

d. init.

[Quidam] in excommunicatione c[on]stitut[us] ep[iscopu]m accusare disponit, adolescente[m]. i[n]fra .xiiiium. etatis sue annu[m] ad assertione[m] sue cause adducit. P[ro]hibitus ab accusatione adolesce[n]te[m] accusatore[m], [et] se teste[m] facit. Adolescens p[er]sona[m] accusatoris [et] testis gerere cupit, di statuta ad iudiciu[m] electo[rum] iudiciu[m] ep[iscopu]s minime c[on]currit a co[m]munio[n]e suspender[e]??, tande[m] renouato iudicio, accusator culpabil[is] in accusatio[n]e inuenitur, demu[m] ad assertione[m] p[ro]pri[e] cause p[ro]cedit. Hic p[ri]mu[m] querit[ur] **an (errasure, autem) in** exco[m]municatione c[on]stitut[us] aliu[m] accusare ualeat. S[e]c[un]do aut[em] infra **i[n]fra** xiiiium. annu[m] in c[ri]minari causa testari, q[ui]s possit. Tercio, ut[ru]m accusatione p[ro]hibitu[m] p[er]sona[m] testificantis possit a[s]sumere. Quarto, **au[tem]** die constituta n[on] occurrens a co[m]munione sit remouend[us]. Sexto, si in ep[iscop]o[rum] iudicio accusatoris p[er]sona culpabil[is] inuenta fu[er]it, a[n] ad assertione[m] p[ro]pri[e] cause, de cet[er]o sit admitt[e]nda.

Questio 1

De p[ri]ma q[ue]stione sic statutu[m] legitur, in c[on]cil[io] cartaginensi .vii. **[i.e., septimo]** cui int[er]fuit faustin[us] romane ec[c]l[esi]e legat[us].

Ad accusa[n]du[m] no[n] admittat[ur] q[ui] i[n] exco[m]municatio[n]e p[er]seu[er]at.

Diffinim[us] eu[m] rite ad accusatione[m] n[on]admitti, q[ui] po[s]tea q[uam] exco[m]municat[us] fuit, **in ipsa** adhuc exco[m]municatione c[on]stitut[us] siue sit cl[er]ic[us], accusare uolu[er]it. Om[n]e[s] etia[m] infamie mac[u]lis asp[er]si, id e[st] istrio[n]es, aut turpitudinib[us] subiecte p[er]sone. Heretici etia[m], siue pagani, siue iudei, ab accusatione p[ro]hibentur.

Questio 2-3

S[e]c[un]da aut[em] [et] t[er]cia questio eode[m] concil[io] uno eode[m]q[ue] cap[itu]lo t[er]minatur. Illud uero e[st] h[uius]mo[d]i.

Q[ui] ab acc[usati]one repellunt[ur] aut ad a[n]nu[m] xiiii. n[on]du[m] p[er]uener[un]t teste[s] e[ss]e n[on] po[s]su[n]t. Testes aut[em] ad testimoniu[m] admitt[e]ndo censem[us] q[ui] nec ad accusatione[m] admitti iussi su[n]t, u[e]l etia[m] q[uo]s ipse accusato[r] de domo sua p[ro]dux[er]it. Ad testimoniu[m] aut[em] intra a[n]nos xiiii etatis sue c[on]stituti n[on] admittant[ur].

S[ed] obicit[ur] illud b[e]ati bricii, q[ui] uoce pueri xxx dies ab ho[r]tu habentis innocens p[ro]bat[us] e[st]. S[ed] mirac[u]la diuina s[un]t admiranda n[on] in exe[m]plu[m] humane acc[ti]onis trahenda.

Questio 4

De quarta u[er]o q[ue]stione fabian[us] papa c[on]stituit dicens: **Accusator testi[s] u[e]l iud[e]x aliq[ui]s sim[u]l e[ss]e no[n] potest.** Nullus u[m]q[uam] p[re]sumat accusato[r] simul e[ss]e, [et] iudex, u[e]l testis, **q[uonia]m** in o[mn]i iudicio **iiiior [i.e., quatuor]** p[er]sona[s] se[m]p[er]

