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## The 1917 *Codex Iuris Canonici*: Archival Sources for Canon Law Teaching at the Gregorian University

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### ABSTRACT

The paper seeks to outline the archival sources held at the Archivum Romanum Societatis Iesu (ARSI) relating to the Faculty of Canon Law at the Pontifical Gregorian University between 1914 and 1919—a pivotal phase in the preparation, promulgation, and initial implementation of the *Codex Iuris Canonici* (CIC). After describing the founding phase of the faculty and a project that risked compromising its very existence, attention is given to the reception and application of the CIC's norms concerning the teaching of canon law, including reference to a publishing initiative involving some professors of the Faculty.

### Keywords:

Codex Iuris Canonici; Archivum Romanum Societatis Iesu; Gregorian University; canon law education; canonical jurisprudence; curriculum reform; Jesuit canonists

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## Introduction

This paper intends to offer an overview of the sources preserved in the Archivum Romanum Societatis Iesu (ARSI) concerning the faculty of canon law at the Pontifical Gregorian University during the years 1914–19—a crucial period for the drafting, promulgation, and enforcement of the *Codex Iuris Canonici* (CIC).<sup>1</sup>

The Code was promulgated by Benedict XV (1854–1922; r. 1914–22)<sup>2</sup> through the Apostolic Constitution *Providentissima Mater* on May 27, 1917, following the work overseen by Pietro Gasparri (1852–1934),<sup>3</sup> then secretary of state, and entered into force on May 19, 1918, the day of Pentecost. The documentation contained in the *Pontificia Universitas Gregoriana* collection—particularly the records of meetings held by the professors of the Faculty of Canon Law—provides abundant information on the composition and organization of the faculty, as well as on the content and methodology of teaching activities. These elements are useful both for reconstructing the state of the faculty prior to the promulgation of the CIC and for observing the effects of its implementation on canon law teaching.

- 1 Carlo Fantappiè, *Chiesa romana e modernità giuridica* (Giuffrè, 2008), especially the second volume dedicated to the *Codex Iuris Canonici*. The work on the CIC began under Pius X, which is why it is also known as the *Pio-Benedictine Code*. On March 19, 1904, through the Motu Proprio *Arduum sane munus*, Pius X established the Pontifical Commission for the Codification of Canon Law (*De Ecclesiae legibus in unum redigendis*), chaired by then Archbishop Pietro Gasparri and supported by a college of consultants. Between 1912 and 1914, a first draft was sent to bishops around the world for comment. By 1916 the preparatory work was complete. However, in the meantime Pius X had died without seeing the completion of the project, which was eventually promulgated by his successor in 1917 and entered into force the following year. The CIC, which applied exclusively to the Latin Rite Catholic Church, consisted of 2,414 canons divided into five books: (1) *Normae generales*, covering ecclesiastical laws, their effectiveness, custom, rescripts, privileges, and dispensations; (2) *De personis*, concerning the discipline of clerics, religious, and laypeople; (3) *De rebus*, dealing with the Sacraments, sacred places and times, divine worship, the Church's magisterium, benefices, and other noncollegial institutions; (4) *De processibus*, on judicial procedures, including causes for beatification and canonization, and special procedures for clerics; and (5) *De delictis et poenis*, treating penal matters—that is, crimes and punishments.
- 2 Gabriele De Rosa, “Benedetto XV, Papa,” *Dizionario Biografico degli Italiani* 8 (1966) (hereafter *DBI*), [https://www.treccani.it/enciclopedia/papa-benedetto-xv\\_\(Dizionario-Biografico\)/](https://www.treccani.it/enciclopedia/papa-benedetto-xv_(Dizionario-Biografico)/).
- 3 Fantappiè and Astorri, “Pietro Gasparri,” *DBI* 52 (1999), [https://www.treccani.it/enciclopedia/pietro-gasparri\\_\(Dizionario-Biografico\)/](https://www.treccani.it/enciclopedia/pietro-gasparri_(Dizionario-Biografico)/).

With the rescript of October 11, 1838,<sup>4</sup> signed by Cardinal Luigi Lambruschini (1776–1854),<sup>5</sup> prefect of the Sacred Congregation for Studies from 1834 to 1845,<sup>6</sup> Gregory XVI (1765–1846; r. 1831–46)<sup>7</sup> authorized the establishment at the Collegio Romano, within the Faculty of Theology, of the teaching of *Institutiones iuris canonici* (Institutes of Canon Law), replacing the chair of *Controversies*, whose subject matter had been incorporated into dogmatic theology.<sup>8</sup> In the petition, it was specified that the intention was not to seek the privilege of conferring doctoral degrees in canon law, a prerogative of the Roman Archigymnasium of the Sapienza, but merely to request permission to teach the subject, similarly to what had already been granted to the Pontifical Roman Seminary and the Urban College of Propaganda Fide.

On August 16, 1876, Pius IX (1792–1878; r. 1846–78),<sup>9</sup> through a letter from the Sacred Congregation for Studies, granted the establishment of a Faculty of Canon Law at the Pontifical Gregorian University, along with the authority to confer academic degrees.<sup>10</sup> Three chairs were created:

