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Disseminating and Dispensing Canon Law in Medieval Iceland

1 Introduction: “Nota sex” and AM 671 4to

Recently, scholars have begun to reassess the relationships between medieval Icelandic society and the canon law of the medieval Church. Agnes Arnórsdóttir, for example, has argued for the early and persistent influence of canonical regulations on Icelandic marriage practices (2010). Lára Magnúsdóttir has surveyed the uses and limits of excommunication in medieval Iceland (2007), while Erika Sigurdson has hinted at the importance of canonical-legal knowledge in the construction of elite clerical identities (2011: 199–202). All of these studies have usefully nuanced and revised some of the operating assumptions of earlier scholarship. Confident and categorical assertions that medieval Icelandic culture “remained, for a long period, practically uninfluenced by Roman and canon law” (Stein-Wilkeshuis 1986: 37) or that canon law did not have much effect on thirteenth-century Icelandic behavior (Frank 1973: 473) now seem far less axiomatic.

This paper aims to contribute to the reevaluation of canon law in me-

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Abstract: This article addresses a Latin canonical-legal treatise, “Nota sex tantum casus,” that survives in fragmentary form in a little-noticed medieval Icelandic manuscript (AM 671 4to). The extant version of “Nota sex” preserved in AM 671 4to was copied in Iceland in the early fourteenth century, and its form as well as its function there merit close consideration. The work alternates between prose and verse, listing and explicating different situations (*casus*) that bring about canonical irregularity and thereby inhibit the reception or exercise of holy orders. The article begins by investigating the didactic-memorial poems embedded in “Nota sex,” approaching those as mechanisms designed to disseminate canonical-legal norms throughout the Church and thus help build broad ideological frames of reference. I then take up the notion of canonical irregularity in other Icelandic contexts. Drawing on an example from *Jóns saga Hólabyskups*, I suggest that medieval Icelandic clerics developed strategies both to recognize and to subvert canonical-legal principles and categories such as the “irregularities” listed in “Nota sex”.

Keywords: mnemonic poetry, canon law, canonical irregularity, *Jóns saga Hólabyskups*, bigamy, dispensation.

dieval Iceland with reference to a few folia from a little-noticed and mostly unedited manuscript: AM 671 4to. This early fourteenth-century clerical miscellany contains several unidentified and overlooked excerpts (in Latin) from important canonical-legal works, including Innocent IV's *Commentaria decretalium*, Gregory IX's *Liber Extra*, and Goffredus of Trano's *Summa* (see Vadum 2013). This material has suffered from woeful under-cataloging; Kristian Kålund's *Katalog over den Arnamagnæanske håndskriftsamling* lumps together the Latin texts identified above under vague headings such as "En række kirkeretlige bestemmelser med citater" and "Kirkeretlige betragtninger" (Kålund 1892: 87–89). Fortunately, Kristoffer Vadum's forthcoming University of Oslo dissertation promises a much-needed investigation of the manuscript's contents and a fresh evaluation of its contexts.¹

The presence of previously unnoticed works of canon law – the institutional rules of the universal Church – in medieval Iceland should lead scholars to ask new questions about the extensions of these rules into the peripheries of Christendom. This paper's focus will be on folia 36r – 39v of AM 671 4to, which contain a fragmentary excerpt from a canonical-legal treatise that circulated throughout thirteenth- and fourteenth-century Europe. Scholars generally refer to the treatise by its opening line: "Nota sex tantum casus quos debet sacerdos mittere ad episcopum" (36r, l. 1) (Remember that there are only six *casus* that a priest should send to the bishop).² The surviving fragment of "Nota sex" in AM 671 4to explicates a series of different situations (*casus*) – some involving sins, others not – that disqualify a candidate for holy orders on the basis of "irregularity", or deviation from canonical norms.

The treatise has been tentatively attributed to the papal chaplain Clarus of Florence (fl. 1255–70) (Henquinet 1939). It has never been edited. "Nota sex" belongs among the *summae de casibus*, canon law commentaries, and penitential manuals that proliferated throughout later-medieval Europe. An inventory from 1396 indicates that the church of Hólar in northern Iceland possessed several books of this sort (DI, vol. 3, no. 511). *Summae de casibus* were designed to instruct clerics in their roles and responsibilities as confessors and as ecclesiastical functionaries.

