliquando exigitur a suscipiendis, aliquando a susceptis; item aliquando absoluta, interdum conditionaliter. Itaque a suscipiendis nec absoluta nec ullo modo conditionaliter pecunia est exigenda. ... A susceptis autem nullo genere absoluta exigenda est nec conditionaliter, nisi in hoc volumino modo casu" (Singer, Die Summa, p. 224). The Summa Monacensis, written about 1175-78, made the same point: "Aliquando pecunia exigitur ab ingressis, aliquando ab ingressuris; quando ab grossuris simonia comititur. Quando ab ingressis referat utrum absoluta vel conditionaliter exigatur. Si absoluta quidem exiguii, simonia non incurrit; si autem conditionaliter nequaquam" (Munich Clm 16084, fol. 16v). The summa "Tractatus magister" reported the same opinion, but not necessarily as its own: "Quidam tamen voluit distinguere inter recipiendos et receptus, dicentes a recipiendis nil omnino esse exigendum nec a receptis absoluta, sed conditionaliter si volunt recipiere stipendia ecclesie, quotiesque habendant et ecclesia indiget ... " (BN lat. 15994, fol. 32v). Sicardus of Cremona set up the question of receiving money from those received and from those about to be received in the form of a chart:
SIMONIACAL ENTRY INTO RELIGIOUS LIFE

Pecunia exigir [ab ingressuris, hoc est symonia. . . .
ab ingressis [absolute, symonia est. . . .
conditionaliter, hoc licitum est. . . .

(BN lat. 14996, fol. 40r). J. Weitzel, Begriff und Erscheinungsformen der Simonie bei Gratian und den Dekretisten, Münchener Theologische Studien, Kanonistische Abteilung, vol. 25 (Munich, 1967), p. 134, note 52, cites this text of Sicardus from Munich Clm 4555, fol. 20v. However, in his printed citation the meaning was reversed:

Pecunia exigitur [ab ingressuris, hoc est simoniacum. . . .
ab ingressis [conditionaliter, haec est simonia. . . .
absolute, hoc licitum est.

It would require an examination of the manuscript used by Weitzel to determine whether this difference was due to a real divergence in the text, or to an error of transcription or printing.

59. "Verumtamen si cenobii nimia paupertas sit intantum ut aduacto numero personarum necesse sit augeri patrimonium, ibi statum loci significare introitum petentibus non improbamus" (BN lat. 14997, fol. 51v). For Huguccio's comment see above, note 54. Stephan of Tournai also defended the mention of the house's economic state before reception of a new member (Schulte, Die Summa des Stephanus, p. 145).

60. "Quidam plus dicunt etiam taxations hoc casu licere, habentes quo tueantur hanc suam opinionem cenobitarum consuetudinem" (BN lat. 14997, fol. 51v).

61. "Similiter, si aliqua congregatio egerit in tantum quod non possit plures recipere fratres, si quis petit fraternitatem ipsius, posunt ab eo licite exigere tantum unde possit ibi sustentari, quamduo vixerit; sed eo mortuo debent illa reddere, nisi veli et ea sibi gratis conferre. Si vero exigant ab eo perpetum, symonia est, cum sine illo esse possent" (Dugauquier, Summa de sacramentis, vol. 3, pars. 2a, 14).


63. Decretum, causa I, q. II, canon 2, Quam pio.

64. It is striking how often the commentators summed up the letter in a single sentence, and then went on to treat merely verbal difficulties: see McLaughlin, Summa Parisiensis, p. 92; Singer, Die Summa, p. 225. Huguccio, BN lat. 3892, fol. 120v; summa "Omnis qui iuste iudicat," Rouen ms. 743, fol. 50v-51v.

