

# ARMSBEARING AND THE CLERGY

IN THE HISTORY AND CANON LAW  
OF WESTERN CHRISTIANITY



LAWRENCE G. DUGGAN

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DEVON  
coniugi, consciae unanimaeque  
optimae quidem  
d.d.d.





## PREFACE AND ACKNOWLEDGEMENTS

Despite the temptation to play on the opening words of Vergil's *Aeneid* ('Arma virumque cano', 'Of arms and a man I sing') in the title of this book (*Arma clerumque cano*), reason prevailed in the end. While this is a book intended primarily for scholars, I also have in mind more general readers whose interests cover a wide spectrum – church history, war and the military, social history, law, European and U.S. history, the Middle Ages and the modern period, the crusading mentality, theories of the just war and the holy war, and the profound connections between religion and violence in the history of the West. I have therefore translated all non-English sources quoted in the text and relegated the original to the notes, except where philological problems require discussion of the meaning of particular words. I have also cited available translations of source material whenever possible. Furthermore, because so much material has never been translated and because the words of the original texts can often convince and impress a reader far more effectively than the words of the most skilled historian, I have quoted from the sources with greater frequency and at greater length than is perhaps common. Even after working on this subject for many years, I am still sometimes startled by the sources I am reading and the views they express. I have therefore chosen to let the sources speak for themselves as often as possible.

One of the wisest of my readers urged me, in fairness to the subject and the reader, to clarify my own attitude at the outset. Originally this book began as a page or two of another work reevaluating the place of the clergy in late medieval and early modern Europe. What started as a brief attempt to understand and explain how the clergy came to be allowed the use of arms has resulted in this book and more. In the course of doing it, I found not only that I had to carry the story down to the present, but also that my own feelings changed the closer it came to the present: from sympathetic concern with reconstructing what happened in the High Middle Ages to incomprehension at the seeming indifference of some major Christian churches in modern times on the subject of the clergy and violence. I acknowledge that this has at times influenced my diction, but I believe the evidence will support my personal view. More than once I have been reminded of a common Roman interpretation of the letters 'SCV' on Vatican license plates. Officially, they

stand for 'Stato della Città Vaticana', but the Romans believe otherwise: 'Si Cristo vedesse' or 'If only Christ could see this!'

I have tried to keep in mind the non-academic reader in several other respects also. On any subject likely to be unfamiliar, I have tried to provide some references in English for further reading. For the sake of scholars I have also attempted to cite pertinent works in other languages as well; but in a book of this sort, touching on so many large topics on many of which a vast literature exists, it is impossible to be exhaustive. The second point here is related to the citation of sources, especially legal sources, which I have sought to keep as simple as possible. Instead of writing in the notes, for example, 'lib. VI, tit. XII, cap. vi, par. 4,' I have rendered this as '6.12.6.4,' proceeding from the largest unit down to the smallest, and always adding the page number of the edition used to eliminate any possible confusion. I have also employed the more simple, modern way of citing the texts of canon law, as is explained in the Abbreviations.

It is a great pleasure to acknowledge my enormous debts to the many people who have given me references, suggestions, and help over the course of several decades. Among them are the late Carlrichard Brühl, Daniel Callahan, John Tracy Ellis, Leopold Genicot, Robert M. Grant, Richard Helmholtz, John Keegan, the late Stephan Kuttner, John Lynch, James Van Horn Melton, the late John Moorman, Karl Morrison, James Muldoon, Maurice Sheehan, Robert Somerville, and Robert Trisco. Without their generosity this book would have taken much longer to complete and would never have been as rich as it has become. Several deserve special thanks. Giles Constable, the late Joseph Lynch, James Johnson, James Muldoon, and several unknown referees all read and glossed the entire manuscript with great care, while Robert Stacey and the late Gerald Straka saved me from errors on the English church and nation in Chapter 6. Monsignor Agostino Lauro of the Sacred Congregation for the Clergy in Rome graciously undertook a considerable amount of research in response to two inquiries. Bishop Peter James Lee of the Diocese of Virginia kindly had the diocesan records culled in connection with the case of the Reverend General William Nelson Pendleton. I also twice benefitted from the comments of scholars before whom I informally presented parts of this work: first, my colleagues in the History Department at the University of Delaware who attended the department forum at which I spoke in 1984; and the dozen medievalists gathered at the Institute for Advanced Study in Princeton who heard my talk in November 1987 and throughout that year gave freely of their vast knowledge and experience. In his wise and gentle way, Giles Constable made possible and encouraged the wonderful atmosphere among the medievalists at the Institute, and so to him my debt is enormous. Finally, with the help of a grant from the Honors Program at the University of Delaware, David Lloyd, then an undergraduate at the University, plowed through hundreds of volumes of state historical journals in search of warrior clerics of the U.S. Revolutionary and Civil Wars.

I am indebted to certain institutions as well. My first thanks go to my

home institution, the University of Delaware, which has provided a nourishing atmosphere in which to study and to teach. I gratefully thank the Faculty of the School of Historical Studies of the Institute for Advanced Study in Princeton, where we spent an unforgettable year in 1987–88. The Harry Frank Guggenheim Foundation helped subsidize that year with a timely and generous grant. The Alexander von Humboldt Stiftung has for over thirty years generously underwritten my research in Europe, some of which appears here. I hope that these benefactors of learning will be pleased with this result of their trust.

The libraries abound to which I am grateful for the magnificent opportunities they offered for conducting the research necessary for this book. Those of Harvard University, The Catholic University of America, Princeton University, Princeton Theological Seminary, the University of Pennsylvania, and the University of Tübingen stand in the forefront, and the Interlibrary Loan offices of the University of Delaware and the Institute for Advanced Study deserve special commendation. Special thanks are also due to the library of the University of Vienna for sending without charge a xeroxed copy of a rare book unobtainable in this country, and to the Austrian Embassy in Washington for arranging this unexpected largesse.

I am forever indebted to Caroline Palmer of Boydell and Brewer for her boundless patience, and to other members of her staff for their wisdom and experience in moving this book along to completion.

Finally, my deepest thanks go to my family and especially to my wife Devon, who persevered in the hope that there truly was an end to this seemingly endless project. I hope – no, I pray – that this book will repay her investment of time and patience in it.

