

## CRUSADER, CASTRATION, CANON LAW: IVO OF CHARTRES' LETTER 135

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### INTRODUCTION

In his famous Wimmer Lecture, Stephan Kuttner described medieval canon law as the effort to bring "harmony from dissonance." (FN1) In the following, I wish to honor his memory by examining how one bishop sought that most elusive harmony within a particularly difficult decision. Shortly after 1100, Bishop Ivo of Chartres (1115) heard the plea for mercy from a **veteran crusader**, Raimbold Creton, whom Ivo had earlier sentenced to **severe penance for having arranged the castration of a monk**. The result of Ivo's decision was a letter to Pope Paschal II, number 135 in the bishop's collected correspondence. In reading letter 135--reconstructing the context of the crime, the penance imposed by Ivo, and how the bishop now treated the knight's request for dispensation--we discover the violence of the early twelfth century and an unexpected legal, social, and political consequence of the nascent crusading movement. We also encounter a remarkable pastor and judge who sought mercy within justice.

### LETTER 135

In letter 135 (see appendix), Ivo informs Pope Paschal II that he sends Raimbold, veteran of Jerusalem, **to receive papal judgment.** (FN2) Raimbold had been "driven by the devil" to **castrate** a monk-priest of the monastery of Bonnevale. Apparently the victim had earlier beaten some of **Raimbold's men for having stolen hay**. This "unheard-of" crime had merited severe punishment by the bishop: **disarmament**, followed by a **fourteen-year penance** involving fasting and almsgiving. Raimbold had agreed, only to beg later for permission to take up arms again because of harassment from his enemies. Fearing this might establish a precedent for "easy indulgence," Ivo now reserves the decision to Paschal, whom he asks to consider Raimbold's difficult journey to Rome when hearing his plea for mitigation.

Letter 135 is obscure. It is undated, though ca. 1103-1104 seems most plausible. (FN3) It is also the unique witness to this case and Ivo's judgment. There is no further mention of Raimbold in Ivo's correspondence, and thus we know little about him and nothing about his trip to Rome, if indeed it was ever undertaken. One suspects that he did not go. While his chronology is likely skewed, Oderic Vitalis tells us that Raimbold fell sometime prior to 1103 while fighting on behalf of Countess Adela of Blois. (FN4)

Recently, C. J. Tyerman considered Raimbold's story--a "squalid career"--proof of the minimal impact of the First Crusade on the brutal realities of feudal society. (FN5) Raimbold's revenge demonstrated how little the ideals of Clermont had affected the violent noble class. (FN6) He characterized Ivo as an ecclesiastical politician who, "knowing his canon law," sent Raimbold to Paschal, presumably to solve the problem of **a local hero gone wrong.** (FN7)

There is much to commend Tyerman's analysis. It would be difficult to find a better illustration of feudal mayhem; the muddy fields of Bonnevale are certainly far removed from heroic Clermont. Yet I believe that there is still more at work in this case, that Raimbold posed an unprecedented, untypical challenge to Ivo. I shall argue that Ivo's exclamation over Raimbold's extraordinary crime--"inauditum apud nos"--offers more than rhetorical flourish; rather it marks an occasion where Ivo, the outstanding canonist of his day, was moved to proceed--from imposition of penance, to hesitation to dispense, to requiring penitential pilgrimage to Rome--in unaccustomed ways. In letter 135, I believe we discover an unprecedented legal and social challenge confronting Ivo: the unexpected legal and moral problem posed by a returned crusader turned criminal.

#### "VERBERARI FECERAT ... CASTRARI FECIT"

Peace was the exception, not the rule, in the diocese of Chartres. Ivo's letters reveal the continual pressure of violence.(FN8) He chronicled the wrath of lords great and small: Philip I, Hugh of Puiset, and Countess Adela of Blois, to name but three.(FN9) Victim, judge, mediator, Ivo was constantly preoccupied with the nobles who surrounded him: negotiating, punishing, resolving, recovering.

The beating of Raimbold's servants and his subsequent retaliation were likely chapters in a protracted dispute. After 1100, friction between Ivo and Adela of Blois encouraged Bonnevale's abbot, Bernhard, to try for increased independence from both his lay protector, Hugh of Puiset, and his bishop, Ivo. Ivo and Bernhard would quarrel for years. Only in 1114 did Ivo finally receive Bernhard's grudging confirmation of his *tuitio episcopalis*.(FN10)

Not surprisingly, monastic properties were frequently involved in these conflicts, perhaps including those figuring in Raimbold's attack. In 1102/1103, Ivo mentions in a letter that Adela's men--one wonders if the knight was among them--had stolen some of the harvest belonging to Bonnevale.(FN11) The monk's subsequent beating of Raimbold's servants may have been a response to this theft, and the knight's revenge the next step in the escalating violence that so often led to "private war" (*guerra*). (FN12)

Thus far, the story is depressingly familiar. Despite the Chartres Peace, violence remained unabated.(FN13) Raimbold may very well have taken its oath and perhaps an even earlier one at Clermont.(FN14) Letter 135 makes it clear, however, that bound to the Peace or not, he took his measure of vengeance.(FN15) Words stood little chance against affronts to power, prestige, and property.