65. "Queritur si aliqui liceat vendere seipsum ad religionis habitum . . . suscipiendum. Verbi gratia. Aliquis invitatur ad monasticum habitum suscipiendum ab abbate vidente ecclesiam suam indigere tali persona. Dicit ille se pauperulum materem habere quam nec vult, nec potest derelinquere desolatum vel sororem inruptam, vel se obligatum ere alieno.
THE CANONISTS AND SIMONIACAL RECEPTION

Queritur an liceat ei sine pactione ita vendicare se ipsum ut, scilicet ea intentione, ingrediatur monasterium illorum si liberaverint eum ab ere alieno. Pactio enim in tali casu excluditur, Ca. I, Q. II, Quampro" (Dugauquier, Summa de sacramentis, vol. 3, pars. 2a, 45-46). The *summa "Tractaturus magister"* made a similar point: "... Non debet aliquid promitti aliqui ut convertatur ... sed forte possit ei fieri spes aliqua, non certa pactio" (BN lat. 15994, fol.32'). A twelfth-century charter of the Cistercian house of Berdoues offers a confirmation of Peter the Chanter's hypothetical cases. The abbot provided a dowry for the daughter of a monk, in order that the monk would confirm a gift he and his sons had made at the time of his entry (Berdoues, nos. 481 and 442).

66. "Nonne intentio symoniam inducit? At symonias talis, si symonia est, non multum videtur habere impietatis. Sed nunquid non est symonia cum religiosi habitus susceptio redigatur sub pretium? Nunquid item si symonia est mortale peccatum?" (Dugauquier, Summa de sacramentis, vol. 3, pt. 2a, p. 46).

67. "Quod cum intellexisset praepositus praedicti monasterii, pecuniam libentissime solvit, et Scholasticus statim habitum suscepit" (Dialogus Miraculorum, ed. J. Strange [Cologne, 1851], 1: 228).


69. Decretum, causa I, prologue.

70. "In hoc autem non fuit ignorantia iuris, sed facti, et illius, quod non oportuit eum seire. A reatu ergo criminis excepta eum ignorantia paterni delicti, quod etsi oportuisset eum seire, infirmitate tamen etatis deprehendere non poterat" (ibid., q. IV, dictum after canon 13).

71. "Queritur quae penitentia sit simoniacis iniungenda. Responditur, non est auctoritate taxata sed arbitraria" (Summula decretalium quaestionum, Reims ms. 689, fol. 23').

72. "Si quis episcopus ob pecuniam fecerit ordinationem et sub pretio redigerit gratiam, quae non potest venundari, ordinaveritque per pecunias episcopum aut presbyterum seu diaconum vel quemlibet aut eminenter tuum, qui connumerantur in clero, aut promoverit per pecunias dispensatorem aut defensorum vel quemquam, qui subjectus est regulae " (J. Alberigo et al., eds., Conciliorum oecumenicorum decreta [Freiburg im Breisgau 1962], pp. 63-64). Gratian included this canon in the Decretum, causa I, questio I, canon 8.

73. Alberigo, Conciliorum, canon 64, pp. 240-41.

74. The letters of Stephan of Tournai, who was himself a decrèvist, contain much information about the restlessness among religious in the second half of the twelfth century. He interceded for repentant apostates, and for religious seeking legal permission to transfer from one order to another (Les lettres d'Etienne de Tournai, ed. J. Desilve [Paris-Valenciennes, 1893], nos. 1, 15, 32, 57, 101, 103, 135, 254, 288). In causa XX, questio IV, dictum after canon 3, Gratian had forbidden a monk to take a pilgrimage vow without his abbot's permission, precisely because such a vow might be used to escape from regular life and discipline. See also K. Fina, "Oven Suam Require. Eine Studie zur Geschichte des Ordenswechsels im 12. Jahrhundert," Augustiniana 7 (1957): 33-56.

75. "Queri solet hic, cum tales promotiones, sicut ait Calcedonense concilium, in nullo proficiant ... utrum aliquid per pecuniam datum vel acceptum vel per aliquam pro-
missionem factus monachus monachico habitu debeat expoliari? Ad quod dicimus quoniam sicut, si aliquis monachus ordinaretur in episcopum per pecuniam, non amitteret sacramentum ordinis—quod sive bene sive male susceptum est id, quod est—amitteret tamen sacramenti dignitatem, propter quam solam optimendam et non propter sacramentum dedit pecuniam,—non enim de sacramento curaret, si a sacramento dignitas absisteret: ita et quando per pecuniam acceptam vel datam aliquis in alio loco fit monachus, debeat eo privari, propter quod dedit vel accipit pecuniam—seil, ne ibi sit monachus; propter hoc enim pecunia data est. Non autem simpliciter expoliandus est habitu monachali; non enim pecunia oblata est, ut monachus furet, sed ut monachus esset ibi” (Singer, Die Summa, pp. 229-30).