- 4 *Decretum quo loco cathedrae de Controversiis in Collegio Romano permittitur lectio Institutionum Canonicarum* (ARSI, *Studia* 1009 VI, 6).
- 5 Giuseppe Monsagrati, “Lambruschini, Luigi,” *DBI* 63 (2004), 2025, [https://www.treccani.it/enciclopedia/luigi-lambruschini\\_\(Dizionario-Biografico\)/](https://www.treccani.it/enciclopedia/luigi-lambruschini_(Dizionario-Biografico)/).
- 6 Leo XII, with the Apostolic Constitution *Quod divina sapientia* of August 28, 1824, established the *Congregatio Studiorum* (Congregation of Studies) for the schools of the Papal States, which, beginning in 1870, started to exercise its authority over Catholic universities. The reform of Saint Pius X, through the Apostolic Constitution *Sapienti Consilio* of June 29, 1908, confirmed the competencies already attributed to it. Benedict XV, with a *Motu Proprio* issued on November 4, 1915, elevated the Seminaries Section of the Consistorial Congregation to the rank of a Congregation, merging it with the *Congregatio Studiorum* and assigning it the name *Congregatio de Seminariis et Studiorum Universitatibus* (Congregation for Seminaries and University Studies).
- 7 Giacomo Martina, “Gregorio XVI, Papa,” *DBI* 59 (2002), [https://www.treccani.it/enciclopedia/papa-gregorio-xvi\\_\(Dizionario-Biografico\)/](https://www.treccani.it/enciclopedia/papa-gregorio-xvi_(Dizionario-Biografico)/).
- 8 ARSI, *Santa Sede*, Bullarium, 1007, 1.
- 9 Giacomo Martina, “Pio IX, Papa,” *DBI* 84 (2015), [https://www.treccani.it/enciclopedia/pio-ix-papa-beato\\_\(Dizionario-Biografico\)/](https://www.treccani.it/enciclopedia/pio-ix-papa-beato_(Dizionario-Biografico)/).
- 10 For general reference on the faculty of canon law at the Gregorian University, see also Clarence Gallagher, “Historical Notes on the Faculty of Canon Law,” *Periodica de re canonica* 66 (1977): 407; Bruno Esposito, “The Ecclesiastical Faculties of Canon Law: Past, Present, and Future,” *Angelicum* 79 (2002): 909; Gianfranco Ghirlanda, “The Method of the Gregorian University in Approaching Canon Law,” *Quaderni di diritto ecclesiale* 30 (2017): 397. For a complete and updated bibliography, please also consult the website of the faculty of canon law at the Pontifical Gregorian University, particularly the “Canonical Resources” section, <https://www.iuscangreg.it/>.

one in *Institutiones*, entrusted to Luigi Caterini (1843–1920),<sup>11</sup> and two in *Textus Decretalium*, entrusted to Lorenzo Lugari (1839–1906) and Pietro Baldi (1842–1929).

In reality, as early as 1853 a center for canonical studies had been established in Rome at the Seminario Romano at St. Apollinare, endowed with the authority to confer academic and doctoral degrees in both civil and canon law, equivalent to those granted by “La Sapienza” and other universities of the Papal States. It was therefore the Pope’s intention to entrust the Seminario Romano with the formation of the Roman ruling class, while assigning to the Pontifical Gregorian University the mission of promoting theological and canonical scholarship within the Roman context. The distinction between the two institutions was evident in both the methods and the content of legal instruction: the teaching offered at the Gregorian was characterized by a profound sense of continuity, reflected in the theses of Jesuit professors and in the adoption of a logical-deductive approach to the treatment of the subject, in contrast to the more decretalist method employed elsewhere.<sup>12</sup>

The program of the Faculty of Canon Law at the Pontifical Gregorian University lasted three years, with the possibility of completing the first and second years within one, since the study of *Institutiones* was already included in the theological curriculum and many students had already encountered the material. The study of the six books of the *Corpus Iuris Canonici*<sup>13</sup>—which remained the main source of Canon Law until the promulgation of the *Codex*—required two years. The material was organized according to the classical structure used in *decretal* law, divided into five parts: *iudex* (the judge), *iudicium* (the trial), *clerus* (the clergy), *connubia* (marriage), and *crimen* (crime).<sup>14</sup> In the first year, students studied the material sources of law, ecclesiastical hierarchy and jurisdiction (*iudex*), and procedural law (*iudicium*). The second year covered the status of secular and regular clergy, laity, the temporal goods of the Church, contracts

11 Provincial Superior of the Roman Province from 1904 to 1909 and Rector of the Gregorian University from 1914 to 1918.

12 Carlo Fantappiè, *Storia del diritto canonico e delle istituzioni della Chiesa* (Il Mulino, 2011): 240.

13 Officially published in 1582 by Gregory XIII (1502–85; r. 1572–85), it consists of six books: *Decretum Gratiani* (1140–42), *Liber Extra* (1234), *Liber Sextus* (1298), *Constitutiones Clementinae* (1317), and two collections of decretals known as *Extravagantes Iohannis XXII* (1317–25) and *Extravagantes Communes*, containing decretals of various popes issued after *Liber Sextus*.

14 Fantappiè, *Storia del diritto canonico*, 119.

(*clerus*), marriage (*connubia*), and penal law (*crimen*).<sup>15</sup> At the end of the Schola Institutionum, students obtained a baccalaureate; after the first year of the Schola Textus, a licentiate; at the end of the second year of Textus, a doctorate. Leo XIII (1810–1903; r. 1878–1903)<sup>16</sup> confirmed and ratified the 1876 concession with an apostolic letter dated July 29, 1896.<sup>17</sup>

The following sections will illustrate several changes that took place in teaching methods, contents, and, more generally, approach to the subject adopted by the professors of the Faculty of Canon Law at the Gregorian University, as evidenced by the documentation preserved in the ARSI. Without any claim to exhaustiveness, this article aims to provide an overview of the sources that may serve as a basis for further research and future in-depth studies on the topic.

### Franz Xaver Wernz's Contribution to the Development of the Faculty of Canon Law

A decisive impulse to the development of the faculty was given by Franz Xaver Wernz (1842–1914), Superior General of the Society of Jesus from 1906, who was a professor of canon law from 1876 to 1882 at the colleges of Ditton Hall and St. Beuno in the *Provincia Angliae*, and from 1882 to 1906 at the Gregorian University, of which he was also rector from 1904 until his election as superior general.<sup>18</sup> His fame as a canonist is due both to drafting *vota* as a consultor for various Roman Congregations, especially those concerning the application of the decrees of the Council of Trent in jurisdictional and matrimonial matters, and to the publication in Rome between 1889 and 1893, as a lithographed manuscript, of the five volumes of *Ius Decretalium*. Updated, corrected, and republished between Rome and Prato in seven volumes from 1898 to 1904 under the title *Ius Decretalium ad usum praelectionum in scholis textus canonici sive iuris decretalium*, the work benefited from the collaboration of Benedetto Ojetti

15 For further information on the curricula and, more generally, on the establishment of the faculty of canon law, see the proceedings of the *Conferentiae LXXVII Commissionis Generalis ad Studia Theologica ordinanda in Societate Iesu habebantur Fesulis, deinde Romae, a d. 2 Aug. Ad d. 17 Dec. Anno MDCCCLXXXV*, especially *Conferentiae XII e LXIV* (ARSI, *Studia*) 1016).