Lawrence G. Duggan  
Newark, Delaware,  
Feast of Pope St Leo IX, 2013

## ABBREVIATIONS

AC	<i>The Anglican Canons 1529–1947</i> . Gerald Bray, ed. Church of England Record Society, 6. Woodbridge, 1998.
Bainton	Roland Bainton, <i>Christian Attitudes Toward War and Peace</i> (Nashville, 1960).
Brundage, ‘Holy War’	James A. Brundage, ‘Holy War and the Medieval Lawyers’, in T. P. Murphy, ed., <i>The Holy War</i> (Columbus, 1976), pp. 99–140.
CCCM	Corpus Christianorum Continuatio Mediaevalis.
Chambers, <i>Popes</i>	D. S. Chambers, <i>Popes, Cardinals and War. The Military Church in Renaissance and Early Modern Europe</i> . London-New York, 2006.
CHR	<i>Catholic Historical Review</i> .
C&S	<i>Councils and Synods, with Other Documents Relating to the English Church</i> . Vol. 1, A.D. 871–1204. D. Whitelock, M. Brett, and C. N. L. Brooke, eds. Oxford, 1981. Vol. 2, 1205–1313. F. M. Powicke and C. R. Cheney, eds. Oxford, 1964.
CG	<i>Concilia Germaniae</i> . J. F. Schannat and J. Hartzheim, eds. 11 vols. Cologne, 1759–63. Repr., Aalen, 1970–96.
CIC	<i>Corpus iuris canonici</i> . E. Friedberg and E. L. Richter, eds. 2 vols. Leipzig, 1879. Repr., Graz, 1959.
CLCE	<i>The Canon Law of the Church of England. The Report of the Archbishops’ Commission on Canon Law, together with Proposals for a Revised Body of Canons; and a Memorandum ‘Lawful Authority’ by the Honourable Mr Justice Vaisey</i> . London, 1947.
Clementines	Clementines issued by Pope John XXII (see below).
Code or Codex	Code of Canon Law of 1917 or 1983 (see below).
DA	<i>Deutsches Archiv für Erforschung des Mittelalters</i> .
DDC	<i>Dictionnaire de droit canonique</i> . R. Naz, ed. 7 vols. Paris, 1935–65.

# ABBREVIATIONS

DEC	<i>Decrees of the Ecumenical Councils</i> , eds G. Alberigo et al., tr. Norman Tanner, S.J., et al. 2 vols. London-Washington, 1990.
Decretales	<i>Liber decretalium</i> of Pope Gregory IX (see below).
Decretum	<i>Decretum</i> of Gratian (see below).
DMA	<i>Dictionary of the Middle Ages</i> . Joseph Strayer, gen. ed. 12 vols. New York, 1982–89.
DNB	<i>Dictionary of National Biography</i> . London, 1885–.
DTC	<i>Dictionnaire de théologie catholique</i> . A. Vacant et al., eds. 15 vols. Paris, 1903–50.
EHD	<i>English Historical Documents</i> . D. C. Douglas, gen. ed. London, 1953–.
EHR	<i>English Historical Review</i> .
ELJ	<i>Ecclesiastical Law Journal</i> .
Erdmann	Carl Erdmann, <i>The Origin of the Idea of Crusade</i> , tr. Marshall Baldwin and Walter Goffart (Princeton, 1977).
Gousset	Thomas Gousset, ed., <i>Les actes de la province ecclésiastique de Reims</i> . 4 vols. Reims, 1842–44.
HMPEC	<i>Historical Magazine of the Protestant Episcopal Church</i> (since 1986 entitled <i>Anglican and Episcopal History</i> ).
JEH	<i>Journal of Ecclesiastical History</i> .
JMH	<i>Journal of Medieval History</i> .
Mansi	G. D. Mansi, <i>Sacrorum conciliorum nova et amplissima collectio</i> . Continued by L. Petit and J. B. Martin. 60 vols. Paris, 1899–1927.
MGH	<i>Monumenta Germaniae historica</i> .
MGM	<i>Monographien zur Geschichte des Mittelalters</i> .
NCE	<i>New Catholic Encyclopedia</i> . 16 vols. Washington, 1967.
ODCC	<i>Oxford Dictionary of the Christian Church</i> . 3rd rev. ed. F. L. Cross and E. A. Livingston. Oxford, 2005.
PL	<i>Patrologia Latina</i> . Ed. J. P. Migne.
Prinz, 'Clergy and War'	Friedrich Prinz, 'King, Clergy and War at the Time of the Carolingians', in Margot King and Wesley Stevens, eds., <i>Saints, Scholars and Heroes. Studies in Medieval Culture in Honour of Charles W. Jones</i> (Collegeville, Minn., 1979), 2:301–329.
Prinz, <i>Klerus</i>	Friedrich Prinz, <i>Klerus und Krieg im frühen Mittelalter</i> (Stuttgart, 1971).
RS	<i>Rerum brittanicarum medii aevi scriptores</i> . 99 vols. London, 1858–1911 (Rolls Series).
SC	<i>Studia canonica</i> .
Sext	<i>Liber sextus</i> of Pope Boniface VIII (see below).

SH	<i>Synodicon Hispanum</i> . A. Garcia y Garcia, ed. 10 vols. to date. Madrid, 1981–.
TRHS	<i>Transactions of the Royal Historical Society</i> .
Wilkins	David Wilkins, <i>Concilia Magnae Britanniae et Hiberniae A.D. 446–1717</i> . 4 vols. London, 1737. Repr., Brussels, 1964.
ZRG KA	<i>Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung</i> .

#### Canon Law Abbreviations

Between the twelfth century and 1918 the general canon law governing the Roman Catholic Church was the *Corpus iuris canonici* (CIC). Its constituent parts consisted of the following: (1) the *Decretum*, a collection compiled by the Bolognese monk Gratian toward the year 1140; (2) the *Decretales* or *Liber extra*, issued by Pope Gregory IX in 1234 (and in the old style abbreviated X for ‘extra’); (3) the *Sext* or *Liber sextus decretalium* promulgated by Pope Boniface VIII in 1298 (originally abbreviated VI, since it was the sixth book); (4) the *Clementines*, originally promulgated by Pope Clement V at the Council of Vienne in 1311 and definitively by Pope John XXII in 1317; (5) the *Extravagantes* of Pope John XXII (1316–34); and (6) the *Extravagantes communes* of various decretals or letters of the popes between 1294 and 1484. Only the second, third, and fourth items were, strictly speaking, issued as law by the popes. Gratian’s collection was, however, from the outset treated as a comprehensive source collection, even if his positions were often soon modified or rejected. Both *Extravagantes* were routinely published, together with the earlier sources, from 1499 onward and received effective papal approval as genuine fonts of canon law in 1582.

In 1917 all this was replaced by a new *Code* or *Codex* decreed by Pope Pius X and taking effect on Pentecost 1918 (whence the varied references to it as the *Code* of 1917 or 1918). The edition used here is the edition of the *Codex iuris canonici* annotated by Pietro Cardinal Gasparri (Vatican City, 1974), of which an English translation by Edward N. Peters finally appeared in 2001.

This *Codex* was superseded in turn in 1983 by an entirely new *Code*. The text cited here is the *Code of Canon Law. Latin-English Edition*, prepared by the Canon Law Society of America (Washington, 1983).

## INTRODUCTION

THE argument of this book is simply that, contrary to what is widely assumed, the clergy in western Christianity (at least in the Roman Catholic and Anglican-Episcopal traditions) have not been categorically forbidden to bear arms since the High Middle Ages (c.1100–1300) and are not today. Readers intrigued enough to go on, but still concerned about the efficient use of their time, are advised to proceed directly to the Conclusion after finishing this Introduction. They are warned, however, that most of the juicy bits lie in between.