#### "INAUDITUM APUD NOS FUERAT"

Ivo exclaims that Raimbold's crime was "unheard of." Is this rhetorical topos or genuine astonishment?(FN16) I believe the latter may well be the case. To begin with, the crime was, indeed, apparently "unheard of" to Ivo. Letter 135 is the only instance where Ivo judged someone who had castrated another, and a clerical victim at that. Ivo certainly dealt with a variety of crimes throughout his career, but only here did he have to consider this particularly gruesome, purposeful attack.(FN17) Castration conveyed a permanent social, political, and spiritual sign to victim and wider social audience. It could be used by the state, as in contemporary England, where Henry I was employing it as an alternative to capital punishment.(FN18) In the arena of private violence, it provided fitting retaliation for sexual offense.(FN19) By extension, its reciprocal meanings connected to power and control over property were certainly clear to Fulbert as he considered how to punish what he saw as Abelard's

violation of Heloise. No doubt, Raimbold saw the attack on his men as a similar insult to what he considered "his own," an insult that demanded a suitably violent deprivation of the monk's own person. A mark of death in life, castration reduced its victim in every way conceivable to his society save one: it did not intend to kill. If the victim survived, he remained a living sign to the community, witness to the dominant power, from the crown to a miles asserting lordship over a cloister.(FN20)

The criminal is also apparently unique. Only here does Ivo confront a returned crusader turned criminal.(FN21) Three unusual responses ensue. Ivo penalized Raimbold in an **unprecedented way**, hesitated to grant **indulgence** when petitioned for relief, and finally required the knight to take what amounted to a **penitential pilgrimage to Rome**. These actions are singular among Ivo's judgments. They deserve closer examination.

#### "COACTO RIGORE ECCLESIASTICO"

"Inauditum apud nos ... Coacto rigore ecclesiastico": Ivo informs Paschal of his response to Raimbold's case through a code of supplication, judgment, submission, and reconciliation. He begins with punishment. As Geoffrey Koziol has noted, such formulaic "rhetoric of sin"--exclamations such as *inauditum*--expressed outrage at violent subversion of the rational order.(FN22) In letter 135, rhetoric frames an innovative action. There is no canonical precedent for Ivo's sentence of **disarmament, fasting, and almsgiving** for fourteen years. While each element, and several combinations, were potentially available to the bishop in the canonistic tradition he knew so well,(FN23) their convergence here is, as far as I know, unique. Carolingian councils had compelled laymen who had killed clergy to remove the "knightly belt,"(FN24) requiring them thereafter to give up the possibility of marriage and feasting. Such strictures continued unchanged,(FN25) until collections such as the pre-Gregorian *Collectio Farfensis* extended them to clerical injury,(FN26) a precedent likely unknown to Ivo.

The duration of the penalty imposed is even more unusual. Penance for **fourteen years** was remarkable, particularly as punishment for mutilation.(FN27) (As for castration specifically, the canons commonly concern those who have mutilated themselves or, very rarely, the ability of a victim of violent castration to remain in orders or be eligible for the episcopacy. Nowhere do earlier canons anticipate Raimbold's crime and punishment.(FN28)) In 868, the Council of Worms (c. 26) prescribed ten years, after permanent disarmament, for a layman who had killed a priest. Fulbert of Chartres' penitential assigns thirteen years for willful murder of a deacon; to my knowledge, there is no extant reading of "quatuordecim" in the tradition.(FN29) Duration of "fourteen years" appears only occasionally in the collections I have been able to examine,(FN30) and rarely in a context even remotely anticipating Ivo's judgment.(FN31)

Admittedly, penitential canons often seem obscure, even bizarre.(FN32) However, Ivo was anything but random in his judgments, and we can confidently assume a coherent plan behind his sentence. Here he is exercising discretionary right as bishop to assign an unusually harsh penance to Raimbold.(FN33) For example, penitential precedents justified such an extension--to the the point of doubling--of a penance's normal duration.(FN34) The well-known capitula of Theodulf of Orléans permitted the bishop to double a penance if a crime had been committed "in locis sanctis."(FN35) Given the frequency of seven years assigned for killing a monk or a cleric,(FN36) this would seem a likely precedent for Ivo's doubling to fourteen in sentencing this singular case of mutilation.

There is, however, still more at work in Ivo's judgment. In disarming the knight and doubling his penance, Ivo makes a statement as purposeful as the message Raimbold had hoped to convey to his victim, a countersign designed to match the castration. The canons concerning lay violence available in Burchard's *Decretum*, Ivo's principal formal source, apparently did not suffice. Removal of the "knightly belt" was not enough; seven years insufficient, not even ten, as sometimes appeared in cases of violence to clergy.(FN37) Lessons are being taught. Ivo is applying here a variant of "ecclesiastical rigor," his own "castrating" of the knight by removing his belt,(FN38) a symbolic, yet practically effective, emasculation of the veteran of Jerusalem as unexpectedly harsh and directed as Raimbold's original attack. It was contextual, creative; it was also thoroughly consistent with his jurisprudence. In the Prologue to his *Decretum* and *Panormia*, Ivo had made it clear that the ecclesiastical judge had the freedom to choose between mercy and justice.(FN39) While often emphasizing the desirability of mercy, Ivo never forgot that the ecclesiastical judge had the right--and responsibility--to be severe when context demanded this choice, especially when punishment of a guilty individual not only corrects him but teaches a lesson to a wider audience.(FN40) And here was theory in practice, Ivo's vehicle for that lesson: the individual Raimbold, hero gone wrong, who would convey a lesson to his peers as clear as the sign of mutilation left on the body of the unfortunate monk.