¹ I would like to thank Mr. Vadum for graciously providing me with his preliminary transcriptions of folia 36r – 39v. I would also like to thank Oren Falk, Andrew Galloway, Adin Esther Lears, and my two anonymous reviewers for their feedback and suggestions. Cornell's Institute for European Studies provided funding for this research and the staff at *Den Arnamagnæanske Samling* served as generous hosts during my time in Copenhagen.

² All translations in this article are my own.

In the wake of the thirteenth-century Church's emphasis on auricular confession as a universal requirement, clerics needed basic training in canon law in order to properly categorize and respond to different situations (*casus*) that they might encounter in the course of their duties (Goering 1978: 299). Canonists writing in the *casus* tradition developed detailed taxonomies to provide guidance in these matters (Jonsen and Toulmin 1988: 117–121). “Nota sex,” for instance, arranges a plethora of real-world situations into six legal categories. Jurisdiction over these six categories was the bishop's responsibility. The job of individual confessors and priests was to determine whether and where the circumstances of a particular case fit into the taxonomy.

Ole Widding has characterized sections of AM 671 4to as the work of trained scribes who were active in the first half of the fourteenth century (Widding 1960: 82). According to Widding, the same scribe who copied the fragment of “Nota sex” (ff. 36r – 39v) in AM 671 4to also copied folia 1r – 8v, a collection of theological excerpts in Latin; 24r (l. 1–2) and 24v, Norse homilies for All Saints' Mass and All Souls' Mass; and 25v (l. 1–15), a Norse translation of one of Bernard of Clairvaux's letters (Widding 1960: 81–82; Widding and Bekker-Nielsen 1961: 59–60). The scribe who completed 24r (l. 2–32), 25r, and 25v l. 15 – 26r l. 2 also copied sections of *Sturlunga saga* (Króksfjarðarbók), *Ólafs saga helga* (Perg. 4to no. 4, Stockholm; AM 325 XI 2h 4to) and *Guðmundar saga* (AM 399 4to) (Stefán Karlsson 1983: xxxix–xl).

This paleographic evidence evokes a medieval Icelandic scribal environment in which Latin canonical-legal texts such as “Nota sex” were copied, circulated, studied, listened to, and read alongside vernacular literature. With only a few exceptions (e.g. Bandlien 2001: 131–165; Kuttner 1976), scholars have been slow to notice, much less explore, relationships between Latin canon law, the medieval Icelandic Church, and vernacular literary production. In the rest of this essay, I want to pursue two inter-related objectives, both of which aim to push the discussion of “Nota sex” particularly, and canonical-legal knowledge more generally, beyond the scriptorium and into wider ecclesiastical, historical, and literary contexts. The first objective is to investigate some of the visual and aural mechanisms that “Nota sex” uses to conceptualize doctrine, to address its audiences, and to teach the law. Foremost among these mechanisms is the organization of canonical-legal categories and procedures in mnemonic verse, thereby leveraging poetry as an ideological tool for the dissemination of canon law. The second objective is to briefly examine the canonical-legal category of irregularity, the subject of the surviving

fragment of “Nota sex” in AM 671 4to, and the procedures of dispensation designed to alleviate it. With reference to dispensations for irregularity described in *Laurentius saga* and *Jóns saga Hólabyskups*, I will demonstrate that Icelandic clerics drew on canonical-legal discourse in their Norse writings as a way of positioning themselves and their protagonists both inside and outside the juridical frameworks of the medieval Church.

2 The Poetry of Ecclesiastical Administration

As strange as it may seem to modern sensibilities, poetry often played a formative role in the legal education of medieval clerics. In a world that lacked an easy means for replicating identical copies of a given text, information stored and indexed in individual memories was often more useful than information preserved in scattered manuscripts (see Carruthers 2008, Thorndike 1955). In the absence of standardized textbooks, mnemonic poetry provided a means to indoctrinate students with shared sets of principles and common paradigms of reference. Canonical-legal treatises and penitential works were summarized and versified for educational purposes throughout later-medieval Europe. Raymond of Peñafort’s *Summa de casibus poenitentiae* (c. 1234) was a particularly popular candidate for these modifications (Pennington 1971, Michaud-Quantin 1962: 40–42). Indeed, the early fourteenth-century Icelandic scribe who copied “Nota sex” into AM 671 4to did not think that he was copying an independent treatise by Clarus of Florence; rather, he identified the work as a “Defloracio summe magistri raimundi in pen[i]tentijs” (36r, upper margin; see image 1) (excerpts from Master Raymond’s *summa* on penances).