16 Francesco Malgeri, "Leone XIII, Papa," *DBI* 64 (2005), [https://www.treccani.it/enciclopedia/papa-leone-xiii\\_\(Dizionario-Biografico\)/](https://www.treccani.it/enciclopedia/papa-leone-xiii_(Dizionario-Biografico)/).

17 ARSI, *Pontificia Universitas Gregoriana* (hereafter *PUG*) 1001 IX, 25.

18 *Diccionario histórico de la Compañía de Jesús*, vol. 2, ed. Charles E. O'Neill, S.J., and Joaquín María Domínguez, S.J. (Institutum Historicum Societatis Iesu–Universidad Pontificia Comillas, 2001; hereafter *DHCI* 2), 1682.

(1862–1932)<sup>19</sup> and Pedro Vidal (1867–1938),<sup>20</sup> professors of Canon Law at the Gregorian University, the former from 1895 to 1932 and the latter from 1906 to 1939. Wernz's *Ius Decretalium* also earned the public praise of Pope Pius X (1835–1914; r. 1903–14)<sup>21</sup> in the brief *Sollertium sane* of June 29, 1905, especially for its particular competence in matrimonial law, and it remained a reference point after the promulgation of the *CIC*.

Wernz's work fully entered the debate on the codification of canon law, which began in 1904 and continued until the promulgation of the *CIC*, particularly regarding the division of its subject matter. Together with other canonists of the Gregorian University—most notably Ojetti—Wernz maintained the need to remain faithful to the classical canonistic tradition by preserving the order of the Decretals. As Fantappiè has pointed out, abandoning that structure would have led to numerous inconsistencies, both in the relationship between the hierarchy of orders and the hierarchy of jurisdiction, and in the placement of the sacraments. The traditional order of the Decretals would have allowed the construction of a coherent and unified vision of persons within the Church while also giving greater prominence to the status of the laity.

During his Generalate, Wernz repeatedly took care of the Canon Law faculty at the Gregorian University. On April 19, 1908, he promulgated the *Instructio de Examinibus externorum Scholarium in Universitate Gregoriana*,<sup>22</sup> which included instructions on the methods for conducting exams for obtaining a doctoral degree in the faculties of theology, canon law, and philosophy.<sup>23</sup> The *Instructio* prescribed that exams should be conducted in both written and oral form on the entire subject of the academic course, not just on the treated propositions. The candidate had to be examined on all five parts into which the subject was divided: *De iure*

19 *DHCI*, vol. 3, 2864. Fr. Pietro Tacchi Venturi (1861–1956), Secretary of the Society of Jesus from 1914 to 1921 and a classmate of Benedetto Ojetti, recalls in his memoirs that Fr. Ojetti was the nephew of Mons. Tancredi Fausti (1831–95), also a prominent canonist, who played a key role in drafting the brief *Dolemus inter* of July 13, 1886, through which Leo XIII confirmed the Institute of the Society of Jesus. See ARSI, *P. Pietro Tacchi Venturi*, Miscellanea, Box 11, Folder 38, Folio 13. On Ojetti, see also the Ojetti collection in the Archives of the Pontifical Gregorian University.

20 *DHCI*, vol. 4, 3946. Between 1923 and 1938, Vidal also oversaw the publication of the ten volumes of *Ius Canonicum auctore P. Francisco Xav. Wernz S.J. ad Codicis Normam Exactum opera P. Petri Vidal*.

21 Maurilio Guasco, "Pio X, Papa, Santo," *DBI* 84 (2015), [https://www.treccani.it/enciclopedia/pio-x-papa-santo\\_\(Dizionario-Biografico\)/](https://www.treccani.it/enciclopedia/pio-x-papa-santo_(Dizionario-Biografico)/).

22 *Acta Romana Societatis Iesu* 1908 (Rome, 1909), 121 (hereafter AR).

23 AR 1908, 122.

*publico, De personis, De rebus, De iudiciis ecclesiasticis, De delictis et poenis.* In conformity with what was already in force at the Roman Seminary, the division of the discipline of the *Corpus Iuris Canonici* was to be replaced by one more in line with the future *Codex Iuris Canonici*, the drafting of which had begun in 1904. Wernz thus prescribed the distribution of exam material into one hundred propositions, twenty for each of the five parts provided, allowing freedom—except for the first part, *De iure publico*—to substitute the chapters of the *Corpus Iuris Canonici* relating to the other four parts (*De personis, De rebus, De iudiciis ecclesiasticis, De delictis et poenis*) with one or two decrees of the Council of Trent for each: for example, the *Tametsi*<sup>24</sup> or the one on seminaries,<sup>25</sup> or, citing more recent provisions, the decrees *Auctis*,<sup>26</sup> *de Frequenti Communione*,<sup>27</sup> *de nova forma Sponsalium*.<sup>28</sup> The statistics seem to confirm the positive effects of Wernz's initiatives for the promotion of canonical disciplines at the Gregorian University during his years as rector, noting a significant percentage increase in enrollment: in the academic year 1876–77, of a total of 360 students, only 15 were enrolled in canon law, about 4%, but in the academic year 1905–6, out of 1,066 students, those enrolled had risen to 125, about 12%.<sup>29</sup> Wernz further multiplied his efforts to develop the faculty, announcing at the opening exhortation of the Congregation of Procurators held at the German-Hungarian College in Rome on September 27, 1910,<sup>30</sup> the establishment of an advanced course in Canon Law to obtain academic degrees.<sup>31</sup> The efforts of the Father General were fully and in various ways supported by the Holy See: on November 5, 1912, for example, Pius X granted students of the German-Hungarian College who had completed philosophical and theological studies the right to attend the newly activated advanced course at the Gregorian University and obtain their degree there.<sup>32</sup>

A potentially fatal setback in this process occurred in 1914 due to a project that, had it been carried out, would have nullified the investment

24 Decree issued on November 11, 1563, during the 24th session of the Council.

25 The decree *Cum adolescentium aetas*, unanimously approved on July 15, 1563, during the 23rd session of the Council.

26 Decree *Auctis admodum* of the Sacred Congregation for Bishops and Regulars, November 4, 1892.

27 Decree *Sacra Tridentina Synodus* of the Sacred Congregation of the Council, December 20, 1905.

28 Decree *Ne temere* of the Sacred Congregation of the Council, August 2, 1907.

29 ARSI, PUG 1001 IX, 25.

30 ARSI, *Congregationes Procuratorum*, 3, *Acta quaedam generalia Congregationis Procuratorum in Urbe ad diem 27 Septembris an. 1910 coactae*, 8.