Men like Raimbold were convenient targets for such purposeful penance designed to convey a lesson to a wider social and political audience. For they were not the great lords. They became lightning rods to deflect the ambition and anger of great lords, both secular and ecclesiastic. Lesser men--castellans, knights--were most often punished, even excommunicated--not their lords.(FN41) However, Ivo chooses here not to excommunicate.(FN42) Instead he fashions a distinctive penance. What could be more appropriate for Raimbold--threat to both bishop and monastery, the latter also needing to be reminded of Ivo's jurisdiction--than to "take the fall" through a doubled penance containing **disarmament?**(FN43)

#### "FACILI INDULGENTIA"

Did Raimbold provide an inconvenient case demanding unusual treatment: an ex-crusader who had attacked the Church? While conclusive proof cannot be obtained on the strength of this single letter, I believe there are possible resonances of Clermont and Jerusalem at work in Ivo's reaction to Raimbold's petition. To my knowledge, "facili indulgentia" does not appear elsewhere in Ivo's works.(FN44) Indulgentia is common, juxtaposed with *admonitio* in the Prologue to the *Decretum* and *Panormia*(FN45) and occasionally used as a synonym for dispensation in his letters.(FN46) But only here is it modified with "facili." Like the unusual penance, this hesitation to dispense, which Ivo readily performed in other instances, is exceptional.(FN47) I believe it plausible that he balked at least to some extent due to the man who stood before him: Raimbold, veteran of Jerusalem.

#### "RESERVANTES HANC INDULGENTIAM ... FATIGATIONE ITINERIS DILUAT"

Ivo was an **active judge** who rarely reserved decisions to legates, let alone to Rome.(FN48) When he did, these were high-profile cases involving powerful laymen,(FN49) or ecclesiastical disputes concerning grave questions such as the possible taint of simony in an episcopal election.(FN50) None resembles Raimbold's request for indulgence, nor is there another instance where Ivo referred such a petition to Rome by means of a penitential pilgrimage. Such pilgrimages were certainly not

unusual,(FN51) and were a matter of some concern to Ivo and his contemporaries for their potential abuse.(FN52) There was always a stream of unsavory pilgrims on their way to the Holy See--parricides, murderers, assassins(FN53)--but, besides Raimbold, none sent by Ivo.

Three elements in letter 135--Ivo's hesitation to dispense, subsequent reservation of indulgence to Paschal II, and imposition of penitential pilgrimage--suggest concern over the unique status of this former crusader and the violent act he had committed. They may have been motivated by conviction that Raimbold required special treatment. And what made Raimbold unique was the **First Crusade**. While evidence is admittedly circumstantial, I nevertheless believe that these elements betray more than "clever politics" as Tyerman suggests; rather they form an innovative solution to a difficult problem, a solution appropriate to a world which had witnessed men like Raimbold march off to Jerusalem. Symmetry is at work.(FN54) The knight who had castrated had been himself separated from what symbolized his class-conception of manhood, his weapons. Now a further symbolic juxtaposition, a new irony, is fashioned by Ivo. Raimbold would perform the public penance of journeying to Rome, a sign to discourage others from imitating his "unheard-of" act;(FN55) this public penance, extending a harsh sentence, highlighted to Raimbold and his class--by way of contrast and irony--his earlier journey to Jerusalem.(FN56)

The Crusade may have meant--or not meant for that matter--a variety of things to Ivo, Raimbold, and others, but its profoundly penitential tone seems to have been clear to all. Urban had proclaimed its effect "pro omni penitentia."(FN57) Perhaps the possibilities of penitential symmetry between Jerusalem and Bonnevale, crusader and ex-crusader were now apparent to Ivo as he considered Raimbold's petition. Raimbold had journeyed to Jerusalem for the sake of his sins; now, fallen from grace, he bore a doubled penance. Instead of "easy indulgence" a further, public humiliation would ensue.(FN58) Special consideration was necessary. Much has been made about what the legal and spiritual status of a crusader meant in Ivo's day; might there not be some lingering concern about the status of an ex-crusader? If Raimbold de jure was no longer a crusader, no longer under his vow, de facto he was, nevertheless, different from his fellows, a point made, I think, in Ivo's specific reference to his reputation: "in obsidione Hierosolymitana strenue militavit." The journey he had undertaken had set him apart, a separateness confirmed by his actions strenue before the walls of Jerusalem. Both had established a context that framed what Raimbold had done subsequently at Bonnevale in a way that, while likely not legally defined in Ivo's mind, was nevertheless present and could not be ignored. Harshness, hesitation, a second penitential pilgrimage--to Rome, not Jerusalem: here were elements of the bishop's response. In Ivo's refusal to pardon, his imposition of a second penitential journey, and, finally, the expected return of Raimbold to the community, we have a social drama scripted by the bishop to reassert peace and order to the world of Chartres and its countryside.(FN59) Raimbold became an actor conveying lessons of authority, punishment, and mercy to his audience, the feudal nobility that plagued Ivo.

The innovations of letter 135 thus reveal an astute canonist at work. They may also disclose awareness of Clermont's impact on the legal and political stage of the Chartres diocese. Reconciling mercy and justice in the case of Raimbold,(FN60) the crusader turned criminal, Ivo may have also responded to the confrontation between ideals and realities created by Clermont and Bonnevale. Inchoate, uncertain--like the concept of the "holy war" itself--the status of Raimbold, crusader and sinner, raised a dilemma de facto that the law had not anticipated. Ivo of Chartres intervened and created a solution reconciling rigor and mercy.(FN61)

## CONCLUSION

The late John Gilchrist once noted the "great silence, the gulf between the crusade and canonical literature."(FN62) Despite the admittedly circumstantial nature of the evidence--and the fragile base of a single letter--Raimbold's story may be one such tale hidden here. Gilchrist commented upon Clermont's lack of resonance in contemporary canonistic literature; we are left, in his words, "with a problem."(FN63) Facing Raimbold for a second time, Ivo had his own silence to answer: the absence of clear precedent. His initial decision had to be modified; granting dispensation, fully in his right as the original judge, apparently was inappropriate. The result was letter 135, which portrays his effort to solve a dilemma not covered by either law or experience: a veteran of the crusade guilty of "unheard-of" violence now seeking dispensation. Ivo had no canon, from Clermont or elsewhere, to cover the connection between his **initial judgment** and Raimbold's **petition**. What was needed was discretion, innovation in crafting a judgment with lessons of punishment and mercy to both Raimbold and his brethren. Letter 135 outlines just this sort of nuanced approach.