Even historians who have worked on some aspect of this subject habitually either assume that clerics who bear arms automatically violate canon or ecclesiastical law, or else they considerably oversimplify the matter. In his *Christian Attitudes Toward War and Peace* Roland Bainton wrote that ‘The approval of the Church was never bestowed on those clerics and monastics who had taken defense into their own hands. St Thomas, writing even after the commencement of the crusades, held that the clergy should be excluded from military functions, not so much, however, for ethical as for sacramental reasons.’<sup>1</sup> As we shall see, Bainton has, like so many others, confused Aquinas’ opinions as a theologian with the law of the church.<sup>2</sup>

A definitive reference work, *The Oxford Dictionary of the Christian Church*, asserts in an entry on ‘war, participation of the clergy in’, that ‘Since the Middle Ages clerics in major orders have been expressly forbidden to take a direct part in the shedding of blood.’<sup>3</sup> One could reasonably infer from this that this prohibition has been in force only since the Middle Ages, that it applied only to clerics in major orders, and that as long they did not shed blood they might possibly otherwise participate in warfare. Despite these ambiguities, this entry has remained essentially unchanged across four editions between

<sup>1</sup> Bainton, p. 109.

<sup>2</sup> See, for example, A. Vanderpol, *Le droit de guerre d’après les théologiens et les canonistes du moyen-âge* (Paris, 1911), pp. 193–5, whose highly misleading selection of sources on this question would leave the impression that no respectable medieval canonist or theologian condoned arms-bearing by the clergy in any form.

<sup>3</sup> *ODCC*, 1st ed. (1957), pp. 1438–9; 2nd ed., (1974), p. 1460; 3rd ed. (1997), p. 1720; 3rd ed. rev. (2005), p. 1732.



1957 and 2005 and goes on to note that 'this teaching is embodied' in the Roman Catholic canon law Codes of 1917 and 1983.

Small wonder, then, that in an otherwise illuminating essay on clerical violence in early modern Spain, Henry Kamen starts off on the wrong foot by taking the ecclesiastical prohibition for granted and therefore seeks the explanation elsewhere in the relationships between Spanish society and the Spanish church. Although this 'war and society' approach has in recent decades wonderfully enriched the study of military history, it here goes somewhat awry because it mistakes the relevant ecclesiastical legislation, if understandably so.<sup>4</sup> Similarly, in his *Popes, Cardinals and War*, which provides the most thorough coverage in English of the military engagement of the popes and cardinals of the Middle Ages and the Renaissance, D. S. Chambers conflates the whole spectrum of behavior ranging from personal armsbearing to direction of troops from afar and assumes that none of it was licit in the law of the Church. And a recent military history of the modern papacy does not consider the legal issues at all.<sup>5</sup>

The premises of Bainton, Kamen, and Chambers are, furthermore, incompatible with statements made by other writers. In an essay on military musters of the English clergy during the Hundred Years War, Bruce McNab writes that 'A cleric was strictly forbidden under canon law to bear arms or to shed blood, although one who incurred canonical penalties by defending himself against assault on his person might readily find dispensation'.<sup>6</sup> The implication here seems to be that self-defense, although canonically culpable, was easily, almost automatically, excusable at law, and the insinuation is that that legal system was corrupt. By contrast, Philippe Contamine, who has worked extensively on war in the Middle Ages, asserts that in ecclesiastical law 'even clerics could legitimately resist violence'.<sup>7</sup> In an earlier work on war in the late Middle Ages, however, Contamine fails to clarify whether this principle applies to a cleric's property as well as to his person.<sup>8</sup> Contamine and McNab thus appear to contradict each other as well as Bainton, Kamen, and Chambers.

As for the Anglican-Episcopal tradition, the closest offshoot of the Roman Catholic system in law as in liturgy and doctrine, it is again customarily taken as a given that clergy who in any way take up weapons, for whatever reason, automatically violate the law of the church and are 'deposed' ('defrocked' in lay language). Even an ecclesiastical commission appointed in 1939 to revise

<sup>4</sup> Henry Kamen, 'Clerical Violence in a Catholic Society: The Hispanic World 1450-1720', in W. J. Shiels, ed., *The Church and War*, Studies in Church History 20 (Oxford, 1983), pp. 200-16.

<sup>5</sup> David Alvarez, *The Pope's Soldiers. A Military History of the Modern Vatican* (Lawrence, Kan., 2011).

<sup>6</sup> Bruce McNab, 'Obligations of the Church in English Society: Military Arrays of the Clergy, 1369-1418', in William C. Jordan, Bruce McNab, and Teófilo F. Ruiz, eds, *Order and Innovation in the Middle Ages. Essays in Honor of Joseph R. Strayer* (Princeton, 1976), pp. 293-314, at 293.

<sup>7</sup> Philippe Contamine, *War in the Middle Ages*, tr. M. Jones (Oxford, 1984), p. 292.

<sup>8</sup> Philippe Contamine, *Guerre, état et société à la fin du moyen âge. Etudes sur les armées des rois de France 1337-1494* (Paris, 1972), pp. 171-4.

the canon law of the Church of England made this erroneous assumption.<sup>9</sup> *The Oxford Dictionary of the Christian Church*, on the other hand, says somewhat ambiguously that ‘The C[hurch] of E[ngland] has commonly upheld the medieval discipline, though ecclesiastical penalties have not been imposed on the few clerics who have entered the services and such clerics have been allowed to resume their clerical life when the war has ended.’<sup>10</sup>

There is a perfectly good reason for this confusion, for there exists no adequate historical treatment of this complex subject from the High Middle Ages onward. By comparison, there are several fine studies of the period up to the High Middle Ages, and my enormous debt to them will be obvious to those familiar with these works. I should signal out for particular recognition the work of Stephan Kuttner, Carl Erdmann, Friedrich Prinz, Rosalio Castillo Lara, Ferminio Poggiaspalla, James Brundage, Frederick Russell, and Ernst-Dieter Hehl.<sup>11</sup> They focus, however, on the thinking of canon lawyers, whereas I stress the legislation of the popes and of bishops, which they often unconsciously tend to slight.

Finally, although the cumulative effect of the work of these scholars points to significant changes in the High Middle Ages in the millennium-old ban on clerical armsbearing, neither they nor anyone else has offered an adequate, comprehensive, historical treatment of the question since the thirteenth century, which is the customary *terminus ad quem* for ‘high medievalists’.

Thus the author of the skimpy article in the *Dictionnaire du droit canonique* (barely two columns) devotes nearly half that space to Gratian, commits egregious errors, and takes stunning leaps through time.<sup>12</sup> Far more careful is the great history of canon law by Paul Hinschius, which was incomplete at the time of his death in 1898. Nevertheless, in six volumes he devotes but two pages to the issue. Although those pages are astonishingly meaty, they approach the subject indirectly from the standpoint of clerical irregularity and as an historical treatment are confusing.<sup>13</sup> The history of Catholic and Lutheran canon law by Hinschius’ contemporary, Emil Ludwig Richter, summarizes the whole tradition by noting that clerics have been forbidden

<sup>9</sup> *CLCE*, pp. 67–8. For other instances of this assumption, see Nelson Waite Rightmyer, *Maryland’s Established Church* (Baltimore, 1956), p. 175; Albert Marrin, *The Last Crusade. The Church of England in the First World War* (Durham, NC, 1974), p. 189; and Chapter 6, below, *passim*.