The word “defloracio” evokes a medieval *topos* that likened processes of reading and compiling to “plucking flowers” (Carruthers 2008: 217–222). Florilegal compilations presented the “key points” of authoritative texts in forms that lent themselves to teaching and learning. The version of “Nota sex” preserved in AM 671 4to operates in this tradition, employing an intricate combination of visual and aural mechanisms to present canonical-legal knowledge to its Icelandic audiences in readily memorable and transmittable forms. After its opening injunction, the treatise adduces a versified list of the six *casus* (here: legal categories) that a priest should send to his bishop:

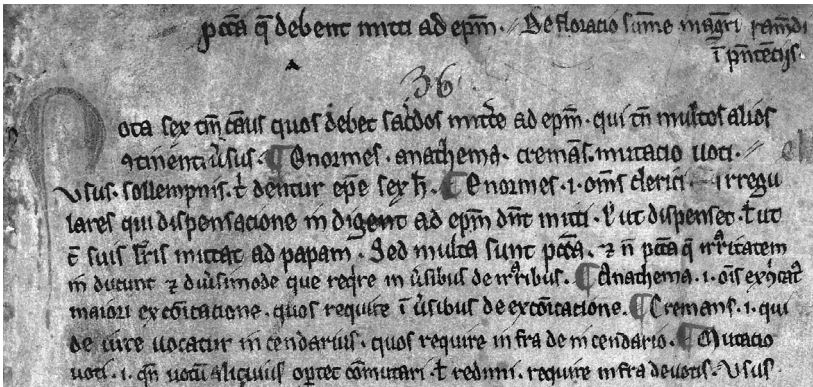


Image 1. Copenhagen, Arnemagnæan Institute, AM 671 4to, f. 36r. Used with permission.

Enormes anathema cremans mutacio uoti
 usus sollempnis tibi dentur episcopo sex haec. (36r, l. 2–3; see image 1)

(To you, o bishop, let these six be given: *Enormes*, *anathema*, *cremans*, *mutacio uoti*, *usus*, *sollempnis*.)

The following section of the manuscript provides a “key” for this verse that clarifies each *casus* in greater detail. *Enormes*, for example, is explained thus: “*Enormes*, id est, omnes clerici irregulares qui dispensacione indigent ad episcopum debent mitti, vel ut dispēntes vel ut cum suis litteris mittat ad papam” (36r, l. 3–5; see image 1) (*Enormes*, that is, all irregular clerics who need a dispensation should be sent to the bishop so that he may either dispense them or send them with his letters to the pope).

The opening injunction further specifies that while there are only six *casus* that a priest should send to his bishop, these six introductory *casus* “contain many others”. Like a set of Russian nesting dolls, each of the legal categories listed above (*enormes*, *anathema*, *cremans*...) serves as the umbrella-category for a plethora of subcategories. These sub-*casus* consist of hypothetical, yet “real-world”, situations that instantiate *enormes* or *anathema*, etc. Following the pattern established in the prologue, the subcategories are introduced first in hexameter verses and then explicated with prose clarifications. “Nota sex” alternates between poetry and prose, proceeding from abstract canonical-legal categories to specific instances. For example, a poem-prose series on 39r specifies some of the situations and circumstances that exemplify *enormes*. In other words, it

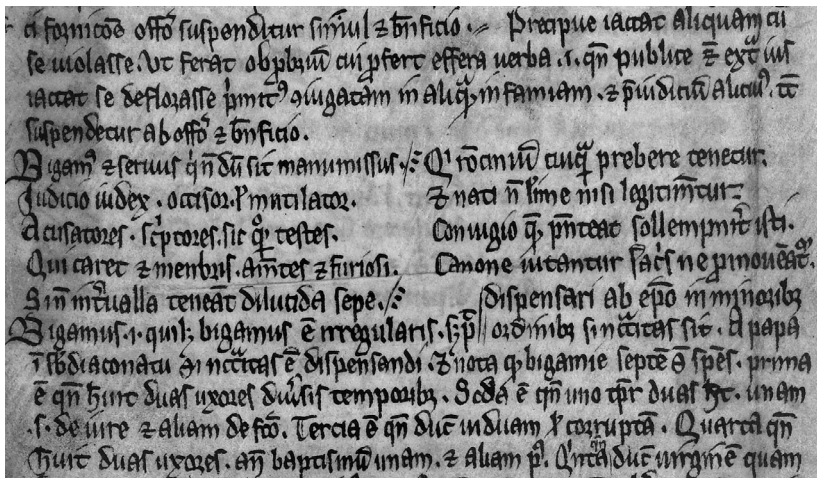


Image 2. Copenhagen, Arnamagnæan Institute, AM 671 4to, f. 39r. Used with permission.