The little world of letter 135 certainly reflects violent realities and ideals betrayed. We witness the irony of a crusader descended to brutality. Yet, in Ivo's petition to Paschal that Raimbold might find mercy, we also witness forgiveness. Here is harmony within the dissonance of life, even for this most fallen of men. Letter 135 tells the sordid tale of a crusader turned criminal. It also reminds us of a pastor who, in judgment, remembered that love was the fullness of the law.

## ADDED MATERIAL

### BRUCE C. BRASINGTON IN MEMORIAM STEPHAN KUTTNER

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## FOOTNOTES

1 Stephan Kuttner, *Harmony from Dissonance* (Wimmer Lecture 10 [Latrobe, Pennsylvania, 1960]).

2 PL, Vol. 162, cols. 144D-145A. On Paschal and the crusading movement in the aftermath of the First Crusade see Carlo Servatius, *Paschalis II (1099-1118)* ("Päpste und Papsttum," Vol. 14 [Stuttgart, 1979]), pp. 253-259.

3 The letter commonly appears in the main, chronologically-arranged, branch of the tradition among letters dating from this period. See Rolf Sprandel, *Ivo von Chartres und seine Stellung in der Kirchengeschichte* ("Pariser Historische Studien," Vol. 1 [Paris, 1962]), p. 191, and Chibnall, n. 4 below. On Ivo's letters, see also Bruce C. Brasington, "Some New Perspectives on the Letters of Ivo of Chartres," *Manuscripta*, 37 (1993), 168-178.

4 Oderic Vitalis, *Historia ecclesiastica*, 11.35, ed. Marjorie Chibnall (Oxford, 1969-1981), VI, 158, and n. 1: "Ibi tunc Raimboldus Creton qui primus in expugnatione Ierusalem ingressus est, strenuissimus miles subito pro dolor occisus est." Other entries attesting to Raimbold's fame won at Jerusalem may be found in Petrus Tudebodus, "Imitatus et continuatus historia peregrinorum" in *Recueil des historiens des croisades* (Paris, 1841-1906), III, 218-219; Ralph of Caen, "Gesta Tancredi," *ibid.*, p. 689; Albert of Aachen, "Historia Hierosolymitana," *ibid.*, IV, 410; Baldric of Dol, "Historia Jerosolimitana," *ibid.*, p. 49, n. 12; p. 71, n. 7; p. 102, n. 8.

5 C.J. Tyerman, "Were There Any Crusades in the Twelfth Century?" *English Historical Review*, 110 (June, 1995), 553-577 at p. 557. See also James Brundage, "St. Anselm, Ivo of Chartres, and the Ideology of the First Crusade," in *Les mutations socio-culturelles au tournant des XI[supe]-XII[supe] siècles* (Paris, 1984), pp. 176-187 at p. 179.

6 *Ibid.* For other views, see H. E. J. Cowdrey, "Pope Urban II and the Idea of Crusade," *Studi Medievali*, 36 (1995), 721-742, especially at p. 739; Ernst-Dieter Hehl, "Was ist eigentlich ein Kreuzzug?" *Historische Zeitschrift*, 259 (1994), 297-336, especially at pp. 334-336; C. Harper-Bill, "The Piety of the Anglo-Norman Knightly Class," in *Proceedings of the Battle Conference on Anglo-Norman Studies*, 2 (1979), ed. R. Allen Brown (London, 1980), pp. 63-77; and, most recently, Jonathan Riley-Smith, *The First Crusaders, 1095-1131* (Cambridge, 1997), pp. 155-156, 228, for Ivo and Raimbold, noting evidence that Raimbold had been maimed himself at Jerusalem, having lost a hand during the battle for the city.

7 Tyerman, *op. cit.*, p. 558.

8 On *violentia*, see the remarks by Thomas Bisson, "The Feudal Revolution," *Past and Present*, No. 142 (1994), 6-42 at pp. 14-21 and 28-34. See also Stephen D. White, "Feuding and Peace-Making in the Touraine Around the Year 1100," *Traditio*, 42 (1986), 195-263. Canonistic views are discussed by James A. Brundage, "The Hierarchy of Violence in Twelfth- and Thirteenth-Century Canonists," *The International History Review*, 17 (1995), 670-686.

9 Michael Grandjean, *La"ics dans l'église regards de Pierre Damien, Anselme de Cantorbéry, Yves de Chartres* ("Théologie historique," Vol.97 [Paris, 1994]), pp. 310-317, and Kimberly LoPrete, "Adela of Blois and Ivo of Chartres: Piety, Politics, and the Peace in the Diocese of Chartres," *Anglo-Norman Studies*, 14 (1991), 131-152.

10 Sprandel, *op. cit.*, pp. 157-158.

11 *Ibid.*, p. 108, citing Ivo's letter 121.