<sup>10</sup> *ODCC*, pp. 1438–9 (1st ed.), 1460 (2nd), 1720 (3rd), and 1732 (3rd rev.).

<sup>11</sup> Stephan Kuttner, *Kanonistische Schuldlehre von Gratian bis auf die Dekretalen Gregors IX.*, Studi e testi 64 (Vatican City, 1935, repr. 1961), esp. 334–79 (‘Notwehr’); Erdmann, *Origin*; Rosalio Castillo Lara, *Coaccion eclesiastica y Sacro Romano Imperio. Estudio juridico-historico sobre la potestad coactiva material suprema de la Iglesia* (Turin, 1956); Ferminio Poggiaspalla, ‘La Chiesa e la partecipazione dei chierici alla guerra nella legislazione conciliare fino alla Decretali di Gregorio IX’, *Ephemerides iuris canonici* 15 (1959):140–53; Prinz, *Klerus und Krieg*; Brundage, ‘Holy War’; Frederick Russell, *The Just War in the Middle Ages*, Cambridge Studies in Medieval Life and Thought, 3rd ser. 8 (Cambridge, 1975); Ernst-Dieter Hehl, *Kirche und Krieg im 12. Jahrhundert. Studien zu kanonischem Recht und politischer Wirklichkeit*, MGM 19 (Stuttgart, 1980).

<sup>12</sup> E. Thamiry, ‘Armes’, in *DDC* 1: 1047–8.

<sup>13</sup> Paul Hinschius, *Das Kirchenrecht der Katholiken und Protestanten in Deutschland* (Berlin, 1869–97, repr. Graz, 1959), 1:26–7; see also 124–6 and 137–8.

to render military service or bear arms 'except when traveling'.<sup>14</sup> The more recent, five-volume history of canon law by Willibald Plöchl gives less than one page to the issue. More comprehensive than Hinschius' treatment, it is also less meaty, makes at least one significant mistake, provides a better but still insufficient historical treatment, and says nothing about the Roman Catholic *Code* of 1917.<sup>15</sup> The pertinent canon in this *Code* was treated in a 1938 dissertation that is sometimes confusing and inadequate when not downright erroneous.<sup>16</sup> There are two excellent treatments from the late seventeenth and eighteenth centuries by Louis Thomassin and above all by Lucio Ferraris;<sup>17</sup> but, aside from the problem that neither account goes beyond its age, such old works are inaccessible to most people and likely to be read only by more recondite scholars – if the latter are interested in canon law at all, a taste which in the later twentieth century largely went out of favor.<sup>18</sup> Even within the Roman Catholic Church, one gathers, widespread aversion to the 'excessive legalism' of the past has taken deep root in the wake of Vatican II.

The main weight of this study will nonetheless fall on the treatment of clerical armsbearing in ecclesiastical or canon law, and necessarily so. After an opening chapter that surveys actual armsbearing by the clergy from the late Roman Empire to the present day, the second chapter will seek to show that attitudes toward clerical armsbearing on the part of clerics and laymen alike have been far more varied than is usually supposed – hence the title of the chapter, 'Quot homines, tot sententiae'. Such diversity of opinion alone would recommend shifting one's focus to canon law, but there is also the question of justice. Is it not fair to judge such clerics in the first instance by what canon law commands, encourages, allows, or forbids them to do, regardless of what one personally thinks? One may conclude that canon law on this issue was peculiar or wrongheaded, but one should know what that law was if one presumes to judge those who were subject to it. Finally, the attempt to comprehend not only the changes in canon law from the twelfth century onward, but also the reasons for those changes, should lead to a deeper understanding of the evolution of Christianity in the West, the intricate interrelationships between church and society, the profound influence of Roman law, the inner processes of legal change, the unforeseen consequences of the ecclesiastical reform movement of the eleventh and twelfth centuries, and the conditional acceptance of violence in western history by men who

<sup>14</sup> Aemilius Ludwig Richter, *Lehrbuch des katholischen und evangelischen Kirchenrechts. Mit besonderer Rücksicht auf deutsche Zustände*, 8th ed. (Leipzig, 1886), p. 368.

<sup>15</sup> Willibald Plöchl, *Geschichte des Kirchenrechts* (Vienna, 1952–68), 3: 168. See below p. 103 n.5.

<sup>16</sup> John Thomas Donovan, *The Clerical Obligations of Canons 138 and 140*, Catholic University of America Canon Law Studies 272 (Washington, 1948), pp. 87–101.

<sup>17</sup> Louis Thomassin, *Ancienne et nouvelle discipline de l'église*, new ed. rev. by M. André (Bar-le-Duc, 1864–7), 7:443, 452–5; Lucio Ferraris, O.F.M., *Bibliotheca canonica iuridica moralis theologica nec non asctica polemica rubricistica historica*, new ed., 9 vols. (Rome, 1884–99), 1: 407–12. Sometimes this work appears under the title *Prompta bibliotheca*...

<sup>18</sup> Thus Daniel B. Stevick, *Canon Law. A Handbook* (New York, 1965), p. vii: 'Indeed, the study of and regard for canon law seem to have fallen on evil days.'

in the public mind are ordinarily held to be emblematic of peace. This book, then, although centered on law and the church, is not simply about law or the church.

The approach taken here to ecclesiastical law is somewhat different from, and more complicated than, the prevailing one, which is to look to the 'high' tradition of law-making and jurisprudence, often to the simplest statements of the law, and almost always to the commentators on, rather than the promulgators of, those laws. Thus the famous text invariably cited in connection with the clergy and arms is from the first comprehensive official collection of canon law promulgated by a pope, the *Decretales* of Gregory IX (1227–41) of 1234: 'Clerics bearing arms and usurers are excommunicated.'<sup>19</sup> This seems perfectly clear and straightforward. But if one reads the statutes issued by provincial councils and diocesan synods from this time onward, they only occasionally decree anything as uncomplicated as that and in fact usually concede certain telling exceptions to this rule. What does this betoken? Widespread resistance to the universal jurisdiction, legislative and judicial, claimed by the papal monarchy? Not at all, but rather that the legislation at the top was more complex than is usually supposed. For if one considers other relevant passages from the *Decretales*, not to mention other texts – scriptural, patristic, papal, conciliar, and canonistic – adduced or produced a century either side of the *Decretales*, then the "canon law of arms" for the clergy was far from clear, particularly when viewed from the ordinary diocese.