31 AR 1910, 56.

32 AR 1912, 21. See also ARSI, *Acta consultationum cum PP. Assistantibus*, VII, 335.

that Wernz and the Society of Jesus were making in the development of canon law studies at the Gregorian University. On April 26, 1914,<sup>33</sup> the General wrote to Ojetti—who, as Dean of the Faculty of Canon Law, had informed him of the matter—regarding a plan to establish a new pontifical juridical-ecclesiastical institute in Rome for the Roman and Italian clergy, to be housed either at the Collegio Leoniano or at the Seminario Romano (Roman Seminary). A few days earlier, Mgr. Giulio Serafini (1867–1938)<sup>34</sup> had sent the proposal to Ojetti, specifying that the Pope had given full freedom to those involved to discuss it, and had invited them to express any doubts, observations, or opinions on the project. The new institute would have centralized both teaching and the awarding of academic degrees, which would have consequently led to the suppression of the canon law faculties at the Gregorian University and the Pontifical Angelicum College of the Dominicans. In light of the information he had received, Wernz expressed strong reservations to Ojetti regarding the project as a whole and firmly opposed the suppression of the Faculty of Canon Law at the Gregorian. The document is significant not only for its content but also as direct testimony to the Father General's views on the faculty, which—having taught there himself—he knew intimately, including its internal dynamics and challenges. The fact that this was internal correspondence addressed to a member of the Society, and thus likely free from the caution and filters typical of official communication, gives it added value. While praising the intention to promote juridical and canonical studies in Rome—especially in view of the upcoming publication of the *Codex Iuris Canonici*—he agreed with the project's aim of addressing certain shortcomings and abuses in the granting of degrees, academic programs, and examination procedures.

What he opposed was the proposed solution to solve these problems: suppressing the canon law faculties of the Angelicum and the Gregorian would have worsened the issues. First of all, it would have destroyed the work of three pontiffs: Pius IX, who in 1876 granted the Gregorian the faculty of canon law the right to confer academic degrees, including the doctorate; Leo XIII, who in 1896 confirmed that concession; and Pius X, who in 1912 allowed students of the German College to attend the advanced course and obtain a law degree at the Gregorian. Moreover, the efforts, also financial, and the results achieved in over forty years of the faculty's existence—during which the professors, besides teaching,

33 ARSI, *Epp. regg. ad Prov. Romanam*, XI, 216. See also ARSI, PUG 1002 II, 2.

34 Biographical sketch in *Enciclopedia Guanelliana*, <https://www.operadonguanella.it/index.php/organizzazione/organismi-generalisti/centro-studi-guanelliani?view=article&id=769:serafini-giulio&catid=118>.

had trained instructors, written books, and drafted opinions for the Congregations—would have been erased. Wernz agreed with the project's authors on the inappropriateness of too many small canon law faculties in Rome having the right to confer degrees; unlike them, however, he considered it useful to have a moderate number with autonomy. More faculties meant a greater number of professors and consultors and, above all, fewer students per course—a favorable and desirable condition from a pedagogical point of view. Furthermore, distinct and independent institutes, if united in defending sound doctrine, would lend more weight to opinions compared with the statements of a single entity, and in cases of differing opinions would help foster debate on the merits, avoiding hasty and uniform judgments and allowing a more solid analysis of issues because of being conducted from different perspectives. The suppression of the canon law faculty at the Gregorian would also have caused serious harm to many provinces of the Society, which did not have the possibility of establishing and maintaining an advanced course in canon law: Rome was the only place where students could gather in sufficient numbers and benefit from it. The Society would also have lost the opportunity to train expert canonists and distinguished authors in canon law, as had happened in the past “when our fathers occupied many chairs of Canon Law in Germany, from which famous authors such as [Paul] Laymann, [Ehrenreich] Pirhing, [Peter] Leuren, [Franz] Schmalzgrueber, [Franz Xaver] Zech, [Jakob] Zallinger and others emerged.” Serious harm would also have been caused to the students, whose formation greatly benefited from uniformity and harmony in the teaching of philosophical, theological, and canonical disciplines: going to another institute for the study of canon law, perhaps far away and with a heterogeneous faculty composed of professors from everywhere, would have damaged that uniformity and harmony necessary for the formation of minds.

Wernz did not categorically rule out the idea of a new institute, provided that it did not operate under a monopoly in teaching and the conferral of academic degrees, considering that the plurality of opinions had greatly favored the progress of canon law:

Why then this centralization, this monopoly, the elimination of all competition? Experience teaches us that such monopolies, even in ancient times in Rome, did not benefit canon law science. . . . Uniformity is certainly a praiseworthy thing, but it should not be exaggerated. A certain variety, freedom, independence, and initiative must also have their space. If in some places there have been shortcomings in the conferral of degrees, it is certain that the Gregorian enjoys a reputation for proper rigor, as the Prefect of the Sacred Congregation of Studies attested to me at the time.

In addition, I have never heard anything negative about the Angelicum either. Therefore, if abuses are found elsewhere, they should be corrected and conscience listened to, but the canon law faculties of the Gregorian and the Angelicum should not be destroyed as a punishment for their careful observance of pontifical laws and the warnings of the Roman Pontiff regarding the rigor of examinations for academic degrees. If there are inconveniences, they can be easily removed by applying the laws already in force and, if necessary, by promulgating new decrees valid for all canon law faculties in the City, especially against those itinerant candidates that the Gregorian has always excluded. . . . But before attributing a general accusation of inferiority and deficiency to all existing faculties, specific concrete defects should be identified, otherwise one falls into the vice of vague and general denunciation, contrary to natural, Roman, and canon law.

To correct some errors and promote the progress of studies, common sense did not suggest the foundation of a new institute and the suppression of existing ones, but rather to perfect and improve the latter. The erection of a new institute was certainly possible, but under the stated conditions and provided that the Gregorian was not involved at any level, also with the hope that there would be guarantees of a well-formed college of professors—this was something in which he had little hope because a college composed of members from different places and subject to frequent turnover would certainly cause the unity and internal stability of the faculty to be lost.