lists classes of persons who are “abnormal” or “irregular” according to canon law and therefore unfit for ordination:

Bigamus et seruus qui nondum sit manumissus
 Iudicio iudex occisor uel mutilator
 Acusatores scriptores sic quoque testes
 Qui caret et membris amens et furiosi
 Si non interualla teneat dilucida sepe
 Qui ratiocinium cuiquam prebere tenetur
 Et nati non legitime nisi legitimentur
 Coniugio quem peniteat sollempniter isti
 Canone uitantur sacris ne promoueantur. (39r, l. 14a–17b; see image 2)

(These persons are disqualified by canon law so that they should not be promoted to holy orders: the bigamist and the servant who is not yet emancipated; the judge [who becomes] a killer or mutilator by [passing] a sentence; accusers, scribes, and also witnesses;³ the man who lacks limbs; both the demented and insane, if they do not often retain lucid intervals; he who is obliged to give counsel to someone;⁴ also, those born out of wedlock unless they are legitimated by marriage; [and] the man who must do solemn penance).⁵

³ The prose clarifies that this category applies to those accusers, scribes, and witnesses who take part in trials that lead to bloodshed.

⁴ The prose specifies that this category comprises persons who hold secular offices: e.g., courtiers, tutors, and judges.

⁵ Other confessors’ manuals explain that solemn penance was imposed for particularly serious and notorious sins. It was generally public in nature and was associated with a rite in which the penitent was expelled from the church on Ash Wednesday (Mansfield 1995).

Starting with the poem's first category (*bigamus*), the prose provides more detailed explanations and clarifications for each term:

Bigamus, id est, quilibet bigamus est irregularis, sed potest dispensari ab episcopo in minoribus ordinibus si necessitas sit. A papa in subdiaconatu si necessitas est dispensandi. Et nota quod bigamie septem sunt species. Prima est quando habuit duas uxores diuersis temporibus. Secunda est quando uno tempore duas habet, unam scilicet de iure et aliam de facto. Tercia est quando ducit uiduam... (39r, l. 19–22; see image 2)

(‘Bigamist,’ that is, any bigamist is irregular, but can be dispensed by the bishop in minor orders if there is need [and] by the pope in the subdiaconate if there is need of dispensing. And note that there are seven species of bigamy. The first is when a man had two wives at different times. The second is when a man holds two wives at one time, namely one in law and the other in fact. The third is when a man marries a widow...)

The extant fragment of “Nota sex” in AM 671 4to ends on 39v in the midst of an explanation of the “irregularity” of persons lacking limbs. Even in its fragmentary form, it is clear that the early fourteenth-century scribe who copied 36r – 39v worked to ensure that the canonical-legal knowledge of “Nota sex” was presented in distinctive and memorable forms. Folio 36r begins with a large green “N” that focuses the reader’s attention. Red paragraph marks on this page clearly delineate the explication of each separate *casus* (see image 1). Like other fourteenth-century Icelandic manuscripts that contain bits of Latin poetry, AM 671 4to displays close attention to the arrangement of the verses in the *mise en page* (see Fahn and Gottskálk Jensson 2010: 34–39). The mnemonic-didactic poems on 36v and 39r are visually identified as such; they are written in two columns on otherwise single-columned pages (see image 2).

Working in tandem with these visual patterns, the phonetic and prosodic patterns of versified *casus*-lists in AM 671 4to are designed to facilitate the memorization and dissemination of canonical-legal information. Medieval schoolmasters and ecclesiastical administrators, not unlike modern advertisers, were eager to capitalize on the fact that rhythmic language, repeated often, has the capacity to inhere in the minds of its listeners. Distilled into mnemonic-poetic form, canonical-legal principles become readily quotable and transmittable, thereby aiding in the deployment of canon law outside the classroom. The Icelandic priest who has read, repeated, and memorized these poems might be described as an agent of canonical-legal knowledge – someone capable of citing and enforcing the Church’s law as the situation demands. These folia thus not

only encourage the formation of conceptual-legal categories, they also enable the instant and repeated reproduction of these categories in the text's absence.