Yet it was precisely at this local level that the average cleric lived and had to be taught before the advent of the seminary in the post-Reformation era. Since most clerics thus received rather little schooling before then, the complexities of law-making and legal thinking at the highest levels had to be reduced to intelligible, crisp formulae at the local level. These were then promulgated at diocesan synods and provincial councils as statutes or constitutions, which from the thirteenth century until well into the early modern period served as the principal means of providing the parochial clergy with rudimentary instruction in theology and law. In fact, Christopher Cheney remarked, 'nowhere does one find that the Church had any other plan for their systematic education.'<sup>20</sup>

For this reason, and out of a general interest in the transmission and reception of laws, this book will therefore devote a great deal of attention to how synods and councils dealt with these problems with respect to clerical arms. Although this is a sphere of legislative and interpretive activity frequently ignored, it is a fruitful one to investigate because it illumines sharply how administrators, especially bishops, had to grapple with the issues which could be endlessly discussed by lawyers and theoreticians and boil the results of these learned discourses down to a few simple sentences. It was those few

<sup>19</sup> *Decretales* 3.1.2.

<sup>20</sup> C. R. Cheney, 'Some Aspects of Diocesan Legislation in England during the Thirteenth Century', in his *Medieval Texts and Studies* (Oxford, 1973), p. 187.

simple sentences that the overwhelming majority of the clergy understood to be the law of the church. Scholars reading this book may be intrigued by the tortuous questions raised by clerical armsbearing and by the sometimes even more tortuous answers given by canonists, but one should never forget the 'real life' for which, after all, these laws were drawn up. It is easy but dangerous to forget this in the academy.

But if the complexity of legislation and discussion in the High Middle Ages has perhaps deterred anyone from undertaking a synthesis on clerical armsbearing, the difficulties attendant on looking to the local level are even more dismaying. First is the staggering number of dioceses. By one count, on the eve of the Reformation there were 266 in Italy alone (excluding the additional 35 in Sicily, Sardinia, and Corsica), and 267 in Germany, France, Iberia, England, and Scotland, not to mention the rest of Latin Christendom.<sup>21</sup> Any investigation, unless sharply restricted chronologically or geographically, is therefore necessarily highly selective.

This is particularly so if one must rely on the available printed texts. For the basic *Corpus iuris canonici* by which the Catholic Church was governed from the High Middle Ages to 1917, we must, with few exceptions, continue to rely on Emil Friedberg's edition of a century ago, which was based on the Roman edition of 1582 and with substantial parts of which Friedberg was himself dissatisfied.<sup>22</sup> Similarly, for local legislation one still cannot do without the great collections put together by Mansi, Schannat and Hartzheim, Wilkins, and many others in the early modern centuries.<sup>23</sup> They all present problems. There are substantial lacunae. One German diocese scarcely represented in Schannat-Hartzheim, much less Mansi, is Speyer, with which I have some acquaintance. Perhaps to rectify this defect, the prince-bishop reigning in 1786 issued a collection of all synodal statutes and other forms of legislation for the clergy enacted between 1397 and 1720; it comprises 534 tightly printed pages.<sup>24</sup> Such use of the printing press became fairly common in most of Europe by the seventeenth century, just as synods were becoming both more regular and more prolix. One catalogue of the statutes of the dioceses of France from the thirteenth through the eighteenth centuries contains 498 pages, while an inventory of synodal statutes printed in Italy between 1534 and 1878 numbers 1,762 items, and a general bibliography on synods lists over 3,400 entries.<sup>25</sup> All these factors forced the

<sup>21</sup> Denys Hay, *The Italian Renaissance in its Historical Background* (Cambridge, 1961), p. 49, n. 3.

<sup>22</sup> One exception is the edition by Jacqueline Tarrant (now Brown) of the *Extrauagantes Iohannis XXII*, *Monumenta iuris canonici B/6* (Vatican City, 1983), which contains nothing pertaining to armsbearing.

<sup>23</sup> See E. F. Jacob, 'Wilkins's *Concilia* and the Fifteenth Century,' *TRHS* 4th ser., 15 (1932):91-131.

<sup>24</sup> *Collectio processuum synodaliū et constitutionum ecclesiasticarum dioecesis Spirensis ab anno 1397 usque ad annum 1720* (Bruchsal, 1786).

<sup>25</sup> André Artonne, Louis Guizard, and Odette Pontal, *Répertoire des statuts synodaux des diocèses de l'ancienne France du XIII<sup>e</sup> à la fin du XVIII<sup>e</sup> siècle*, 2nd rev. ed. (Paris, 1969); Silvino da Nadro, O.F.M.Cap., *Sinodi diocesani italiani. Catalogo bibliografico degli atti a stampa 1534-1878*, *Studi e testi* 207 (Vatican City, 1960); J. T. Sawicki, *Bibliographia synodorum particularium*, *Monumenta iuris canonici C/2* (Vatican City, 1967).

great compilers to exercise ever greater selectivity in the post-Reformation period.

The problem for the pre-Reformation period is quite different. Survival of the sources begins the list of obstacles. For example, we know that the clergy of the province of Canterbury convened in convocation no fewer than thirteen times during the episcopate of Archbishop Thomas Bourchier (1454–86). Despite the late date, the constitutions of only two of those thirteen convocations are extant.<sup>26</sup> The paucity of materials would be serious enough were it not for the lamentable state of their transmission. What is so often true of England is probably often true of the Continent: ‘the precise contents of the statutes as first issued are irrecoverable,’<sup>27</sup> not only because of later modifications in transcription, but also because of their frequent origin in ‘pools’ of statutes, especially of more distinguished prelates.<sup>28</sup> Different manuscripts, when they survive, can present troublesome variations. Sometimes these matter, sometimes not. The four manuscripts of the council of Clermont of 1095 (at which Pope Urban II launched what later came to be remembered as the First Crusade) differ only in their numbering of the canon on clerical armsbearing, but not on substance, for they all summarily forbid it.<sup>29</sup> But sometimes variations are very vexing indeed, as will be seen in a number of instances. It is only in recent decades that exacting textual criticism has been applied to such texts, first in England, now in Spain and France<sup>30</sup>; and since here quantity has been sacrificed for quality, we must in most cases still make do with older editions. Fortunately, since our focus is on the patterns of legislation on armsbearing and not on its history in any single diocese, we need not worry too much about this problem, for the patterns are very distinctive. On the other hand, the dates supplied by earlier editors are often quite inaccurate and must be treated with great caution. Where modern editors have calculated more carefully or there exists other reason for doubt, I have ordinarily indicated the range of possible dates with a slash, i.e. ‘1244/9’, which means sometime between 1244 and 1249.<sup>31</sup> Thus one sacrifices in this

<sup>26</sup> F. R. H. Du Boulay, ed., *Registrum Thome Bourchier Cantuariensis archiepiscopi A.D. 1454–1486*, Canterbury and York Society 54 (Oxford, 1957), pp. xxix, xxxi.

<sup>27</sup> C&S 2: vii. For some Continental examples, see Helmut Maurer, ‘Zu den Inskriptionen der Mainzer Provinzialstatuten von 1310’, *ZRG KA* 53 (1967):338–46, and Alfred Säbisch, ‘Drei angebliche Breslauer Diözesansynoden des 15. Jahrhunderts’, *ZRG KA* 50 (1964):272–8.