Penal exile as a form of punishment was in use in the twelfth and thirteenth centuries within religious orders: see Canivez, Statuta, vol. 1, chap. 5, 1202; vol. 2, chap. 68, 1233; chap. 7, 1247; vol. 3, chap. 3, 1262.

77. “Hoc ergo casu excepto, si quis per pecuniam monachus efficitur utrum habitu expoliandus sit queritur. Ad hoc non dedit pecuniam ut monachus furet, sed ut ibi monachus esset. Unde et ab eo loco renouerundus, non ab austeritate religionis seperandus ne si hoc dixerimus, profugis viam pandamus” (BN lat, 14997, fol. 51v). Sicardus of Cremona held the same view: “Queritur itaque si aliquis interventu pecunie effectus monachus sit monachico habitu expoliandus. Videtur, quia nullus ex promotione quae est per negotionem facta proficiat . . . . Respondendo, privetur eo cenobio sed non illo habitu. Non enim data est pecunia propter habitum” (BN lat. 14996, fol. 43r-43v).

78. John of Faenza commented that the habit itself was a pena, a punishment: “Queritur cum tales promotiones in nullo proficiant . . . . utrum aliquis per pretium monachus Sancti Proculi factus monachico habitu debeat expoliari. Dicimus quod no habitum, cum pena sit, sed monasterio privabitur. Non enim propter habitum sed propter monasterium pretium dedit” (BN lat. 14606, fol. 52r).

79. In addition to Rufinus, John of Faenza, Sicardus of Cremona, and the author of the Summa coloniensiis, Everard of Ypres, also recommended penal exile for a simoniacally received religious: “Queritur utrum aliquis interventu pecunie effectus monachico habitu expoliandus. Responditur: Videtur privandus illo cenobio non habitu” (Summula decretalium quaestionum, Reims ms. 689, fol. 22v); and so did the author of the Summa Lipsiensis: “Quid fiat de eo qui monachus factus est per pecuniam? Nunnquid debet monachico habitu expoliari sicut iste qui ecclesiam emit? Et dicimus quod non habitu spoliabitur cum hoc pena sit. Sed monasterio privabitur, non enim propter habitum sed propter monasterium pecuniam dedit” (Rouen ms. 743, fol. 51r).

80. Veniens, JL 14149.
81. De regularibus, JL 16562.

82. E. Friedberg, Quinque compilationes antiquae nec non Collectio Canonum Lipsiensis (Leipzig, 1882). For the origin and dating of the compilationes, see Kuttner, Repertorium, pp. 322-85; R. Naz, “Compilationes (Quinque Antiquae),” DDC, 3:1239-41; and Le Bras et al., L’Age classique, pp. 227-32.

83. “ . . . iam recipiens quam recepta, sive sit subdita sive praedata, sine se restitutionis de suo monasterio expellatur, in locum arctioris regulae, ad agendum perpetuum poenitentiam retrudenda” (Alberigo, Conciliorum, p. 240).

84. Master Honorius recommended an unpleasant readmission if a house of exile were not available, “Solutio: dici potest in eodem poese rearedi qui nimium minus [sic] locum emptum amittitur nec enim ibi exit ut frater sed potius ut in ergastulum detrasus et ita amittit quod ibi habelbat honoris, eis qui sunt honeris remanentiibus” (BN lat. 14591, fol. 61r). Canon 64 of the Fourth Lateran Council provided that if no house of exile was available,
"ne forte damnabiliter in saeculo evagentur, recipiantur in eodem monasterio dispensative de novo mutatis prioribus locis et inferioribus assignatis" (Alberigo, Conciliorum, pp. 240-41).

85. "Nam qui sub religionis obtentu Deo famulari voluerit, si quid acceperit, et meritum perdit, et beneficio accepto frustratur. Rationis ergo vigore cogitur quod iniuste recepit restituere, et quicquid turpis lucri gratia receperat non tenere" (Decretum, causa I, q. III, canon 2). Loewenfeld attributed the letter to Gregory VII (JL 5276).