12 White, *op. cit.*, p. 199, on the function of "reciprocal violence" leading to *guerra*. See also Geoffrey Koziol, "Monks, Feuds, and the Making of Peace in Eleventh-Century Flanders," in *The Peace of God. Social Violence and Religious Response in France Around the Year 1000*, ed. Thomas Head and Richard Landes (Ithaca, New York, 1992), pp. 239-258.

13 Theodor Körner, *Iuramentum und frühe Friedensbewegung (10.-12. Jahrhundert)* ("Münchener Universitätschriften. Abhandlungen zur rechtswissenschaftlichen Grundlagenforschung," Vol. 26 [Berlin, 1977]), pp. 118-122, and Sprandel, *op. cit.*, p. 150, discussing letter 86, where Ivo treats the Peace and Truce of God as voluntary oaths, not aspects of normative ecclesiastical law. To Ivo, they could only apply to those who took them and could not be extended as norms for society at large. See also n. 42 below.

14 On Urban and Clermont, see most recently Robert Somerville, *Pope Urban II, the Collectio Britannica and the Council of Melfi (1089)* (Oxford, 1996), pp. 294-296, with notes.

15 Connections between the Peace and Truce of God and the First Crusade are discussed by Marcus Bull, *Knightly Piety and the Lay Response to the First Crusade: The Limousin and Gascony c. 970-c. 1130* (Oxford, 1993) especially pp. 56-59 and p. 68, concluding that "... the evidence for the vocational connection between the Peace and the crusade reveals that Peace ideas were, at most, peripheral." For a critical review, see Richard Landes, *Speculum*, 71 (1996), 135-138.

16 On the rhetorical possibilities of "*inauditum*," for example, in the prologue to Regino of Prüm's *Libri duo de synodalibus causis*, where Regino uses the word to

justify his inclusion of recent, more suitable canonical materials among the traditional canons of the collection, see Bruce C. Brasington, "Prologues to Canonical Collections as a Source for Jurisprudential Change to the Eve of the Investiture Contest", *Frühmittelalterliche Studien*, 28 (1994), 226-242 at pp. 238-239. See also n. 21 below.

17 On Oderic Vitalis' concern about "dirty fighting," for example, plunging a sword into the bowels of an enemy, see Christopher Holdsworth, "Ideas and Reality: Some Attempts to Control and Diffuse War in the Twelfth Century," in *The Church and War*, ed. W.J. Sheils (Oxford, 1983), pp. 59-78 at pp. 71-72. See also Marjorie Chibnall, *The World of Oderic Vitalis* (Oxford, 1984), pp. 126-127, noting Oderic's particular revulsion at fighting over plunder. In both cases, however, the context is war, not an act of individual violence; castration is not discussed.

18 H. E. J. Cowdrey, "Canon Law and the First Crusade," in *The Horns of Hattin*, ed. B. Z. Kedar (Proceedings of the Second Conference of the Society for the Study of the Crusades and Latin East [London, 1992]), pp. 41-48 at p. 45, n. 28, discussing William the Conqueror and Henry I of England. See also Stephanie L. Mooers, "A Reevaluation of Royal Justice under Henry I of England," *American Historical Review*, 93 (1988), 340-358 at pp. 347-348 and n. 32, citing the Anglo-Saxon Chronicle and the *Leges Henrici primi* on rape and its punishment sometimes by castration; see also n. 40 treating Henry's decree of 1125 ordering all moneymen in England to be mutilated with a loss of a hand and castration.

19 Giles Constable, "Aelred of Rievaulx and the Nun of Watton: An Episode in the Early History of the Gilbertine Order," in *Medieval Women*, ed. Derek Baker ("Studies in Church History," Subsidia 1 [Oxford, 1978]), pp. 205-226 at p. 208 for the story from Aelred of Rievaulx concerning the forced castration of a man by the fellow nuns of a sister whom he had seduced. See also p. 261, n. 32, for examples of judicial castration in England. I thank Dr. Peter Diehl for calling this article to my attention.

20 On this "communal" quality, see Constable, *op. cit.*, pp. 216-218. There seem to be parallels here between this expression of private vengeance and the "lateral effect" desired in state punishment: the minimum penalty to achieve the most lasting and powerful effect. See Cesare de Beccaria, *Traité des délits et des peines* (Paris, 1856), p. 87, cited by Michel Foucault, *Discipline and Punish. The Birth of the Prison*, tr. Alan Sheridan (New York, 1995), pp. 23-24, 95.

21 On another example of litigation concerning a crusader, concerning the fief of Hugh of Puiset, which had been divided while he was on crusade, and his subsequent plea to Ivo for justice, see James Brundage, *Medieval Canon Law and the Crusader* (Madison, 1969), pp. 165-166, and Bull, *op. cit.*, pp. 159-161, with reference to Ivo, Epp. 168, 169, 170, 173 (PL, Vol. 162, cols. 171-174, 176-177). In this case, however, it is Hugh who is the plaintiff; moreover, he was still under his crusader vow during this litigation. Raimbold's legal and social status remains, by contrast, uncertain to us, save for the fact that he was clearly celebrated as a veteran of Jerusalem. On this case, see also Brundage, "St. Anselm," pp. 178-179. See also p. 179, where Brundage treats a further case recorded in letter 125 (PL, Vol. 162, cols. 137-138), where Ivo judged that two returned crusaders had to return to their wives even though the women had committed adultery in the men's absence. As Brundage notes, the judgment agrees with Ivo's understanding of the pertinent law and does not take any sort of crusader privilege into account.