<sup>28</sup> Besides the introduction to C&S 2, see the two essays by Cheney, ‘Textual Problems of the English Provincial Canons’ and ‘Statute-making in the English Church in the Thirteenth Century’, in *Medieval Texts and Studies*, pp. 111–37 and 138–57; and for a more general discussion with substantial bibliography, Paul Saenger, ‘Silent Reading. Its Impact on Late Medieval Script and Society’, *Viator* 13 (1982):380–2.

<sup>29</sup> Robert Somerville, *The Councils of Urban II*, 1, *Decreta Claromontensia*, *Annuaire historiae conciliorum*, Supplementum 1 (Amsterdam, 1972), pp. 77, 113.

<sup>30</sup> For England, C&S and bishops’ registers and *acta*; for Spain, *Sinodicon Hispanum*; for France, ‘Sources d’histoire médiévale’ and ‘Collection des documents inédits sur l’histoire de France’.

<sup>31</sup> The editors of C&S use ‘x’ rather than a slash for such indeterminate dates, which I find too cumbersome; and for clarity’s sake I prefer the slash in such cases to the hyphen, which I take to be inclusive, whether of the length of a life, the dates of rule, or the duration of an assembly (thus the Council of Trent, 1545–63).

case elegance for precision, in another quantity for quality: it is a kind of Heisenberg principle of modern scholarship.

I must here state that I claim no competence as a lawyer in the lawyer's ways of handling legal texts. If I have run aground in my sifting of the texts, I beg the forgiveness of the members of that guild. However, the mind of the legislator is not always pellucidly apparent from his choice of words. Just as one must take care not to treat legal language too cavalierly, so too one must not read too much into it: laws may be vaguely or even badly written.

This is particularly so on the matter of clerical armsbearing, which was almost always a minor item of synodal legislation, at least to judge from the small amount of space accorded to it. Sometimes long stretches of time would pass without any allusion to it at all. Thus not one of the thirteen provincial councils of Tours between 1201 and 1467 mentions it, although they do treat clerical violence, gambling, visiting of taverns, and the like; and in the English church it has not been the subject of explicit legislation since the thirteenth century.<sup>32</sup> One major reason for this is that among clerical vices and failings, armsbearing has been a relatively minor one, usually confined to relatively small numbers of the clergy. One of the few studies of this topic was devoted to violence, brawling, and homicide among the Cistercians. Over the space of seven hundred years, in an order embracing over seven hundred monasteries and thousands of monks and nuns, Anselme Dimier turned up a total of about sixty such cases.<sup>33</sup> Even if (as I believe) Dimier did not cast his nets widely and arrived at an estimate on the low side, that would still not be many.

To look at the matter differently, it has been calculated that over four hundred clergy became aggressively involved in Mexico's struggle against Spain between 1808 and 1820. This figure is astonishing until one sets it against the total number of clergy in Mexico at the time—about 8,000 according to one scholar, 10,000 according to another.<sup>34</sup> In other words, at a time of passionate conflict perhaps five percent of the clergy participated actively in the revolution in Mexico. Similarly, only four or five of the 122 incumbent Anglican clergy in Virginia are recorded as acting as soldiers in the American Revolution.<sup>35</sup> These figures should be compared with the inevitably crude and often partisan guesses as to the percentage of sexually incontinent clergy in any given age, which can run as high as thirty or forty percent and never as low as five. This kind of contrast is startlingly clear in the reports on 530

<sup>32</sup> Joseph Avril, ed., *Les conciles de la province de Tours. Concilia provinciae Turonensis (saec. XIII-XV)* (Paris, 1987); and see Chapter 6 below for England.

<sup>33</sup> Anselme Dimier, 'Violences, rixes et homicides chez les Cisterciens', *Revue des sciences religieuses* 46 (1972):38-57.

<sup>34</sup> On these highly controverted matters, see Karl M. Schmitt, 'The Clergy and the Independence of New Spain', *Hispanic American Historical Review* 34 (1954):289-312, especially 289, 292, 300, 304; and Nancy M. Farriss, *Crown and Clergy in Colonial Mexico 1759-1821. The Crisis of Ecclesiastical Privilege* (London, 1968), pp. 122, 198-201, 254-65. The two estimates are cited by Schmitt (pp. 289, n. 2, and 304). Neither he nor Farriss conjectures on the total number of clergy, although Farriss cites one calculation of 3,112 regular clergy in Mexico in 1810 (p. 122 and n. 2).

<sup>35</sup> G. MacLaren Brydon, 'The Clergy of the Established Church in Virginia and the American Revolution', *Virginia Magazine of History and Biography* 41 (1933):16, 21-2, 239-40, 242-3, 301-3.

clergy in the diocese of Eichstätt visited in 1480.<sup>36</sup> The odd thing – the very odd thing, in fact – is that Catholic Church has never accommodated its rules to the sexual behavior of the clergy, whereas it gradually ameliorated its regulations on armsbearing for a far smaller segment of the clerical population. These modifications therefore did not come about as a simple capitulation to ‘reality’.

One choice already intimated is not as arbitrary and parochial as it may seem, and that is that with one major exception this study will be confined to the legal tradition of the Roman Catholic Church. Certain facts should be remembered. Until the sixteenth century – the first 75% of Christian history – the Roman Catholic Church was the only official church in the West. Today it is still by far the largest Christian denomination and is one of the two largest religions in the world. In addition, the Roman Catholic system of ecclesiastical law is the oldest, most highly developed, and most influential in western Christianity, and it continued to influence Protestant churches long after the Reformation.<sup>37</sup> It is also the most centralized and easiest to examine, although not nearly as easy as many people think.

The Protestant churches, by comparison, are nearly impossible to study. Ever since the abandonment of the principle of *cuius regio, eius religio* in the eighteenth and nineteenth centuries, the ‘Protestant’ principle of the right of the individual to interpret Holy Writ has accelerated the fragmentation and proliferation of Protestant denominations. As a result, there are hundreds of denominations, each with its own traditions and institutions.<sup>38</sup> Every form of Protestantism, furthermore, has come to define itself partly in terms of reaction against the Roman Church, especially against what is generally perceived as its centralism and legalism. Thus there is a decided tendency to leave much to the decision of local congregations and to individuals, both of which hamper a legal historian searching for general, explicit, binding norms.<sup>39</sup> A final barrier is this: to one extent or another, most forms of Protestantism, again largely in reaction against Rome, retained little if any conception of a sacral priesthood sharply distinguished from the laity. The overall tone of that reaction was captured in the Presbyterians’ *First Book of Discipline* printed in 1621, but essentially authored by John Knox sixty years earlier:

The Papisticall Priests have neither power nor authority to minister the sacraments of Christ Jesus, because that in their mouth is not the sermon of exhortation; and therefore to them must strait inhibition be made notwithstanding any usurpation they have had in the time of blindness. It is neither the clipping of their crownes,

<sup>36</sup> Peter Lang, ‘Würfel, Wein und Wettersegen. Klerus und Gläubige im Bistum Eichstätt am Vorabend der Reformation’, in Volker Press and Dieter Stievermann, eds, *Martin Luther. Probleme seiner Zeit* (Stuttgart, 1986), pp. 219–43, especially 222–27.