In the plan for the new institute, the necessity of studying civil law and Roman law was affirmed as essential for a solid and complete formation in legal subjects. However, this need had already been addressed at the Gregorian by the appointment of Fr. Louis Rivet (1871–1915),<sup>35</sup> who, joining Dean Ojetti and fathers Joseph Steiger (1855–1923)<sup>36</sup> and Pedro Vidal, brought the number of professors to four.<sup>37</sup> A course in Roman law, Wernz continued, was certainly important, provided it was not too extensive. The civil law of a particular nation could be taught more thoroughly and profitably in national colleges; but in a university where students came from eight or ten nations with as many civil codes, often very different from each other, it would not be possible, nor would it make sense, to have a common

35 Professor at the Gregorian from 1911 to 1914. He died in 1915 and was succeeded by Generoso Graziosi (1856–1934), previously a law professor at the Collegio Leoniano in Anagni, near Rome, who held the position until 1921.

36 Professor of canon law at the Gregorian from 1913 to 1922.

37 *Catalogus Provinciae Romanae Societatis Iesu ineunte anno MCMXV*, Roma 1914, 34–36.

course on current civil law. In conclusion, Wernz communicated to Ojetti the objectives to be pursued decisively:

- a. To avoid the suppression of the canonical faculty of the Gregorian and maintain it in the free exercise of the privileges already granted by the Apostolic See. Moreover, to encourage its activities in proposing, explaining, and defending canonical doctrine and promoting legal studies with lectures, seminars, publications, and *vota* for the Roman Congregations;
- b. Given the common risk of suppression of their own canonical faculty, to cooperate “in full peace and harmony” with the Dominican Fathers;
- c. If the ecclesiastical authorities proceeded regardless with the erection of the new institute, it was necessary to ensure that it could not exercise a monopoly on teaching and the conferral of academic degrees. It was also entirely inappropriate for the rector of the Gregorian to be part of the new institute’s governing council, and even less that a professor be made available to its faculty.

Three days later, on April 29, after consulting the Assistants,<sup>38</sup> Wernz wrote to the Pope to express, though in different tones and accents, the same concerns about this matter that he had shared with Ojetti.<sup>39</sup> Based also on the considerations expressed regarding the institute to be erected, in May he drafted a detailed report entitled *Animadversiones de Universitate Gregoriana*,<sup>40</sup> which, along with similar reports from other Jesuits,<sup>41</sup> he sent on May 29, 1914, to the rector of the Gregorian, Luigi Caterini, to identify possible areas of improvement in the university’s service. Regarding the canon law faculty, Wernz recommended maintaining the distinction between the *Institutiones canonicae* course and the *Textus canonicus* course, which was clearly violated when the *Institutiones* professor distributed such a large number of handouts to students that he could not explain them all. Alternatively, when the *Textus* professor treated topics too superficially, provoking complaints from students who lamented having come from far away only to hear limited questions explained without the necessary depth. Historical issues needed to be explained better, with attention to the current context: more recent texts should be emphasized, avoiding basing courses entirely on a few authors from the seventeenth and eighteenth centuries. According to the General, much of the responsibility for these

38 ARSI, *Acta consultationum cum PP. Assistantibus*, VIII, f. 14.

39 ARSI, *Epp. regg. ad Romanam Curiam*, IV.

40 ARSI, PUG 1002 II, 5.

41 ARSI, PUG 1002 II, 2, 4, 6.

problems was due to the lack of time professors could devote to study and to “the miserable state of the Gregorian University library, which entirely lacks many collections of canonical and civil law books from various regions, as well as numerous journals.”

Furthermore, addressing even apparently minor issues, he pointed out that the third-year class schedule was very unfortunate:

Those first hours after lunch are useless in themselves: students cannot study seriously, and this impedes the study of scholastic theology and Sacred Scripture. If that useless public law course introduced against the study system established by father Roothaan<sup>42</sup> were omitted, with a slight change in the order of classes in the first and second years, it would be possible to teach all ecclesiastical history in the first year and Canon Law in the second.

The study of canonical institutions in the first year was conducted rather poorly: since students were not required to take exams, it was sufficient for them to attend lessons and, on the days when reviews could be held, they either did not show up or responded to questions “miserably.” The monthly debate, provided for by Roothaan’s *Ratio studiorum* of 1832, effectively did not take place and was replaced by a single dissertation read by a student, often written by a professor. It was therefore no surprise that students were poorly prepared even in the rudiments of canon law. Practical exercises and extra-school reviews were not carried out. The admission of students who were insufficiently prepared in philosophy, theology, or canonical institutions, and consequently lacking the minimum tools, worsened the situation, highlighting how “some seem to be animated by the erroneous opinion that men inadequate for philosophical or theological degrees can nevertheless aspire to degrees in canon law.”

Wernz died on August 19 and did not have time either to witness the full acceptance of his requests regarding the new pontifical juridical-ecclesiastical institute, or to see the effects of the *Animadversiones*. On September 3, the Society’s vicar general, Edouard Fine (1847–1927),<sup>43</sup> convened the

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42 On July 25, 1832, Jan Philip Roothaan (1785–1853), Superior General of the Society of Jesus since 1829, sent the new edition of the *Ratio Studiorum* to provincial superiors, college rectors, prefects of studies, and professors, following the revision work carried out by a commission established specifically in May 1830. See ARSI, *Studia* 1006, 1007, 1008; *Registra ordinationum R.P. Fortis (1821–1828) et R.P. Roothaan (1829–1853)*, 162. The text of the letter was published in English translation by Fr. Claude Pavur, S.J., June 2, 2014, [https://jesuitportal.bc.edu/research/documents/1832\\_roothanontheratio/](https://jesuitportal.bc.edu/research/documents/1832_roothanontheratio/).

43 *DHCI*, vol. 2, 1461.

General Congregation,<sup>44</sup> which in the following February would elect the Assistant for Germany, Włodimir Ledóchowski (1866–1942),<sup>45</sup> as Superior General. The outbreak of the First World War in July 1914 and Italy's entry into the war in May 1915 led to a reduction of academic activities. Many scholastics and students were drafted, and Jesuits of enemy nationalities were forced to leave Rome: Ledóchowski, an Austrian subject, took refuge in Zizers, Switzerland.

Despite the seriousness of the situation and the scarcity of students, it was still possible to maintain the four chairs of the faculty for the academic year 1915–16: Ogetti, Steiger, and Vidal were responsible for the *Textus* courses; Generoso Graziosi, for the *Institutiones*.