Coupled with their prose explanations, the poems of "Nota sex" are intended to help the medieval Icelandic student form a series of associational chains. For example, the passages quoted above link the umbrella-category of *enormes* to the idea of canonical irregularity, a notion which is then linked, *inter alia*, to seven different forms of bigamy. The upshot of these maneuvers is that clerical readers and listeners are expected to make connections between abstract canonical-legal categories and real-life situations. Priests are taught to recognize, for example, that any twice-married man is "irregular" in the eyes of canon law. If such a man wants to enter holy orders after the death of his second wife, the priest must send that man to his bishop. The bishop, in turn, should only consecrate such a man in minor orders (i.e., below the rank of subdeacon), and only in cases of necessity.

The educational poetry of "Nota sex" was designed to be translated into administrative practices, pastoral techniques, and institutional policies in churches throughout Christendom. The most pressing issues that the extant fragment in AM 671 4to addresses are questions regarding ecclesiastical ordination and organization: who ought to be excluded from holy orders? From which ranks? Under what conditions? With which exceptions? As office-holders in the universal Church, Icelandic clerics must have been occupied by these questions from an early date. In the following section, I want to draw attention to a few medieval Icelandic narratives that respond not so much to "Nota sex" specifically, but rather to the standards, procedures, norms, and conceptual frameworks that this text brings to the fore. I will concentrate especially on canonical-legal restrictions surrounding "irregularity" and "bigamy". With particular reference to an episode in *Jóns saga Hólabyskups*, I will demonstrate that, from the thirteenth century, Icelandic clerical writers negotiated and recognized the relevance and authority of such canonical-legal categories in complex ways. Even as churchmen developed mechanisms to teach and promulgate Latin canon law throughout Europe, Norse vernacular writings provided platforms for thirteenth- and fourteenth-century Icelandic clerics to formulate distinctively irregular relationships to institutional norms.

3 Irregularity in Medieval Iceland

“Nota sex” is organized around a desire for regularity, unity, and conformity across the Church. It aims to ensure that ecclesiastical office-holders and candidates for holy orders share certain basic characteristics in terms of their age, birth, background, and life experience. As we have seen, the fragment of “Nota sex” preserved in AM 671 4to deals with the category of irregularity: situations and circumstances that render a candidate outside canonical-legal norms and rules (*e-normis*, “away from the norm;” *in-regula*, “not according to the rule”). Irregularity sometimes results from the commission of particularly grave sins. A poem on 36v, for example, lists simony, rape, fornication, and theft, *inter alia*, as offenses that disqualify a candidate for holy office on account of irregularity.

As a category, however, irregularity is not coterminous with sin. The circumstances enumerated in the poem on 39r (*Bigamus et seruus qui nondum sit manumissus...*) are not sins, but they nevertheless render a candidate irregular. A man who is insane, illegitimate, twice-married, or mutilated has not necessarily committed any wrongdoing *per se*. Rather, the unfitness of such persons stems from their “defective” status relative to various canonical-legal norms. Particularly from the twelfth century, the Church’s law stipulated that candidates for holy orders needed to be “beyond reproach” in their conduct and “without blemish” in their background (Helmholz 1996: 61–65) – criteria that excluded the classes of persons listed in the poem on 39r. These lofty goals were often profoundly incompatible with realities on the ground, particularly in peripheral communities like Iceland. In regards to clerical marriage and celibacy, for example, the medieval Icelandic Church was very much out of sync with the patterns dictated by canon law. Of the thirteen bishops who occupied Iceland’s two sees between 1056 and 1237, at least seven were married (Jochens 1980: 382). Icelandic clerics kept concubines and fathered children, often quite openly, right up to the Reformation (Sigurdson 2011: 157–162).

Faced with these and similar dissonances between universal rules and local conditions, ecclesiastical administrators throughout Europe developed mechanisms to adapt canon law’s general legislation to their own needs. The “dispensation” was one such mechanism (Schmugge 1995: 42–47, 119–121). A dispensation refers to the suspension of a general rule of law in a particular case by a competent authority. For example, *Laurentius saga* reports that the Bishop of Hólar, Auðunn Þorbergsson

(d. 1322) granted dispensations to a number of priests who were themselves the sons of clerics; the beneficiaries of these dispensations included Einarr Hafliðason, the saga's author (Laurentius saga, 329–330). Here Bishop Auðunn's need for competent priests like Einarr, and his desire to secure the loyalty of some of Hólar's most important persons, trumped canonical requirements that would otherwise disqualify illegitimate persons from holy orders on account of their "irregularity" (Sigurdson 2011: 147–148). Erik Gunnes has drawn attention to a number of similar dispensations in the Niðarós archbishopric (1982).