<sup>37</sup> See Wilhelm Maurer, ‘Reste des Kanonischen Rechtes im Frühprotestantismus’, *ZRG KA* 51 (1965):190–253, and R. H. Helmholz, ed., *Canon Law in Protestant Lands. Comparative Studies in Continental and Anglo-American Legal History* (Berlin, 1992).

<sup>38</sup> See Craig Atwood, *Handbook of Denominations in the United States*, 13th ed. (Nashville, 2010).

<sup>39</sup> See Robert L. Schenck, ed., *Constitutions of American Denominations*, 3 vols. (Buffalo, 1984).



the greasing of their fingers, nor the blowing of the dumb dogges called the Bishops, neither the laying on of their hands that maketh Ministers of Christ Jesus. But the Spirit of God inwardly first moving the hearts to seeke Christs glorie, and the profite of his Kirk, and thereafter the nomination of the people, the examination of the learned, and publick admission (as before is said) make men lawfull ministers of the Word and Sacraments.<sup>40</sup>

Luther's vigorous reassertion and reinterpretation of the priesthood of all believers has thus not been helpful to legal or legally minded historians interested in 'the clergy'. Ministers in many churches are frequently only temporary and, even when permanent, in many respects indistinguishable from the laity. How can one possibly study them? For all these reasons, the Protestant churches are excluded from this study. The first two chapters will mention in passing various Protestant ministers who have borne arms in recent centuries, but no judgments will be offered as to their culpability within their own ecclesiastical tradition. Roland Bainton may well be right in holding that Lutheranism remained true to the ancient prohibition, but I remain unconvinced.<sup>41</sup>

The one exception will be the Church in and of England, but for reasons of space not the more than twenty-five other branches of the Anglican Communion.<sup>42</sup> Both of these churches, besides being of interest to readers on both sides of the Atlantic, have produced some extraordinary clerical warriors. Although the Anglican Communion is rightly thought to have remained closest to Rome of all the 'Protestant' traditions, it has also attempted to incorporate the best of both worlds. In the long run, both the episcopate and the sacramental priesthood have survived, if not without some dicey moments and some eclipse of power. In its search for comprehensiveness and its intention to stay focused on essentials, the Anglican Communion has developed a distinctive approach to theology and law.<sup>43</sup> In his 'Foreword' to the final report of the commission for the revision of the canon law of the Church of England, the chairman, Archbishop Cyril Garbett of York, put it this way in 1947:

On the other hand, we have definitely rejected an attempt to form a complete code of Canon Law. This would have meant a task requiring many years of intensive research and study; and, moreover, a complete and exhaustive code such as is possessed by the Roman Catholic Church would be incompatible both with the spirit of English law and with the genius of the Church of England, which has always disliked excessive formulation.<sup>44</sup>

<sup>40</sup> *The First Book of Discipline. With Introduction and Commentary by James K. Cameron* (Edinburgh, 1972), 'The Ninth Head, Concerning the Policie of the Kirk', pp. 206–7. On the text of *The First Book*, see pp. 75–7.

<sup>41</sup> Bainton, p. 189, and the literature he cites there.

<sup>42</sup> The relevant canon law of the Episcopal Church of the United States will be treated in a separate article.

<sup>43</sup> For a general conspectus, see Norman Doe, *Canon Law in the Anglican Communion. A Worldwide Perspective* (Oxford, 1998).

<sup>44</sup> *CLCE*, pp. v–vi.

This is canon law, but informed by a love-hate relationship with Rome. More recently, Gerald Bray put it more moderately: 'the break with Rome gave Anglican law a life of its own which helps us to define it as a distinct, if not really as a separate, branch of western canon law in general'.<sup>45</sup> Its consequences we shall see later.

Although the retention of sacral priesthood by Rome and Canterbury is one criterion marking the limits of this study, the term 'clergy' is more elusive than one might suppose. For both churches it can be, like the terms 'order' and 'orders', construed strictly and loosely. Technically, a cleric is someone who is ordained in or to an order of sacred ministry and so is 'in orders'. Until the Reformation there was a consensus that there were at least seven orders, four minor (porter, lector, exorcist, and acolyte, in ascending order) and three major or holy (subdeacon, deacon, and priest). Until the High Middle Ages, however, the subdiaconate was a minor order and was elevated to major status only by the thirteenth century. Furthermore, some thinkers argued for other orders (especially gravedigger), many wondered whether the office of bishop constituted a separate order, and most asserted the necessity of tonsure for admission to orders while simultaneously denying that tonsure itself was an order. Each of these orders originally had specific responsibilities. An essential distinction was that those in minor orders could marry and revert to lay status, whereas those in major orders were theoretically bound permanently by celibacy and their other vows, since priesthood, in the Roman view, is forever according to the order of Melchisedech (see Heb. 5.10). Most of the minor orders save acolyte, however, fell into desuetude by the High Middle Ages and, despite a half-hearted attempt to revive them by the Council of Trent in 1563, continued to deteriorate until their formal suppression, together with the subdiaconate, and the resurrection of the permanent married diaconate between 1967 and 1972.<sup>46</sup> Finally, as is well known, in the Roman Catholic Church women cannot be ordained and hence cannot be clerics.

In common parlance, the term 'clergy' also embraces nuns, monks, brothers, and others professing some form of approved religious life as 'religious' in an 'order' or following a particular rule as 'regulars' (from the Latin *regula* for 'rule'). None of these religious need in fact be ordained and is therefore necessarily a cleric, and monasticism in fact began as a movement of laymen, not clerics. All through the Middle Ages laypeople could be members of, or attached to, religious houses as *conversi* or 'converts' from the world to 'religion'. Many monks have been ordained as clerics, but Roman Catholic nuns

<sup>45</sup> Gerald Bray, ed., *The Anglican Canons 1529-1947*, Church of England Record Society 6 (Woodbridge-Rochester, NY, 1998), p. xv.

<sup>46</sup> For a succinct discussion, rich in bibliography, see the article by René Metz in *DMA* 3:440-6, who considers the episcopate a separate eighth order. For a fuller treatment, see the studies by Roger Reynolds collected in his *Clerical Orders in the Early Middle Ages. Duties and Ordination* (Aldershot, 1999). For recent changes, see Felician Foy and Rose Avato, eds, 1995 *Catholic Almanac* (Huntington, Indiana, 1994), pp. 227-9.

are by definition excluded from ordination. These perplexities continue in the revised *Code of Canon Law* of 1983, which speaks of 'Religious Institutes of Consecrated Life,' 'Secular Institutes of Consecrated Life,' and 'Societies of Apostolic Life.' The world may regard such persons as clerics, but the Roman Church has not done so either in the Middle Ages or today. Its legislation has habitually treated 'clergy' in a category separate from 'religious'. Thus canon law explicitly forbids the holding of secular political office to clerics, but not to religious.

