

Hincmar of Reims, *Rotula* c. 868

Archbishop Hincmar of Reims wrote a treatise known only as the Rotula [lit: 'roll'] in defence of his nephew, Bishop Hincmar of Laon, around 868. The younger Hincmar had been summoned to account for his actions by King Charles the Bald; the elder Hincmar waded in to defend episcopal privileges. (Not long afterwards, Hincmar and his nephew fell out irreparably).

The standard edition (in Patrologia Latina) is based on an incomplete manuscript in Barcelona. Two other manuscripts of the work, Berlin SB Phillips 1741 and Paris BnF lat. 12445, provide more text which has never been edited before. Here is a translation of a selection of Hincmar's Rotula, including some of the additional text. Translation by Charles West.

The holy Council of Carthage says "When one of the bishops is accused, let the accuser bring the case to the primates of the province". And again, "When a crime has been committed in the church, or a civil case has been raised, whichever of the bishops, priests and deacons or clerics wishes to purge himself through public judges, and leaves the ecclesiastical court: let him lose his position, even if the sentence is in his favour. And this in criminal cases. In civil cases, let him give up what he won, if he prefers to keep his position".

And the African council: "Whichever of the clerics seeks from the emperor a hearing by public judges, let him be deprived of his *honor*; if he sought an episcopal judgment, there is no detriment to him.

And from the Roman laws – and here we include a few things taken from many – Gratian, Valentinian and Theoderic declared "That no one should dare to accuse a bishop before public judges, but let him not delay to bring to the attention of bishops whatever he thinks is relevant to the nature of the matter, so that what he asserts against a bishop can be decided by the judgement of other bishops."

And Saint Leo, the pope of the Roman church, decreed in a synod held at Rome that "The secular powers, including those whom divine authority commanded should be in charge on earth under the imperial name, wished such reverence to prevail around the sacerdotal order, that according to divine constitutions they permitted holy bishops the right of settling disputes. Although this was constituted by the edicts of ancient law, and by many laws based on them, we find that it is in the present time trodden under by many people. For everywhere they ignore sacerdotal judgement, and go straight to the secular court. Therefore it seems to

us that this insult both to the sacred laws and to our order should be avenged in the present with a firm punishment, and the formula to be followed in future should be set down. We therefore decide that whoever goes to the secular court, ignoring the bishop of his church, should be expelled beyond the holy thresholds and kept away from the heavenly altar.”

And in the first book of the capitularies of Lord Charles and Lord Louis, it is written as Chapter 8 “That suffragan bishops should look up to the metropolitan bishop, and not dare to do anything new in their dioceses without the knowledge and advice of their metropolitan: nor should the metropolitan do anything without their counsel”.

And again in that book, Chapter 28: “If clerics or monks have some dispute between them, they should be judged by their bishop, not by secular men”.

And again in that same book Chapter 38: “If clerics of the ecclesiastical order incur some blame, they should be judged by churchmen, not by secular men”.

And these matters are constituted about things that are committed by the bishop, priest or deacon, whether in criminal or in civil, that is pecuniary, affairs. But concerning the bishop’s property and slaves, and those things done by slaves, committed to us from the church, or the property of clerics, we do not refuse to give advocates, according to custom....

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This following section of the document from the Paris and Berlin manuscripts has never been edited.

And if a bishop or any ecclesiastical cleric has a case against a layman, and the layman with the cleric seeks episcopal judgement or agrees to undergo it, then each party should and can absolutely be judged by the bishops. But if the layman does not seek episcopal judgment nor agrees to undergo it, then the ecclesiastical cleric should pursue his case against the layman in his forum, with the permission of the bishop involved, through a procurator: except for criminal actions and those actions for which the holy laws set out a clear account of how they should be amended and corrected, as the Valentinian Law demonstrates, saying “If any cleric accuses someone in a dispute, let him be heard in the court of him whom he summons to the judge, if however the accused does not agree to come to priestly judgement”.

And the holy Leo and the Roman synod in the letter cited above indeed says “If a cleric accuses a layman, let him first demand to be heard by bishops, then if he sees that the layman blocks his request, let him contest it in the *disceptatio* of secular moderators, with his

bishop's permission". That is, not in person but through an advocate, as the law of Archadius and Honorius and Theodosius decrees, saying [...].

[*Addition in the Berlin ms, not present in Paris:*

And in the interpretation of the law of Valentinian, the precept is shown that clerics should go to episcopal judgement without *compromissi vinculo*.

And again from the law of Valentinian: if a cleric pursues some legal case, let him be heard in the court of him whom he is taking to judgement, if however the accused does not agree to come to the judgment of the bishop or priest...

And holy Gregory brought forth this legal decision for Romanus the *defensor* of Sicily: "If anyone has a case against any cleric, let him go to the bishop, so that either he will decide it or certainly judges will be appointed by him, or if perhaps they should go to arbiters, let an order from him compel the parties to choose judges." Holy Augustine explains the office of arbiter, saying "What is an arbiter? A mediator to settle a dispute". And if a layman has a case against a cleric, he must first go to the bishop so that he will judge, or appoint executors of the judgement. And if the layman holds the bishop in suspicion as an executor, let those involved, from both the ecclesiastical *ordo* and the *ordo* of the state (*res publica*), compel both parties to choose judges by mutual agreement, and let those chosen judges settle the matter between the complainants justly and rationally, according to the laws and the canons.