While securing a dispensation for a "defect of birth" was a relatively common occurrence in later medieval Europe (Schmugge 1995: 33–51), obtaining a dispensation for an "irregularity" such as bigamy was more problematic. As the above-quoted passages from "Nota sex" detail, the definition of "bigamy" in medieval canon law was far more expansive than its modern cognate would suggest. In the eyes of the medieval Church, any man who remarried after the death of his first wife was a bigamist and therefore "irregular". Twice-married men were forbidden from the priesthood not because a second marriage was *ipso facto* sinful. Rather, the ordination of bigamists was forbidden in order to make a mystical and symbolic point. According to canonical dogma, the marital union of one man with one woman represented the union of Christ with His Church. Canonists reasoned that any second marriage lacked full sacramental meaning because it was incapable of perfectly representing this heavenly exemplar. Since the remarried man had received one sacrament defective in its resemblance to its ideal, he should not be allowed to dispense sacraments to others (Kuttner 1976: 371–372; Kuttner 1961: 410–411; d'Avray 2005: 131–141).

These restrictions represented a considerable dilemma for the Norse hagiographers of Saint Jón Ögmundarson (1052–1121), the first bishop of Hólar. As medieval Icelandic audiences knew, and as all versions of Jón's *vita* were forced to admit, the saint had married twice during his priesthood. The earliest extant version of *Jóns saga* acknowledges the bishop's marriages succinctly: "En helgi Ion kvangaðiz ok atti tvær konvr ok lifði hin fyri skamma stvnd. (Jóns saga Hólabyskups, 11)" (The holy Jón married and had two wives. His first wife lived for a short time). It seems likely that during Jón's own lifetime (c. 1100), these marriages constituted normal, perhaps even expected, behavior for an Icelandic bishop (Orri Vésteinsson 2000: 234–237). However, by the time Jón's hagiographies were written and re-written – a process that started around 1200 and continued through the fourteenth century (Foote 2003a: xiii–

xv) – norms dictated by canon law were making their presence felt in the Far North.

The earliest Norse version of *Þorláks saga*, which was likely composed c. 1200 (Ásdís Egilsdóttir 2002: xxxii), suggests an increasing awareness of canonical-legal issues surrounding irregularity among thirteenth-century Icelandic clerics. The saga tells that after Þorlákr's return from Paris and Lincoln (c. 1160), his kinsmen were eager for him to marry a certain wealthy widow. The hagiographer comments that, “þá var eigi um þat mjök vandat af yfirboðum þótt prestar fengi ekkna, en nú er þat fyrirboðit (Þorláks saga A, 54)” (at that time it was not greatly censured by the authorities if a priest married a widow, but now [i.e., c. 1200] that is forbidden). From the perspective of canon law, marriage to a widow constituted a form of bigamy and hence irregularity (Kuttner 1961: 411; see also f. 39r, l. 22 above). According to the saga, a divine vision miraculously put a stop to Þorlákr's marriage plans.

If Jón had a similar vision, he ignored it. A medieval Icelandic familiar with the canonical-legal schema referenced by “Nota sex” would be forced to classify Jón as a “bigamus” and therefore “enormis” and “irregularis” because he “habuit duas uxores diuersis temporibus” (had two wives at different times) (39r, l. 21). As such, he had no business being a priest, still less a bishop, and still less a saint. In an effort to bring their protagonist in line with canonical-legal norms, Jón's hagiographers formulated a story about the bishop-elect's journey to Rome, where he supposedly received a dispensation for his condition at the hands of Pope Paschal II. Each of the three main recensions of *Jóns saga Hólabyskups* – “S,” “L,” and “H” (see Foote 2003a: 3*–250*) – contains some version of this story. The dispensation narrative was likely part of the earliest Latin and Norse versions of the saga, which were written at the beginning of the thirteenth century (Foote 2003a: xiii–xv).