86. "... Ecclesiæ vendicetur, cuius voluit sacerdotium emere. Si autem laicus est, qui pro hoc causa aliquid accepit, vel mediator rei factus est, ea quae data sunt, in duplum ab eo exigantur, ecclesiæ vendicanda" (Schulte, Die Summa des Paucapalea, p. 55).


88. "Sed illud decretum de ecclesiastica mansuetudine, istud vero Justiniani de rigore iuris intelligitur dictum" (Schulte, Die Summa des Stephanus, p. 55).

89. "Fuerunt hie qui dicerent pecuniam restituendam non ei, qui dedit, sed ecclesiae vel pauperibus dandam. Sed hoc non restituere esset, sed potius destituere; restituere enim est prius habenti reddere. Erit ergo magis intergrum estimare perverso datori pecuniam reddendam esse..." (Singer, Die Summa, pp. 226-27).

90. "Non igitur ecclesiae huiusmodi pecunia est offerenda nee pauperibus danda—pro eo quod precepit Dominus filiis Israel, ut afferrent oleum de olivis purissimum ad concurrardas lucernas in tabernaculo Domini [et] quia non de alienis, sed de nostris bonis elemosinam facere debemus..." (Singer, Die Summa, p. 227).

91. "Cum ergo clericus alicuius ecclesiae dat alicui pecuniam de ecclesia, ut ad ecclesiam serviturus adveniat, tune et dator et acceptor graviter puniendus est, pecunia autem ecclesiae restituenda est, quia delictum persone in dampnum ecclesiae non est convertendum, ut j. C. 16, q.6 Si episcopum" (ibid.). See Decretum, causa XVI, questio VI, canon 2, for the legal basis for this view.

92. "... In eo casu loquitur, quando aliquis bono zelo ad praelaturam emitur a fratribus, reddi debet ecclesiae, quoniam ei in hoc casu turpiter factit, non qui dat, sed qui recipit" (Schulte, Die Summa des Stephanus, p. 147). "Queritur cui restituat. Si dixerimus hoc decretum de eo tamen loqui qui a clericolo alicuius ecclesiae pecuniam accepit ut ad illum ecclesiam veniat serviturus, ... licet qui sic pecuniam ecclesiae dati vel accepti tamquam symoniacus graviter sit puniendus, tamen pecunia est ecclesiae restituenda quia delictum persone non est convertendum in damnum ecclesiae..." (John of Faenza, BN lat. 14606, fol. 52'). See also the summa "Tractaturus magister," BN lat. 15994, fol. 32', Huguccio, BN lat. 3892, fol. 121'. Norr, "Die Summen," pp. 161-63, has a collection of texts from decretists on the issue of the fate of money simoniacally received.

93. "Videntur innuere, quod, qui aliquid acceperit ex venditione spiritualium, ei, a quo accepit, bebeat restituere. Sed cum uterque sit in pari causa turpitudinis, qui didit non poterit repeter; quoniam in turpi causa melior est conditio possidentis. Sed restituere cogitur non danti, sed ecclesiae vel pauperibus" (Schulte, Die Summa des Stephanus, p. 147).
94. *Novella VI, c. i, 9.*

95. "Videtur quod non fisco sed potius ecclesie, quia data est in iniuriam ecclesie ut XVII, q. IIII Si quis in atrio" (Sicardus of Cremona, BN lat. 14996, fol. 43 V). The *Summa Tractaturus magister* mentioned giving the money to the church as one possibility among several: "Queritur cui cum potior sit conditio possidentis ... nec ecclesie debet lucra querere ex iniquitate ... nec de talibus debet fieri elemosinas. ... Potest dici quod ecclesie in compensationem iniurie, ar. XVII, q. IIII Si quis in atrio, XV, q. ult. Cum multe; vel ipsi qui dedit in detestationem persone, sicut legitur dixisse petrus simoni ...." (BN lat. 15994, fol. 32 r). Nörr, *Die Summen,* p. 162, says that the injury concept, used as a way to claim the illicit payment for the church, was cited for the first time by Sicardus and the *Tractaturus magister.*

96. "Item pecunia simoni ace accepta dicitur restituenda. ... Set cui, cum nec dana habeat repetitionem nec accipiens retentionem? Non ergo melior erit causa possidentis, Dictunt eam esse reddendam ecclesie, in cuius iniuriam constat esse datam, exemplo pecunie ob calumpniam prestite, que nec danti redditur nec accipienti retinere permittitur, set ei conceditur, in cuius calumpniam data est ..." (Durham University, Cosin V III 3, fol. 42 r, cited in Nörr, *Die Summen,* p. 161).