Similarly, in the Middle Ages synods frequently legislated separately for the 'clergy' and for 'religious', and distinct problems are associated with each. 'Clergy' is normally the most precise term used, which leaves one in the dark as to whether the statute in question equally bound those in minor and major orders, the unbeneficed as well as the beneficed, not to mention the merely tonsured. Since regulations concerning armsbearing usually appear in these sections on 'Clergy' in both medieval and modern legislation, one may ask whether they apply to religious. Such men and women were subject to the rule and statutes of their orders and their houses, but were they also bound by the legislation of the diocese in which they found themselves, especially if they were ordained clerics or if they stepped outside the precincts of their houses into the diocese beyond? This is rarely clear. This legal conundrum was exacerbated from the High Middle Ages onward by the legal exemption of many religious orders from the authority of the local bishop, originally an instrument of reform which metamorphosed into an abuse sorely needing reformation by the time of the Council of Trent. Endless wrangling emerged from such tangled issues.<sup>47</sup>

As for the Anglican Church, the Reformation in England cleared away many of these difficulties concerning the secular and the regular clergy by suppressing the religious orders entirely and by reducing the orders of the clergy to the three original ones of bishop, priest, and deacon. The revival of religious orders since the nineteenth century has complicated both the public picture of the Anglican clergy and their status at canon law, although still not as much as in the Roman Catholic Church. On the other hand, so many varieties of opinion and practice are tolerated within the Anglican Communion, which lacks any one central way of resolving controversies, that it is best with the Anglican Communion, as with the Roman Church, to use the word 'clergy', complete with all its potential ambiguities, as it is used in the sources unless otherwise specified.

Finally, a word about 'armsbearing', a seemingly straightforward word required by the constraints of modern title pages and justified by the terse Latin phrase habitually used in canonical legislation, *arma portare*. What do these words mean?

First, what are 'arms'? Swords, spears, bows and arrows, pistols, guns—

<sup>47</sup> For reasons of economy, the legislation of the medieval and early modern Catholic religious orders on armsbearing will be treated in a separate monograph.

these are manufactured, offensive, and lethal. But what of small paring knives and similar instruments which can be used in deadly fashion but were not fashioned for such purposes? What of natural objects like stones and stout sticks which can be used defensively or offensively? What of the knives so necessary for quotidian life and carried by most people down into the eighteenth and nineteenth centuries? Were these considered *arma* in ecclesiastical legislation?

A difficulty of a different order revolves around translation of foreign words for various arms, particularly Latin words as these words are used again and again over the course of hundreds of years. Even without the problems of translation, weapons are simply not that easy to pin down: 'there is no definition of the sword, that is, none that differentiates it from all other weapons. The reason is simple – the series of knife, sword, espadon, and glaive is an unbroken one, and there is no point that can be agreed upon as that at which a division should always be made.'<sup>48</sup> Bearing this caveat in mind, I have dealt with the frequently recurring Latin terms as follows. *Cultellus* is a generic word for 'knife' and I have so translated it throughout; but without further specification about length, width, blade (double-edged or single?), and the like, there is no way of knowing whether what a tenth-century Benedictine monk in Tuscany regarded as a *cultellus* corresponded very closely to what a sixteenth-century German Dominican called by the same name. *Ensis* is even more problematical, for although it was often used interchangeably with *gladius* in classical Latin, it is not often so used in medieval Latin. I have tended to translate *ensis* as 'dagger', but cautiously so. *Gladius* is thoroughly vexing. Until rather late in writing this book I had rendered this word as "sword." Then I encountered two independent fourteenth-century instances, together with two seventeenth-century derivative usages, in which *gladius* was carefully defined as the equivalent of *cultellus*. Although these cases are few and late and may possibly reflect classical influence (since the *gladius* of the Roman army was a short 'sword'), they vitiate certainty about the exact meaning of this word and therefore of *ensis* as well. In doubtful cases I have therefore supplied the Latin original with my tentative translation.

*Portare* means 'to bear' or 'to carry'. Once the ancient ban began to be modified in the High Middle Ages, questions inevitably came to be asked about what exactly that meant. By the later thirteenth and fourteenth centuries cautious legislators found it wise to forbid clergy to 'have' (*habere*) or 'retain' (*retinere*) arms. Questions still arose. Even if one did not have or keep arms oneself, was it licit to use arms, especially for purely defensive purposes or under extraordinary circumstances? If one could defend oneself with arms, could one also defend another, ecclesiastical property, the *patria*, or some just or holy cause? Could a cleric act on his own initiative, or did he

<sup>48</sup> George Cameron Stone, *A Glossary of the Construction, Decoration and Use of Arms and Armor in All Countries and in All Times* (New York, 1934), p. 591; pp. 595–6 list different kinds of, and names for, 'swords'.

need to obtain leave from a superior? And what kind of usage of arms was permitted under such circumstances? Was minimal response always called for? What is the importance of intention? If one kills or wounds another or sheds his blood, is a cleric always and everywhere automatically rendered 'irregular' and incapable of exercising his sacred office or of promotion to another order until dispensed by higher authority? Beyond these questions concerning the personal 'bearing' of arms lay others. May a cleric, even if he himself may not take up arms, lead others in a defensive, just, or righteous war or action? If he may not lead them, may he at least exhort them and urge them on to victory in the name of this cause?

'Bearing arms', then, far from being a simple term, covers a considerable spectrum of activities ranging from aggressive slashing with the most deadly weapons down through command of troops to sermons and speeches calculated to urge them on. There are many valid, important distinctions to be drawn here. Yet in the minds of many people such distinctions seem to be irrelevant, particularly with respect to command of troops or any kind of engagement in military activities. Although according to the celebrated accounts of Erasmus and Guicciardini Pope Julius II commanded troops, directed siege operations, and entered Rome arrayed in armor, he did not, strictly speaking, 'bear arms' on any of these occasions. Yet Julius might as well have slaughtered women and children with a scimitar, to judge from the prodigious sense of moral outrage which both writers so eloquently expressed. In the later seventeenth century, Archbishop John Williams of York and Bishop Joshua Trelawny of Bristol would be vilified by contemporary satirists for doing even less. Yet, although canon law has traditionally denounced indecorous dress for the clergy, it has never, strictly speaking, forbidden the armor which the pope and the archbishop may or may not have worn; and there is no reason why a scrupulous chaplain to whom the idea of carrying any weapon would be repugnant may not today wear a bulletproof vest into battle. A cuirass is no more a weapon than a bulletproof vest is. To Erasmus and the other critics, of course, the armor was but a symbol of a more fundamental and objectionable clerical militancy and involvement in things incompatible with clerical status; but in terms of canon law they stood on even less sure ground here than they did on arms.

As recorders of accurate historical information such critics may not be particularly reliable, although presumably Erasmus and Guicciardini reported the worst there was to tell. Unfortunately, we ordinarily know in most cases very little, if anything, about how a cleric conducted himself in action – whether he merely brought troops to the field, commanded troops only from a distance, defended himself only when attacked, used any weapons at all, and, if he did, wielded them as defensively and minimally as possible. If Chapter 1, a survey of such distinctive clerics over a sweep of 1,500 years from the late Roman Empire to the present, seems thin on details much of the time, that is because it seeks to stick as faithfully as possible to the sources, which are only rarely eyewitness accounts. Such problems have rarely troubled the people whose