- 22 Geoffrey Koziol, *Begging Pardon and Favor: Ritual and Political Order in Early Medieval France* (Ithaca, New York, 1992), pp. 194-202, at p. 197 n. 73, for an example of *inauditum* from a monastic charter.
- 23 Ivo was undoubtedly the outstanding canonist of his day. On his collections, especially the *Panormia*, see Paul Fournier and Gabriel Le Bras, *Histoire des collections canoniques en Occident depuis les Fausses décrétales jusqu'au Décret de Gratien* (Paris, 1931-1932, reprinted Aalen, 1972), II, 85-114. On the questionable authenticity of the *Collectio Tripartita*, which Fournier considered Ivonian, see Martin Brett, "Urban II and the Collections Attributed to Ivo of Chartres," in *Proceedings of the Eighth International Congress of Medieval Canon Law*, ed. Kenneth Pennington (*"Monumenta iuris canonici," Subsidia 7* [Vatican City, 1992]), pp. 27-46.
- 24 Karl Leyser, "Early Medieval Canon Law and the Beginnings of Knighthood," in *Institutionen, Kultur und Gesellschaft im Mittelalter. Festschrift für Josef Fleckenstein zu seinem 65. Geburtstag*, edd. Lutz Fenske et al. (Sigmaringen, 1984), pp. 549-566 at pp. 555-557, noting the 847 Council of Mainz, which compelled a layman to "lay down his *miliciae cingulum* to the end of his days ..." and the judgment on Aistulf, a Lombard, who had murdered his wife. On the early-medieval practice of assigning penance to warriors returned from battle see, generally, Bernard J. Verkamp, *The Moral Treatment of Returning Warriors in Early Medieval and Modern Times* (London and Toronto, 1993), pp. 44-60, at p. 56 for the First Crusade and its aftermath, though without reference to the story of Raimbold and Ivo.
- 25 For example, in a case from 999, when Marquess Arduin of Ivrea was judged by a Roman synod convened by Otto III and Sylvester II after he had murdered Bishop Peter of Vercelli. Arduin was also disarmed. I am grateful to Dr. John Howe for this reference. On Arduin see, generally, *Lexikon des Mittelalters* (Munich and Zurich, 1980), I, 915-916.
- 26 Herbert Hess, "Die *Collectio Farfensis*," *Bulletin of Medieval Canon Law*, NS 3 (1974), 47-48. On subsequent developments, see H. E. J. Cowdrey, "Pope Gregory VII and the Bearing of Arms," in *Montjoie. Studies in Crusade History in Honour of Hans Eberhard Mayer*, edd. Benjamin Z. Kedar et al. (London, 1997), pp. 21-36.
- 27 For example, the *Excarpus Cummeani*, 6.18: "*Si quis alium per iram percusserit et sanguinem effuderit, si laicus est--episcopus ii. annos et vi. menses.*" This appears in Burchard's *Decretum* 19.119, and in Ivo's *Decretum* 15.131. See also the Council of Ravenna (877), c. 7: "*Si quis membrorum truncationes vel domorum incendia fecerit--ab omni christianorum collegio separetur,*" a canon found in Burchard's *Decretum* 11.30 and Ivo's *Decretum* 13.40. Indeed, mutilation was considered a "minor" offense if the victim did not die as a result: Theodulf of Orléans, *Capitula*, ed. Peter Brommer (*MGH Capitula episcoporum* [Hannover, 1984]), I, 177.
- 28 James Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago, 1987), pp. 86-87 and n. 32. See also the Carolingian *Collectio Dacheriana*, ed. Luc D'Achery (Paris, 1672), cc. 137-139, prescribing penance for self-mutilation and discussing the status of a man made a eunuch through *insidias*. This was an ancient concern, for it had already been treated in the *Canones apostolorum*, c. 21. Tradition distinguished between intentional and unintentional self-injury, as seen for example in a letter of Innocent I (Ep. 37.1, JK 314, = PL, Vol. 20, col. 603C), where the former became an impediment to ordination.
- 29 Franz Kerf, "Das sogenannte *Penitentiale Fulberti*," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 73 (1987), pp. 1-40, at pp. 30, 35-36.

30 Theodulf of Orléans' capitula (MGH Capitula 1.177) assigned it to a mother who had induced abortion. It could also be given to parricides, on which see the *Canones Hibernenses*, ed. Hermann Wasserschleben (Leipzig, 1840), p. 136. On penance for parricide, see Platelle, "Violence et ses remèdes," pp. 139 ff., especially at p. 145, where it is connected with penitential pilgrimage, an attractive congruence with Ivo's decision to send Raimbold to Rome, though one that cannot be transformed into a direct connection.

31 Duration of fourteen years occurs in the Synod of the Grove of Victory, c. 4, though the tradition gives thirteen as an alternative reading. See Ludwig Bieler, *The Irish Penitentials* ("Scriptores Latini Hiberniae," Vol. 5 [Dublin, 1963]), pp. 68-69, discussing the corrupt manuscript tradition on p. 242, n. 3-4. The later *Collectio Hibernensis* not only received this canon, but added two more that also applied fourteen years to other crimes, including injury to a cleric (59.1-3). The canon assigning penance for leading barbarians against Christians (59.2) later passed into the eleventh-century south-Italian Collection in Five Books (3.341), on which see Mario Fornasari (ed.), *Collectio canonum in v. libris* ("Corpus Christianorum," *Continuatio medievalis* 5 [Turnhout, 1970]), p. 494. While precedents--especially those in the *Collectio Hibernensis*--that might have been suitable for modification by Ivo in his decision existed, there is, unfortunately, no evidence that he knew this collection, nor is this cluster of canons transmitted by any intermediary collection he used for his compilations such as Burchard of Worm's *Decretum*.