98. "... Vel si heredes non habeat districtiori monasterio, in quod retraditur ..." (summa "Permissio quedam," cited in Nörr, *Die Summen,* p. 162). The *Summa Lipsiensis* reported the opinion, though without embracing it: "Dictunt quidam quod debet restitui non ei qui dedit, sed eius heredi ut infra XVI, Q. uli Constituit vel si heredes non habeat districtiori monasterio in quo retrudetur ut infra XVI. Q VI De lapsis" (Rouen ms. 743, fol. 51 r).

99. "Queritur cui debet restitui pecunia. ... Secundum alios debet restitui ecclesie ad cuius iniuriam et ad cuius precium data est pecunia. ... Horum sententiam applicamus, approbamus quia haec hodie optinet sine quaestione" (Rouen ms. 743, fol. 51 r).

100. "... Ne, si nudentur, locis, in quibus dati fuerint, sint onerosi" (Decretum, causa XVI, q. VI, canon 4). This text, JL 1112, was an excerpt from Pope Gregory's register, bk. 1, no. 42; cf. MGH, *Epist. Gregorii I Papae Registrum Epistolaram,* ed. P. Ewald and L. Hartmann (Berlin, 1891), 1:67, lines 7 ff.

101. "... Si ita esse inveneris, abbatem et monachos ad restituendam pecuniam praefato F. tarn indigne acceptam, instanter admoineat et cum omni distrcitione compellas ..., praecipias dicto F., ut in alio monasterio in habitu monastico Domino studeat deservire" (JL 14149).

102. "Nota pecuniam simoni ace acceptam ei restituendam, in cuius iniuriam data est. ... Ei tamen, qui dedit, inventur ex misericordia restituta ..." (gloss to *Compilatio I,* bk. 5, tit. 2, Tua, cited in F. Gillmann, "Magister Albertus Glossator der Compilatio II," *Archiv für katholisches Kirchenrecht* 105 [1925]: 149).

103. "Set cur ei, cum potius monasterio, in cuius preludium pecunia data est debeatur ...? Solutio: penes monasterium pecunia remanere non potuit, quin monachi inde lucrum sentirent, quo penitus se fecerunt indignos. Ad secundum dicimus, quod nullo danno hic affictur monasterium, cui nil deperit, si que sunt aliena, reddantur. ... Item in favorem secundi monasterii hoc fit, ut s. XVI, q. VI De lapsis, alias regulariter monasterio deberetur ..." (Gillmann, "Magister Albertus," p. 149).

104. "... Quod pecunia propter symoniam data ei ecclesie dari debebat, in cuius ignominiam fuit soluta. ... Solutio: dixit Al. ..., quod illud est ius commune, hoc ex dispensatione et misericordia intelligitur. Alii dicit, quod propter delictum abbas et
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monachorum fit, quod hic dicitur, quia monachi, si remaneret peccunia apud monasterium, sentirent lucrum, quo se fecerunt indignos. Mihi videtur, quod clericus in seculo remanenti non debet reddi peccunia, set remanet apud ecclesiam. . . . Si autem debet ad religionem transire, optinet, quod hic dicitur, ne sit honerosus secundo monasterio . . . " (ibid. pp. 148-49). The Premonstratensians made just such a distinction between novices leaving their order to enter another order and novices returning to the world: "Si autem aliquis remanere voluerit [correct to noluerit], quia promisit se ad aliam communem vitam, consilio abbatis cum his que attulit se transferat. Si vero ad seculum redire voluerit, nihil ei reddetur, sed lazaris vel aliis pauperibus quicquid attulit sub testimonio distribuatur" (R. van Waefelghem, "Les premiers statuts de l'ordre de Prémontré: le clm 17. 174 [XIIe siècle]," Analectes de l'ordre de Prémontré 9 [1913]: 38).