I quote the episode here from the “L” redaction, a fourteenth-century Norse text that scholars have affiliated with the elite, Latinate, clerical milieu of men such as the aforementioned Einarr Hafliðason, Bergr Sokkason, Arngrímur Brandsson, and Árni Laurentiusson (Foote 2003b: ccxx–ccxxxiii). Men in such circles would have been well-acquainted with canonical-legal categories like irregularity and bigamy. In the “L” redaction, the tensions between recognizing the demands of canon law and showing reverence for a long-venerated homegrown saint are especially pronounced. The narrative states that after Jón arrived in Lund as bishop-elect, the archbishop convened a meeting of high clerics to examine the candidate:

ok er erkibyskupinn hafði heyrtt hans eyrendi. Stefnir hann fiolmennann kennimanna fund I Lund ok dagh þingaði viðr þa vm eyrendi herra Ions electi. Enn þat varð endir þeira samtals. at erkibyskupin sagði sua. Sua virðiz mer hinn kæraste broðir tala<n>ði viðr sælann Iohannem. sem þu munir flesta alla hluti til þess hafa. at þu serr til byskupligrar tignar val fallinn. ok þat trui ek at sæll er sa lyðr at slickan byskup nair at hafa yfir sér. Enn fyrir eins lutar sakir. þess er þu hefir sagt monnum at þu hefir att tuær kǫnur. þori ek eigi at vighia þick. án orlofue ok boði postoligs sætis. Nu er þat varrt ráð at þu farir a fund vǫrs herra pafans ok birtir honum þitt eyrendi. enn ver skulum rita meðr þer ok tia þitt mal fyrir herra pafanum. ok ef sua ferr sem ver ventum at hann dispensere meðr þer. at þu takir byskups vigslu. þa kom aprt til vǫr sem skiotaz. ok skulum ver þa I guðs nafne vighia ydr til byskups (*Jóns saga Hólabyskups*, 79).

'And when the archbishop had heard (Jón's) message, he summoned a meeting of many clerics in Lund and discussed the matter of Jón *electus*. At the end of their conversation, the archbishop spoke thus, 'It seems to me, dearest brother,' speaking to the blessed *Johannes*, 'that you possess almost all of the qualities that would make you suitable for the episcopal office, and I think that the people would be blessed to have such a bishop over them. But because of one thing that you have told these men – that you have had two wives – I dare not consecrate you without the permission and bidding of the apostolic see. Thus it is our advice that you go to meet our lord pope and explain your situation to him. We will send letters with you and present your case. And if it happens, as we hope, that he grants you a dispensation to be consecrated as bishop, then come back to us as quickly as possible and we will consecrate you in God's name.'

After Jón's stop-over in Lund, the "L" redactor hastily remarks that the bishop-elect traveled to Pope Paschal II's court in Rome. Without any difficulties or preliminaries, Jón receives an audience with the pope:

Segia þat margir sann froðir menn ok merckiligr. at herra Ion. electus hafui þetta talað millum annara luta fyrir herra pafanum. ... margir lutir... hrinda mer fra byskups wighslu. at þann einn lut weit eck mick hellz til hafa at uera <eigi> byskup. er ek hefir tuikuangaðr verit. Mega allir menn hedan af marka ok undirstandā huersu guðrettliga han mun hafa halldit heilagann hiuskap er hann vottadi þessu fyrir sialfum herra pafanum. Nu sem werðligr herra Paschalis pafi hefir yfir lesit bref erkibyskupsins ok vndirstadit af guðs til visan verðleika heilags Ions ok mote kost laghanna. þau sem mot synduz ganga byskups vigslunne. Virdir hann huartueggia ok ueghr I sinu hiarta meðr uitrligri skynsemdar vaugh ok hyggz honum sua at sem þat muni fleira vera ok meira hattar sem herra Ion Elegtus hafui til at taka byskupliga tign... fyrir þui gefr hann honum... postolig bref meðr sinu bulla. I huerium hann dispenserar þat meðr sælum Ioni electo at hann skyllði byskup mega vera... (*Jóns saga Hólabyskups*, 80).

'Many wise and outstanding men say that, among other things, Jón *electus* spoke thus before the pope: '...many things... discount me from consecration as a bishop. But the one matter that most prevents me from being a bishop is that I have been married twice.' All men henceforth should take note and understand how righteously he must have upheld spiritual marriage since he confessed this before the pope himself. Now when the worthy Pope Paschalis had read over the archbishop's letter, and understood with God's foresight the worthiness of Jón, as well as the objections of the laws that seemed to prohibit episcopal consecration, he weighed the wise reasoning of both sides in his heart. And it seemed to him that there were many more arguments for Jón *electus* to receive the episcopal office... therefore (the pope) presented him an apostolic letter with his *bull*a in which he gave Jón *electus* a dispensation so that he could be made a bishop...'