32 For example, the equal duration of penance assigned to homicide in a public war and masturbation in the penitential of Theodore, on which see Holdsworth, *op. cit.*, p. 62.

33 For extended discussion of "discretionary justice," see Koziol, *Begging Pardon and Favor*, pp. 214 ff.

34 For example, the Penitential Martenianum c. 2, in Hermann Wasserschleben, *Die Bussordnungen der abendländischen Kirche* (Leipzig, 1885), p. 283.

35 MGH *Capitula episcoporum*, ed. Peter Brommer (Hannover, 1984) I, 168.

36 For example, Penitential of Theodore 4.5, in Wasserschleben, *Bussordnungen*, p. 189.

37 Leyser, *op. cit.*, p. 555, for examples in Burchard's *Decretum*.

38 I thank Mr. Buck Wehrbein for this observation.

39 Bruce C. Brasington, "The Prologue to the *Decretum* and Panormia of Ivo of Chartres. An Eleventh-Century Treatise on Ecclesiastical Jurisprudence" (Ph. D. Dissertation, University of California at Los Angeles, 1990), especially chap. 3.

40 *Ibid.*, pp. 241, 270-273, citing Augustine's *Contra Parmenianum*: "Quando cuiusquam crimen notum est et omnibus execrabilis apparet, ut uel nullos prorsus uel non tales habeat defensores, per quos possit scisma contingere, non dormiat seueritas discipline."

41 Koziol, *Begging Pardon and Favor*, p. 210.

42 Ivo was reluctant to excommunicate, as seen in a letter on the Peace of God (Ep. 90: PL, Vol. 162, cols. 111-112), where he expresses reservations about excommunicating those who have violated the peace. Unlike the eternal decrees of God, the Peace, for all its benefits, is a human compact, and thus capable of modification and discretionary interpretation. Only if a violator fails to emend his life should he then be excommunicated: "Non enim etiam ipsos violatores pacis, non tantum ad puniendum non exponendos inimicis, sed nec excommunicandos esse censemus, nisi postquam accusati et convicti fuerint et malefacta sua emendare contempserint."

43 That Ivo believed himself perfectly capable of handling unexpected, apparently new, crimes with new forms of punishment is seen in another letter from approximately the same time. In 1102-1103, the bishop wrote Gauterius, bibliothecarius of Beauvais cathedral, where Ivo had once served, concerning a priest implicated in an unusual sin (PL, Vol. 162, cols. 135D-136A): "Requisitus ex parte tua, qua poenitentia mulctandus sit presbyter, qui verba divina sacramenti, et insignia sacerdotalis officii in conjugali benedictione cuiusdam virginis illusorie transmutavit, et alia pro aliis interposuit, hoc interim respondeo, quia specialem sententiam super hoc non inveni, quia nec tale adulterium vel potius sacrilegium divinorum sacramentorum ab aliquo perpetratum ulterius audivi. Videtur itaque mihi, quia sicut novum genus est criminis, ita procurandum est novum experimentum medicaminis, ne tamen aliquid severius in hujusmodi sacrilegio sine divinae auctoritatis munimine iudicetur; ubi speciales sententiae non occurrunt, quantum mihi videtur, generales, quae super divinorum sacramentorum temeratores promulgatae sunt, sufficere possunt." Ivo is confident that sacred tradition, even when only expressed generally, contains the correction to any sin, however new. This confidence was undoubtedly behind his approach to the solution needed by Raimbold's case.

44 Concern for excessive lenience was not unknown in earlier literature, for example in Hincmar of Rheims' *De regis persona et regio ministero*, PL, Vol. 125, cols. 833B-856D at 846A: "De discretione in habenda misericordia."

45 Brasington, "The Prologue," pp. 234.75-236.122.

46 For example, letter 190 (PL, Vol. 162, cols. 196C-197B) to Paschall II asking for indulgence with respect to problems in the church of Rheims.

47 But compare a related example in letter 161 (PL, Vol. 162, cols. 165C-166B), where Ivo hesitates to grant dispensation to a man who had forsaken a woman with whom he had been betrothed (*pactum iniit conjugale*) in order to marry another. He worries about "simulata indulgentia," and considers a severe judgment necessary. On Ivo's concept of the episcopal right to dispense, see, in general, Brasington, "The Prologue," chap. 3, and Richard R. Ryan, "The Residential Bishop as the Author of Dispensations from the Common Ecclesiastical Law: Gratian and the Decretists," *The Jurist*, 38 (1978), 268-279. On contemporary concern about "false penance," which appears related to Ivo's worry, see Cowdrey, "Pope Gregory VII," pp. 24-25.

48 See, for example, Ep. 55 (PL, Vol. 162, cols. 66D-67C) to Hugh of Die concerning the disputed election of Daimbert of Sens.

49 See n. 20 above.

50 See the disputed, possibly simoniacal election of William of York to Rouen, which prompted an archdeacon to ask Ivo whether or not he should be consecrated by the bishop (Ep. 157, PL, Vol. 162, cols. 162-163). In Ep. 159 (PL, Vol. 162, col 65), Ivo also refers to Paschal a dispute between the monks of St. Maur-des-Fosses and the count of Anjou which had not been satisfactorily settled at a council at Tours.