### The First Years of the Generalate of Włodimir Ledóchowski

On June 24, 1915, Pedro Vidal wrote to Ledóchowski<sup>46</sup> recommending the provisional appointment of professors for the next academic year and requesting that priority be given to those teachers who, due to their academic merits, had earned renown and authority in the Gregoriana and were thus considered best suited for the role, also enjoying the esteem of the students. According to Vidal, the shortage of students, which until that date had delayed appointments, was unfounded: the just-concluded academic year had seen over sixty students attend the canon law courses. If Graziosi, as it seemed, was unable to continue teaching, Vidal urged consideration of appointing Felice Cappello (1879–1962),<sup>47</sup> already regarded as a good canonist. The only potential obstacle was his young age and novice status, but he was already teaching canon law at the *Leonianum* College in Anagni. Vidal also confided to the General that he had heard “this Father is somewhat stubborn in his opinions and, before entering the Society, did not have entirely peaceful relations with his bishop.” Should Cappello not be available, Vidal, having no other candidates from the Roman province, proposed giving up the fourth professorship and assigning the hours of *Introductio* to *Institutiones* to the professor who taught *Ius de Personis*, postponing *Ius regulare* to the following year. Graziosi continued teaching, and no changes or replacements were necessary even for the academic year 1916–17.

44 The 26th General Congregation was held in Rome from February 2 to March 18, 1915. Elected during the fourth session (*actio IV*) on February 11, in the second ballot and *cum magna animorum consensione* (with great unanimity of minds), Ledóchowski led the Society for 28 years.

45 *DHCI*, vol. 2, 1687.

46 *ARSI*, *PUG* 1002 II, 7.

47 *DHCI*, vol. 2, 645.

On August 23, 1917, Giuseppe Filograssi (1875–1962), vice-rector of the Gregoriana, sent to Ledóchowski<sup>48</sup> the instruction *Cum novum iuris. De novo iuris canonici Codice in scholis proponendo* of August 7, 1917, by which the Sacred Congregation of Seminaries and Universities established the method of teaching the Code in pontifical universities.<sup>49</sup> Since being put into force on May 19, the *CIC* had become the sole source of canon law and the only text to be used to regulate Church discipline in tribunals and in schools. In the *Textus* school of all pontifical universities subject to its authority, according to canon 256 §1, canon law was to be taught so that students would “be led almost by the hand to know and understand the Code”: professors had to guide students carefully through the content and explanation of all the canons of the code. Teachers were instructed to respect the order of canons and the sequence of titles and chapters, and before addressing a juridical institution, they had to outline its origin, development, and changes over time. The only necessary textbook was the code itself: if professors wished to use supplementary texts, they were required to adapt their content and the order of topics to those of the *Codex*, never the reverse.

As soon as the *CIC* was published, the professors of the faculty of canon law asked Filograssi to convene a consultation in order to determine the necessary adjustments to the curriculum and to discuss the rules for conforming to the prescriptions of the *Cum novum iuris* decree. The consultation took place just before the summer holidays, but Vidal only informed the Father General on November 4.<sup>50</sup> Participating in the meeting were the prefect of studies Gabriel Huarte (1870–1946), the *Textus* professors Ojetti, Steiger, and Vidal, and the *Institutiones* professor Graziosi. The discussion focused on the teaching method for canon law and the division of the material among the courses. The *Textus* professors unanimously agreed that the fifteen hours of weekly lectures absorbed the students to such an extent that they had insufficient time for study, which was essential for preparing for the exam covering all 2,414 canons of the *CIC*. Many of the students were already priests with corresponding duties and had to review independently the vast amount of material delivered to them daily by three

48 ARSI, *PUG* 1002 II, 17.

49 *Acta Apostolicae Sedis* (hereafter *AAS*) 9 (1917): 439. See also Valentín Gómez-Iglesias, “La ricezione del Codice del 1917 nella dottrina e nell’insegnamento,” in *La codificazione e il diritto nella Chiesa*, ed. E. Baura, N. Álvarez de las Asturias, and T. Sol (Giuffrè, 2017), 71; Carlo Fantappiè, “L’insegnamento del diritto canonico in Italia dal Concilio Vaticano I ai codici vigenti,” in *L’insegnamento del diritto canonico*, ed. Italian Group of Canon Law Professors (Glossa, 2014), 37.

50 ARSI, *PUG* 1002 VII, 9.

different professors over three hours. Unlike other faculties, Saturdays were not reserved for review sessions but for new lectures. The professors therefore proposed to reduce each of their weekly lectures by one hour to allow for review sessions, as was already the case in other faculties. Filograssi objected that the division of the program among three instructors had yielded positive results and that the promulgation of the *CIC* had, in fact, shortened the material to be taught: the often-obscure law of the *Corpus Iuris Canonici* had been replaced by the clear and certain text of the *Codex*, whose explanation could be fully delivered in the time previously required to discuss and resolve controversial questions. The division of the *Codex*, introduced by Wernz, required each of the three professors to teach five hours per week, which the students found burdensome. Furthermore, unlike theology students—who were exempt from attending lectures after Easter to prepare for their exams—those in their final year of canon law were not exempt from attending classes until the very last day. The vice-rector acknowledged the validity and reasonableness of the professors' arguments for reducing their weekly teaching hours, but stated that he could not implement any change without consulting the Father General.

Another consultation took place on December 20, attended by those from the previous meeting as well as the Assistant for Italy, Francesco di Paola Nalbone (1866–1953),<sup>51</sup> and the provincial of the Roman province, Paolo Dell'Olio (1861–1933).<sup>52</sup> At the opening of the session, Nalbone read a letter from Ledóchowski in which he expressed his support for the professors' proposal to eliminate one lecture per week. Although initially opposed, both Dell'Olio and Huarte agreed to the decision, and Filograssi, who had initially resisted, had already declared himself in favor in view of the solid reasoning offered. It was therefore decided to inform the rectors of the colleges, given that the adjustment constituted a permanent change in the academic schedule. Two implementation options were considered. The first was to establish the same day off for all professors, giving each of them four teaching days per week. The second was to rotate the day off weekly for each professor, meaning that canon law students would attend only two classes per day for three days each week, as was the case for students of philosophy and theology. The second option was chosen because it aligned with the class schedules of the students' home colleges and was deemed more appropriate for the university: the first option might have been perceived as a reduction in rigor compared with other Roman faculties of law.