nece[ss]e e[st] e[ss]e, .i. iudices, electos, [et] accusatores, ac defensores, atq[ue] testes. Ite[m] damas[us] p[a]p[a]. Q[ui]libet in ca[usa] dua[s] p[er]sona[s] gerere n[on] ualet. Nullus int[ro]ducat[ur] p[er]sonalit[er] ad **ca[usa]m** s[ed] accusatores, [et] accusati eq[ua] audiant[ur], r[ati]one, iuxta, q[uod] o[r]do exigit. Accusatores u[ero], [et] iudices n[on] ide[m] sint, s[ed] p[er]se iudices, p[er]se testes, p[er]se accusati un[us]q[ui]s[que] insuo o[r]dine. Insc[ri]ptio se[m]p[er] fiat ut talione[m] calu[m]pniato[r] recipiat. Q[ui]a an[te] insc[ri]ptione[m] nemo debet **iudicari** u[e]l da[m]pnari, cu[m] [et] s[e]c[un]d[u]m leges hec eade[m] retineant.

Questio 5

De .v. u[ero] questione in concil[i]o cartaginensi tercio sic inuenenit[ur] diffinitu[m].

No[n] e[st] a co[m]muni[one] suspe[n]de[n]d[us] q[ui] die statua ad ca[usa]m p[er]uenire n[on] potuit. Quisq[ui]s ep[iscop]o[r]um accusatur ad p[ri]mates p[ro]uince **ipsi[us]** causa[m] deferat accusato[r]. Nec a co[m]munio[n]e suspendat[ur], cui c[ri]m[in]e int[er]ditur, n[isi] ad causa[m] sua[m] dicenda[m], electo[r]um iudiciu[m], die statua **litt[er]as** euocat[us] minime occurrerit. Hoc e[st] infra i[tem] spatium m[en]sis. ex ea die q[ua] eu[m] litt[er]as accepisse c[on]stit[er]it. Q[uo]d si aliq[ui]s ueras necessitatis **causas** p[ro]p[ri]au[er]it q[ui]b[us] occurrere n[on] potuisse manifestu[m] sit cause sue dicende, int[er] **alt[er]u[m]** m[en]s[em] integ[ra]m ha[be]at facultate[m]. Ver[um] ta[m]diu p[os]t m[en]s[em] s[e]c[un]d[u]m n[on] co[m]mun[ic]et, donec p[ur]getur. Si au[tem] ad uniu[er]sale conciliu[m] **annu[er]salu[m]** occurrere uoluit, ut u[e]l ibi causa ei[us] t[er]minetur, ipse in se da[m]pnationis **sent[e]ntia[m]** dixisse **iudicetur**. Te[m]p[or]e sane q[uo] n[on] co[m]mun[ic]at, nec in sua eccl[esi]a u[e]l parrochia co[m]mun[ic]et. Accusato[r] aut[em] ei[us] si nu[m]q[uam] dieb[us] cause dicend[e] **defu[er]it** subtrahensse, restituto in co[m]mun[i]one ep[iscop]o, remoueat[ur] a co[m]mun[i]one acc[us]ato[r], ita t[ame]n, ut nec ipsi adimatur facultas cause p[er]ag[en]de, si se ad die[m] n[on] uolu[is]se **s[ed]** n[on] potuisse occurrere p[ro]bau[er]it.

Questio 6

Sexta u[ero] questio eode[m] cap[itu]lo t[er]minatur, i[n]q[ui] seq[ui]t[ur].

Q[ui] in acc[usati]one ep[iscop]i culpabil[is] inuenit[ur] ad arguendu[m] de cet[er]o n[on] admittat[ur] n[isi] p[ro]p[ri]a[m] ca[usa]m solu[m]m[odo] asserere uoluerit. Illud u[ero] placuit, ut cu[m] ag[er]e cep[er]it in ep[iscop]o[r]um iudicio **si fu[er]it** accusatoris da[m]pnabil[is], de cet[er]o ad arguendu[m] non admittatur, n[isi] p[ro]p[ri]as causas, n[on] t[ame]n eccl[esi]asticas, u[e]l c[ri]minales asserere uolu[er]it.

Ite[m] ex concil[i]o cartaginesi **viio [i.e., septimo]**. No[n] nega[n]t audie[n]cia i[n] p[ro]p[ri]a ca[usa] cui **acc[usati]o** int[er]dicitur. Om[n]ib[us] q[ui]bus accusatio denegat[ur] in causis p[ro]p[ri]is accusandi licentia n[on] e[st] neganda.