51 Bernhard Kötting, *Peregrinatio religiosa. Wallfahrten in der Antike und das Pilgerwesen in der alten Kirche*, 2nd ed. ("Forschungen zur Volkskunde," Vols. 33-35; 1980), pp. 329-330, and Cyrille Vogel, "Le pèlerinage pénitentiel," in *Pellegrinaggi e culto dei santi in Europa fino alla I[supa] crociata* ("Convegni del centro di studi sulla spiritualità medievale," Vol. 4 [Todi, 1963]), pp. 39-92, especially at pp. 52-56 for examples from penitentials, and pp. 55-56, noting the requirement in Pseudo-Egbert's penitential for pilgrimage to Rome as penance for the assassination of a cleric or close relative. See also Robin Ann Aronstam, "Penitential Pilgrimages to Rome in the Early Middle Ages," *Archivum Historiae Pontificiae*, 13 (1975), 65-83, especially at pp. 70-83, on a dossier of letters--episcopal and papal--

preserved by several English bishops from the late tenth to early eleventh centuries treating examples of pilgrimage to Rome. She notes that murder (including parricide), is frequent. Letter 8, from Pope John XIX to an unknown bishop, concerns a man who had accidentally killed his son. His penance had been fourteen years. There is no consideration, however, of the doubling of the typical seven-year penalty for this form of crime. There is no evidence that Ivo knew this letter.

52 Vogel, *op. cit.*, pp. 79-81, on the Council of Seligenstadt (1022/23), which condemned penitential pilgrimages to Rome "inconsulto episcopo."

53 Platelle, *op. cit.*, p. 152-159.

54 On juxtaposition of violence and "abrupt acts of remorse and penance," see Richard Southern, *The Making of the Middle Ages* (New Haven, 1953), p. 86, though considering self-imposed penitential pilgrimages to Jerusalem by nobles like Fulk Nerra.

55 Cyrille Vogel, "Les rites de la pénitence publique au X-XI siècle," in *Mélanges offerts à René Crozet*, edd. Pierre Gallais and Yves-Jean Riou (2 vols.; Poitiers, 1966), I, 137-144.

56 On the psychological implications of ritualized re-enactment in Cluniac liturgy--warlike aggression deflected onto the supernatural--see Barbara Rosenwein, "Feudal War and Monastic Peace: Cluniac Liturgy as Ritual Aggression," *Viator*, 2 (1971), 129-157 at pp. 153-154. By imposing a "second Crusade" on Raimbold, this time to storm the walls of Rome and receive papal mitigation of his sentence, Ivo may have intended a similar, dramatically physical--not merely liturgical--re-enactment through pilgrimage.

57 Vogel, "Pèlerinage pénitentiel," p. 85, for discussion of this canon. See also Somerville, n. 13 above.

58 On public penance and its social/political dimensions, though emphasizing Flanders in a later period, see Mary C. Mansfield, *The Humiliation of Sinners. Public Penance in Thirteenth-Century France* (Ithaca, New York, 1995), especially pp. 277-287.

59 Victor Turner, *Dramas, Fields, and Metaphors. Symbolic Action in Human Society* (Ithaca, New York, 1974), pp. 32-42.

60 See Brasington, "The Prologue," chap. 3, and Robert Somerville, "Mercy and Justice in the Early Months of Urban II's Pontificate," in *Chiesa, diritto e ordinamento della 'Societas christiana' nei secoli XI e XII* ("Miscellanea del Centro di studi medioevali," Vol. 11 [Milan, 1986]), pp. 138-158.

61 On *dispensatio* including political dimensions of mercy and of rigor, see Peter von Moos, *Hildebert von Lavardin 1056-1133. Humanitas an der Schwelle des höfischen Zeitalters* ("Pariser Historische Studien," Vol. 3 [Stuttgart, 1965]), pp. 173-174. His comments on "Geschicktes Nachgeben" by Bishop Hildebert of Lavardin apply equally well to Ivo's judgment in letter 135.

62 John Gilchrist, "The Erdmann Thesis and the Canon Law," in *Crusade and Settlement*, pp. 37-45. See also Cowdrey, n. 17 above.

63 *Ibid.*, p. 41.

64 PL, Vol. 162, cols. 144C-145A.

## APPENDIX

### EP. 135(FN64)

Paschali summo pontifici, Ivo, humilis Carnotensis minister, debitam cum devotione obedientiam. Miles iste praesentium portitor, nomine Raimbaldus, in obsidione Hierosolymitana strenue militavit. Unde reversus ad propria, diabolico instinctu et impetu irae subversus, quemdam monachum et presbyterum Bonaevallensis monasterii, quia quosdam ejus servientes herbam furantes, verberari fecerat, castrari fecit. Quod quia inauditum apud nos fuerat, coacto rigore ecclesiastico, arma ei abstulimus, et quatuordecim annorum poenitentiam indiximus, ut diebus sibi praescriptis a cibis lautioribus abstineret, et tam immane facinus elemosynis et jejuniis expiaret. Quod obedienter quidem suscepit; sed postea, adhibitis sibi multis et magnis intercessoribus, multa nos precum instantia fatigavit quatenus, propter infestationes inimicorum suorum, armis ei uti concederemus. Sed hujusmodi precibus assensum dare noluimus, timentes ne et ipsum et multos alios tam facili indulgentia in discrimen adduceremus. Reservantes itaque hanc indulgentiam apostolicae moderationi, ad apostolorum eum limina direximus, quatenus et fatigatione itineris hujus peccatum suum diluat, et apud pietatis vestrae viscera misericordiam, quam Deus vobis inspiraverit, inveniat. Valete.