51 *DHCI*, vol. 3, 2800.

52 *ARSI, PUG* 1002 VII, 10.

The discussion then turned to the final examination. It was agreed that, for the sake of the university's reputation, special study guides and summaries would no longer be printed: every candidate for the licentiate in canon law was, by nature of the discipline, required to present the entire *CIC* as the subject of the exam. This implied that professors were obliged to cover all relevant material and canons of the *Codex* in their lectures. Given the new teaching method, the professors said they could not yet determine whether it would be possible to explain all the material and agreed to meet again in consultation the following April to decide whether to reduce the exam content. In closing, Nalbone—taking advantage of the discussion on this point—reported having received several complaints that examination syllabi included theses that were never explained in class. Supporting the students' concerns, the Assistant for Italy reminded the professors that the primary reason for reducing class time had been that the new *Codex*, by eliminating controversial and time-consuming issues, had also reduced the overall content. Therefore, there was no justification for leaving parts of the *Codex* unexplained.

With the instruction *Legum canonicarum. De experimentis ad gradus in Iure Canonico assequendos*, issued on October 31, 1918,<sup>53</sup> the Congregation for Seminaries reaffirmed the provisions of *Cum novum iuris*, further clarifying certain points. To ensure that, in addition to instruction, the examinations for academic degrees adhered to the new norms, it was decreed that the *Codex* would be the only source used in canonical law examinations and that any other list of theses or doctrinal content not found within the canons of the *CIC* was to be excluded. Candidates were to provide exegesis<sup>54</sup> of the canons as found in the *Codex*, either individually or in relation to each other. Moreover, depending on the academic degree sought, candidates were expected not only to interpret and explain the canons but also to demonstrate knowledge of the origin, history, and development of each juridical institution. As with the August 1917 instruction, compliance with the prescriptions of the 1918 document was mandatory for all universities, faculties, and pontifical institutions under the authority of the Congregation.

Useful elements for the investigation into the activities and internal dynamics of the Faculty of Canon Law during the period in question are also provided by the events surrounding the foundation of a journal of the Pontifical Gregorian University, initiated at the behest of Ledóchowski

53 AAS 11 (1919): 19.

54 See Carlo R. M. Redaelli, "Il metodo esegetico applicato al Codice di diritto canonico del 1917 e a quello del 1983," *Periodica de re canonica* 86 (1997): 57.

himself.<sup>55</sup> On November 30, 1918, Filograssi sent to the Father General *Report of the consultations held at the Gregorian University regarding the periodical to be launched on 21, 22, and 27 November 1918*,<sup>56</sup> which he had convened to obtain suggestions and advice from professors of the three faculties regarding the project. During the consultation of the canon law faculty on November 27, Ojetti pointed out that the professors had no time for editorial activity, being entirely absorbed in teaching and, as in his own case, in duties connected with serving as a consultor for the Roman Congregations. Noting the lack of qualified individuals capable of writing scholarly articles, he rejected the idea of involving authors from outside the university: "It would be unseemly for the periodical to present itself to the public as the organ of the University while featuring contributions by individuals who do not teach at the University." Furthermore, the periodical would harm fraternal charity by provoking disputes within the community due to disagreements over opinions and the rejection of articles for publication. The reference is to the *Censurae librorum*, the process of evaluation required for the release of the *nihil obstat* for works written by members of the Institute.<sup>57</sup> Continuing to report Ojetti's words to Ledóchowski, Filograssi noted that, according to the professor:

There is not enough agility or freedom in Rome to produce a periodical: we are too tightly controlled by the Authorities. Suppose, under the freedom granted to us in the letter of Our Father *De doctrina S. Thomae*,<sup>58</sup> someone were to write something contrary to the views favored by the Congregation of Studies. There might be objections, perhaps expressed politely, but still limiting freedom. In short, the periodical intended to honor the University would, in fact, bring about its demise (textual expression), and whereas we now enjoy a good reputation, we would fall into disrepute among the learned. Fr. Ojetti would favor a scientific periodical published outside of Rome and not as an official publication of the Gregorian University. All articles should be signed by their authors to avoid what happens with *La Civiltà Cattolica*, where articles are attributed not to their actual authors but mistakenly regarded as representing the official position of the Society of Jesus.

Other faculty members took similar positions. Vidal expressed willingness to collaborate in the field of canon law, but reiterated the problem of a lack

55 ARSI, PUG 1002 IX, 4.

56 ARSI, PUG 1002 IX, 9.

57 The eponymous archival collection is currently being reorganized and inventoried by the present author. It comprises approximately 1,600 folders containing documentation dating from around 1825 to the 1970s.

58 Ledóchowski to the entire Society *De doctrina S. Thomae magis magisque in Societate fovenda*, December 8, 1916, AR 1917, 317.

of trained religious, periodicals, and books because of which professors were not up to date scientifically. He emphasized the urgent need to begin training activities and to adopt all possible initiatives in that direction. Graziosi added that, before launching such an initiative, it would be better to invite professors to write for existing journals in order to test their aptitude for this specific type of work and allow them to gain experience. Only after that should a university journal be considered. Professors, he said, were called to teaching, not to writing, and the difference was significant, as writing required lengthy study and practice in composition. Steiger supported the views of Ojetti, Vidal, and Graziosi, adding that there were no precedents for a university having its own periodical.

The canon law faculty proposed beginning with a nonperiodic publication, while taking steps to prepare for a future periodical. According to Filograssi, it was essential that the university have its own journal and that professors be made to understand that, beyond teaching, they were also expected to contribute to a scientific publication. However, he believed it was necessary to delay the release of the first issue, which the Father General had scheduled for June 1919, as it was highly unlikely that potential contributors would be able to submit their articles by March. He did not consider it essential to have all the necessary journals, books, and specialized press materials beforehand: he suggested launching the editorial initiative regardless, subscribing in the meantime to the major journals and acquiring the required books, aiming to gradually increase their number.