The "S" and "H" recensions present shortened versions of the same story (*Jóns saga Hólabyskups*, 14–15, 120–121). As the above passages show, the "L" redactor's Norse is particularly replete with Latinate canonical-legal terms (*electus*, *kuria*, *bull*a, *dispensera*, *tui-kuangaðr* = *bi-gamus*).

Almost entirely absent from these narratives are any experiential details from Jón's journey. We hear nothing, for example, about the route taken to Rome or the layout of the papal palace. Instead, the categories, norms, and procedures of canon law provide the dominant framework within which Jón's hagiographers construct their narratives. The writers place overwhelming emphasis on assuring audiences that Jón's dispensation transpired in accordance with sanctioned protocols. Like other candidates for ecclesiastical promotion, the narratives suggest, Jón was examined by his superior, the archbishop, with the help of prominent clerics in Lund. In the course of determining Jón's fitness for the episcopacy, they noticed a serious "irregularity". The archbishop recognized that he lacked the discretionary power to consecrate a twice-married man as bishop. Faced with this dilemma, he followed the standard advice described in treatises like "Nota sex" and sent Jón, the irregular cleric, "cum suis litteris ad papam" (with his letters to the pope) (36r, 1. 5).

In Rome, Jón and the pope enact a confessional scene where Jón plays the role of the penitent and the pope serves as his confessor. In the "L" redactor's hands, Jón's situation confronts Pope Paschal with the same kind of problem that treatises like "Nota sex" aimed to clarify: how to apply general principles and canonical-legal taxonomies to difficult situations and ambiguous circumstances. Acting as a confessor, the pope considers both sides of Jón's case: on one hand, the strictures against ordaining bigamists; on the other, Jón's worthiness for the episcopal office,

the archbishop's letters of support for his cause, and the specific circumstances of Jón's marriages. In regards to these circumstances, the "L" redactor suggests, somewhat incredulously, that both of Jón's marriages were "spiritual" (i.e., unconsummated) in nature, and thus perhaps not "marriages" at all (see *Jóns saga Hólabyskups*, 75–76)! After taking these considerations into account, the pope renders his verdict and sends Jón away with his seal of approval.

Yet, even as these narratives of Jón's dispensation take heed of canonical-legal terminology, categories, and procedures, they subvert the substance of the law. Mainstream canonical opinion, exemplified in "Nota sex," held that the pope should only grant dispensations for bigamists to be ordained as subdeacons – not as priests and certainly not as bishops (Kuttner 1961: 423). The question of whether the pope *could* dispense a bigamous bishop was not even raised until the end of the twelfth century, when it generated considerable academic debate (Kuttner 1961: 424–427). While these details cast grave doubts on the historicity of Jón's dispensation in Rome c. 1106, they tell us a great deal about how later-medieval Norse clerics recruited and refashioned canon law for their own ends. Through the narrativization of canonical-legal procedures, Jón the twice-married bishop became Jón the bishop-saint who had received a papal dispensation for his ambiguous marital status.

In a strict sense, the dispensation that the hagiographers imagined Jón receiving did not revoke the laws prohibiting the ordination of bigamists. Rather, a dispensation suspended a provision of the law in a particular case of great necessity. Dispensations attempted to simultaneously recognize the authority of canon law, yet hold it in abeyance: priests' sons should never serve as priests, but Einarr Hafliðason can; bigamists should never become bishops, but Jón could. For Icelandic clerics, these were convenient loopholes to occupy in life and explore in literature.

4 Conclusion

In different ways, then, both "Nota sex" and *Jóns saga Hólabyskups* offer responses to institutional concerns about standards and qualifications for the clergy. While these texts may not share a direct intertextual connection, they both give perspective on the functions, forms, and authorities of canon law in medieval Iceland. As we have seen, the fourteenth-century version of "Nota sex" in AM 671 4to presented medieval Icelanders

with detailed taxonomies of canonical-legal requirements and provided sophisticated mechanisms for the dissemination of this knowledge. The basic prescriptions that this text references against “irregularity” in holy orders were likely known in Iceland from the thirteenth century. At the same time, the tradition of *Jóns saga Hólabyskups* hints at a concerted effort among Icelandic clerics to envision, imagine, and narrativize alternative relationships to institutional protocols and norms. The saga suggests that, within the conceptual and juridical frameworks of the medieval Church, Icelandic clerics could carve out wide spaces for exception, particularity, and dispensability.

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