Arthur Vermeersch (1858–1936)<sup>59</sup> also participated in the consultation. As a professor of canon law and founder of a journal, his opinion on the matter carried particular weight.<sup>60</sup> Like the prefect of studies, he believed that the conditions for beginning publication in June 1919 were not yet in place, although he supported the project of a Gregorian journal, which would enhance the university's scholarly prestige. For the time being, he recommended obtaining texts and specialized periodicals and assigning two Jesuits full-time to reviewing sector-specific publications. Despite the concerns raised by the professors, on December 15, 1918, Ledóchowski wrote to the Assistant for Italy, Nalbone, and to the new rec-

59 DHCI, vol. 4, 3933.

60 ARSI, *Epp. regg. ad Prov. Belgicam*, IX, 259. In 1911, while teaching moral theology and canon law in Leuven, he founded the journal *De religiosis et missionariis supplementa et monumenta periodica*. In 1918, he was appointed to teach moral theology at the Gregorian University; the journal was subsequently transferred to Rome and, beginning in 1920, was published under the title *Periodica de re canonica et morali utilia praesertim religiosis et missionariis*, later shortened to the current title *Periodica de re canonica*.

tor of the Gregorian, Francesco Saverio Calcagno (1867–1939),<sup>61</sup> who had taken office only two months earlier, stressing the need to proceed without further delay with the founding of a scholarly journal of the University.<sup>62</sup> The journal *Gregorianum* began publication in 1920.

The entry into force of the *Codex Iuris Canonici* on May 19, 1918, coincided with the final months of World War I, which ended with the Armistice of Compiègne on November 11. The war's end allowed for the gradual return of religious who had been forced to leave Italy, as well as scholastics and students who had served at the front. However, the first wave of the Spanish flu in spring 1918, which was particularly severe in Italy, compelled the rector to consider delaying the beginning of the academic year. Documents preserved in ARSI show that, despite the complexity of the broader context, the primary concern remained improvement of the quality of education offered by the Faculty of Canon Law, aligning it with the prescriptions of the Congregation for Seminaries and Universities and adapting it to teaching needs in coordination with the other faculties.

The agenda of the canon law faculty meeting of June 4, 1919,<sup>63</sup> included the reorganization of the material taught in the *Textus* courses and the coordination between *Textus* and *Institutiones*. The goal was to make the first-year *Institutiones* program more rationally and effectively aligned with the *Textus* courses of the subsequent years. Professors proposed a clearer division in *Institutiones* between content related to the Theology curriculum and that which was preparatory for the second year of canon law. Of the five hours dedicated to *Institutiones* in the second year of Theology, two or three would be mandatory for that class while the others would be optional for theology students in other years and obligatory only for those aspiring to the baccalaureate in canon law. There were also proposals to modify the academic calendar to encourage theology students to attend canon law courses and to offer the same opportunity to canon law students who, for some reason, had not followed the preparatory instruction during their theology studies. Professors suggested summarizing the *CIC* content during the two or three hours common to all theology students, omitting topics already covered in moral theology and focusing on the whole of Book I and part of Book II, explaining them canon by canon. Ecclesiastical public law could be addressed in the *De Ecclesia* treatise during the fundamental theology course rather than in *Institutiones*. Finally, they agreed that retaining Roman law instruction would make it impossible to adequately cover the *Codex*. Therefore, either Roman law would have to be

61 Rector of the Gregorian University from 1918 to 1922.

62 ARSI, *Epp. regg. ad Prov. Romanam*, XII, 310.

63 ARSI, *PUG* 1002 IV, 37.

dropped or the number of courses increased—the latter option being immediately dismissed. Considering the first option, they acknowledged the importance of Roman law for academic formation, but teaching it only four months per year was insufficient. Thus, they proposed continuing to offer Roman law but as an elective.

### Conclusions

The promulgation of the 1917 *Codex Iuris Canonici* represented a moment of great innovation, as it was the first official and comprehensive collection of the Church's laws since the *Corpus Iuris Canonici* promulgated by Gregory XIII in 1582. The approach adopted by canonists was primarily comparative, focusing on identifying and analyzing the elements of novelty in relation to the *Corpus*. From a didactic point of view, the *Instructio* of August 7, 1917, required professors to follow strictly the order of titles and chapters of the *Codex*, to explain each canon precisely to their students, and to reduce the history of law and legal institutions to a mere introduction to the norms. The adoption of a rigid exegetical method compelled teachers to limit themselves to commentary on the canons alone, thereby neglecting general legal principles as well as the relationships and interconnections among juridical institutions. The norms were considered complete by virtue of being a direct expression of the legislator's will and therefore required no further interpretation concerning their meaning or scope of application.

Partly as a consequence of this approach, in the years immediately following the promulgation of the *CIC*, canonical scholarship largely took the form of manuals while the most original contributions appeared in specialized journals—many of which were founded precisely in those years in an effort to carve out spaces for academic freedom otherwise difficult to obtain. Such was the case of *Periodica de re canonica*, which Arthur Vermeersch transferred from Leuven to Rome in 1919, launching its publication the following year.

The promulgation of the *CIC* also necessitated revision of the *Institutum Societatis Iesu*, as communicated in the circular letter of Włodimir Ledóchowski to the provincial superiors on July 31, 1917. To bring the Society's internal law into conformity with the *CIC*, it was essential to adapt its proper legislation—an issue already raised during the 26th General Congregation of 1915, which addressed the matter through various *actiones* resulting in Decree 11. The war and the enforced absence of the Superior General from Rome significantly delayed this work of revision, to which the canonists of the Gregorian University's Faculty of Canon Law made a fundamental contribution. The reflections on the *CIC*,

its reception, and the implementation of its norms within the Society's proper law can be traced in numerous articles published in *La Civiltà Cattolica*. An examination of the journal reveals more than thirty articles and interventions devoted to various issues of the *CIC* between 1917 and 1919. The new edition of the *Epitome Instituti Societatis Iesu* was published in 1924, with the canonists of the Gregorian playing a crucial role in its drafting and revision.

The papers of the *Pontificia Universitas Gregoriana* archive preserved at ARSI described here represent only a portion of the available documentation for reconstructing the history of the Faculty of Canon Law. Additional relevant materials are held in the *Studia* collection—particularly the sections on the *Ratio Studiorum* and the curricula of colleges and universities entrusted to the Society—and in the *Institutum* collection, especially the *Codex Iuris Canonici* section, which includes materials produced by commissions operating between the 26th (1915) and 27th (1924) General Congregations for the revision of the Institute following the promulgation of the *CIC*. Both collections contain testimonies of the work of the *iuris canonici periti* of the Society, including Ogetti, Vermeersch, and Vidal, who devoted many years to teaching at the Gregorian and contributed significantly to the formation of subsequent generations of canonists.

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